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NO. 4:20-CV-01970

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

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,

Appellant,

V.

SPEEDCAST INTERNATIONAL LIMITED, et al,

Appellees.

On Appeal from the United States Bankruptcy Court for the Southern District of Texas, Houston Division
Case No. 20-32243 (MI)

BRIEF OF APPELLANT CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Bankruptcy Procedure 8012, Appellant Credit Agricole Corporate and Investment Bank certifies that Credit Agricole S.A., a publicly traded French institution, owns 100% of Credit Agricole Corporate & Investment Bank.

Dated: July 2, 2020

TABLE OF CONTENTS

CORPORATE DISCLOSURE STATEMENT i

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iv

STATEMENT REGARDING ORAL ARGUMENT 1

STATEMENT OF JURISDICTION 2

STATEMENT OF ISSUES 3

STANDARD OF REVIEW 4

INTRODUCTION 4

STATEMENT OF THE CASE 5

A. The Prepetition Agreement 7

B. The Interim Postpetition Financing and Amendment to the Syndicated Facility Agreement 8

C. The Roll-up, the Bankruptcy Court, and the Final Order 10

SUMMARY OF ARGUMENT 14

ARGUMENT 15

I. The Bankruptcy Court erred in authorizing a roll-up of prepetition debt when not all creditors agreed to its terms. 15

II. The roll-up violated the Syndicated Facility Agreement and Section 510(a) of the Bankruptcy Code. 21

A. The Syndicated Facility Agreement is strictly enforceable under Section 510(a) of the Bankruptcy Code. 21

B. The roll-up violates the waterfall provision in Section 7.2 of the Syndicated Facility Agreement. 22

C. Credit Agricole did not consent to the roll-up in its capacity as a secured hedging bank. 24

III. Alternatively, the Bankruptcy Court erred in failing to ensure that Credit Agricole had "adequate protection" against the roll-up. 27

CONCLUSION 28

CERTIFICATE OF COMPLIANCE 30

CERTIFICATE OF SERVICE 31

TABLE OF AUTHORITIES

Page(s)

Cases

In re 203 N. LaSalle St. P'Ship,
246 B.R. 325 (Bankr. N.D. Ill. 2000) 21

In re ASARCO, L.L.C.,
650 F.3d 593 (5th Cir. 2011) 2

In re Bank of N.E. Corp.,
364 F.3d 355 (1st Cir. 2004).....21

Bender v. Williamsport Area Sch. Dist.,
475 U.S. 534 (1986).....25, 26

In re Dennis,
330 F.3d 696 (5th Cir. 2003) 4

Deutsche Bank Nat'l Tr. Co. v. Barclays Bank PLC,
140 N.E.3d 511 (N.Y. 2019).....26

In re Equalnet Commc'ns Corp.,
258 B.R. 368 (Bankr. S.D. Tex. 2000) (Greendyke, J.).....17, 19

In re Gallegos Research Grp., Corp.,
193 B.R. 577 (Bankr. D. Colo. 1995) 17

In re Gerhardt,
348 F.3d 89 (5th Cir. 2003) 4

Matter of Glenn,
900 F.3d 187 (5th Cir. 2018) 4

In re Hinderliter Indus., Inc.,
228 B.R. 848 (Bankr. E.D. Tex. 1999) 22

In re Homeowners Mortg. & Equity, Inc.,
354 F.3d 372 (5th Cir. 2003) 4

Integrated Mktg. & Promotional Sols., Inc. v. JEC Nutrition, LLC,
No. 06-CV-5640, 2006 WL 3627753 (S.D.N.Y. Dec. 12, 2006) 24

In re Ion Media Networks, Inc,
419 B.R. 585 (Bankr. S.D.N.Y. 2009).....22

Israel v. Chabra,
537 F.3d 86 (2d Cir. 2008).....25

In re Kaib,
448 B.R. 373 (Bankr. W.D. Pa. 2011).....17

In re La Paloma Generating Co.,
595 B.R. 466 (Bankr. D. Del. 2018).....22

In re Monach Circuit Indus., Inc.,
41 B.R. 859 (Bankr. E.D. Pa. 1984).....17

In re Patton,
358 B.R. 911 (Bankr. S.D. Tex. 2007) (Isgur, J.).....16

In re Royce Homes LP,
466 B.R. 81 (S.D. Tex. 2012).....2

Matter of Saybrook Mfg. Co., Inc.,
963 F.2d 1490 (11th Cir. 1992)..... *passim*

In re Sun Runner Marine, Inc.,
945 F.2d 1089 (9th Cir. 1991).....17

In re Swedeland Dev. Grp., Inc.,
16 F.3d 552 (3d Cir. 1994).....27, 28

In re Texlon Corp.,
596 F.2d 1092 (2d Cir. 1979)..... *passim*

Thrifty Oil Co. v. Bank of Am. Nat'l Tr. & Sav. Ass'n,
322 F.3d 1039 (9th Cir. 2003).....7

Trefny v. Bear Sterns Sec. Corp.,
243 B.R. 300 (S.D. Tex. 1999).....4

In re Vanguard Diversified, Inc.,
31 B.R. 364 (Bankr. E.D.N.Y. 1983).....17, 18

Statutes and Rules

U.S.C. § 158(a)(1).....2

11 U.S.C. § 364(d)(1).....16

11 U.S.C. § 364(d)(1)(B).....27

11 U.S.C. § 364(d)(2).....27

11 U.S.C. § 510(a) ..... *passim*

FED. R. BANKR. P. 8002(a) 2

Secondary Sources

3 COLLIER ON BANKRUPTCY P. § 364.05 (16th ed. 2020). 19, 27

COMM'N TO STUDY THE REFORM OF CHAPTER 11, AM. BANKR. INST., 2012–2014 FINAL REPORT AND RECOMMENDATIONS 73 (2014) 18

Federick Tung, *Financing Failure: Bankruptcy Lending, Credit Market Conditions, and the Financial Crisis*, 37 YALE J. REG. 651 (2020) 19, 20

Richard M. Hynes & Steven D. Walt, *Inequality and Equity in Bankruptcy Reorganization*, 66 U. KAN. L. REV. 875 (2018) 19

Sandeep Dahiya & Korok Ray, *A Theoretical Framework for Evaluating Debtor-in-Possession Financing*, 34 EMORY BANKR. DEV. J. 57 (2017) 19

STATEMENT REGARDING ORAL ARGUMENT

Credit Agricole respectfully requests oral argument. Because the bankruptcy proceedings and the financing arrangements involved are complex, and because the issues presented regarding the validity of certain types of postpetition financing are novel and have broad application, Credit Agricole believes that oral argument would be useful to the Court in understanding the issues, the record, the applicable case law, and the practical consequences of this appeal.

STATEMENT OF JURISDICTION

"A federal district court has jurisdiction to hear appeals—and an aggrieved litigant may appeal as of right—from the 'final judgments, orders, and decrees' of a bankruptcy court." *In re Royce Homes LP*, 466 B.R. 81, 86 (S.D. Tex. 2012) (quoting U.S.C. § 158(a)(1)). "[A]n appealed bankruptcy order will be considered final if it constitutes either a final determination of the rights of the parties to secure the relief they seek, or a final disposition of a discrete dispute within the larger bankruptcy case." *Id.* at 87 (quoting *In re ASARCO, L.L.C.*, 650 F.3d 593, 600 (5th Cir. 2011)).

The Court has jurisdiction to hear this appeal of the Bankruptcy Court's Final Order Authorizing Debtors to Obtain Postpetition Financing because this Order is a final disposition of the debtors' motion seeking postpetition financing, which Credit Agricole objected to below. *See* 28 U.S.C. § 158(a)(1); D.E.167, 239;[1] ROA.991, 2860. The Bankruptcy Court entered the Final Order on May 20, 2020. D.E.239; ROA.2860. Credit Agricole timely filed a notice of appeal on June 3, 2020. D.E.276; ROA.3051; *see* FED. R. BANKR. P. 8002(a).

[1] Throughout Credit Agricole's Brief, the "D.E." cites refer to docket entries in the Bankruptcy Court proceeding. The "ROA" cites refer to the record on appeal, filed in this Court's docket. (*See* Docket Entry No. 2).

STATEMENT OF ISSUES

1. The Bankruptcy Court erred in authorizing a nonconsensual roll-up because the Bankruptcy Code does not permit such agreements—as the Eleventh Circuit and a bankruptcy court in this District have squarely held.

2. The Bankruptcy Court violated the Bankruptcy Code and a binding subordination agreement by approving SpeedCast's roll-up agreement.

A. The Bankruptcy Court erred in approving the roll-up agreement though the prepetition secured creditors, including the postpetition lenders and Credit Agricole, had a subordination agreement in which they had agreed to share proceeds from SpeedCast following a default.

B. The Bankruptcy Court erred in finding that Credit Agricole consented to permit SpeedCast's roll-up agreement and waive the subordination agreement, when the evidence before the Court conclusively showed that Credit Agricole had not provided consent in the relevant capacity.

3. The Bankruptcy Court erred in finding that Credit Agricole was not entitled to adequate protection based on consent, because the evidence conclusively showed that Credit Agricole had not consented to the roll-up agreement in the relevant capacity.

STANDARD OF REVIEW

"In reviewing a bankruptcy court decision, a district court functions as an appellate court and applies the standards of review generally applied in federal courts of appeal." *Trefny v. Bear Sterns Sec. Corp.*, 243 B.R. 300, 308 (S.D. Tex. 1999). "[A] bankruptcy court's findings of fact are reviewed for clear error and conclusions of law are reviewed de novo." *In re Gerhardt*, 348 F.3d 89, 91 (5th Cir. 2003). "A finding of fact is clearly erroneous only if on the entire evidence, the court is left with the definite and firm conviction that a mistake has been committed." *In re Dennis*, 330 F.3d 696, 701 (5th Cir. 2003) (quotation omitted). Issues of statutory or contract interpretation are reviewed *de novo*. *See Matter of Glenn*, 900 F.3d 187, 189 (5th Cir. 2018); *In re Homeowners Mortg. & Equity, Inc.*, 354 F.3d 372, 375 (5th Cir. 2003).

INTRODUCTION

While the bankruptcy case below presents much complexity for the layperson—rife with the technical finance and bankruptcy concepts and terms that ordinarily accompany such cases—this appeal presents straightforward but important questions of bankruptcy law. SpeedCast International Ltd., along with some of its affiliates, declared bankruptcy. The Debtors needed financing to remain a going concern. Some of SpeedCast's pre-bankruptcy creditors offered this financing, with a catch. In exchange for loaning SpeedCast $90 million in new money, the creditors wanted to receive payment on $90 million of their pre-bankruptcy debt before anyone else.

This arrangement between SpeedCast and the creditors, known as a "roll-up," effectively deprived other pre-bankruptcy creditors of an equal chance for payment on their claims against SpeedCast. The bankruptcy estate only has limited value. Credit Agricole Corporate and Investment Bank, one of SpeedCast's other creditors, objected on this basis. The Bankruptcy Court overruled Credit Agricole's objection and approved the post-bankruptcy financing with the roll-up included. In doing so, the Bankruptcy Court violated not only the Bankruptcy Code and clear

circuit precedent forbidding such agreements, but also a privately negotiated agreement between the various creditors. The Bankruptcy Court also refused to ensure that Credit Agricole had "adequate protection" against the roll-up, as the Bankruptcy Code requires.

STATEMENT OF THE CASE

Debtors in bankruptcy have contract obligations and relationships with creditors that preexist the bankruptcy. Creditors who loan money on secured terms before a debtor files for bankruptcy are called prepetition secured creditors. The Debtor in this case, SpeedCast,[2] has many prepetition secured creditors under a syndicated loan facility and agreement.[3] Credit Agricole is one of them.

In April 2020, SpeedCast filed chapter 11 bankruptcy. D.E.1; ROA.72. SpeedCast, like most debtors, was insolvent and needed cash to stay afloat. SpeedCast sought what is called postpetition financing (also, debtor-in-possession, or "DIP," financing). Some of SpeedCast's prepetition secured creditors, referred to below as the DIP Lenders, agreed to provide this financing.[4] In exchange, they asked for a contractual arrangement called a "roll-up." This arrangement would permit the DIP Lenders to "roll" certain of their prepetition debt into postpetition debt. Specifically, SpeedCast would be "deemed to have[] exchanged and substituted" the DIP Lenders' prepetition loans "on a cashless, dollar-for-dollar basis" with the postpetition loans. D.E.239 at 23; ROA.2882. The DIP Lenders wanted this term because postpetition debt can be secured with a senior lien to ensure that it has "superpriority" and gets repaid first. By seeking

[2] There are many debtors in this case. They are referred to collectively as "SpeedCast."

[3] A syndicated loan facility refers to a set of financial products provided by a group of firms working together under mutually agreeable terms.

[4] The prepetition secured creditors who provided this postpetition financing were Credit Suisse AG, Cayman Islands Branch; Bank of America, N.A.; MacQuarie Capital Funding LLC; and Siemens Financial Services, Inc.

a roll-up, then, the DIP Lenders asked SpeedCast (and ultimately the Bankruptcy Court) to allow them to skip ahead of other prepetition secured creditors in the repayment line, despite preexisting agreements and obligations and the Bankruptcy Code's rigid priority scheme.

Roll-up provisions, and the closely related cross-collateral provisions, while they have become increasingly common in bankruptcy practice over the years, have been viewed with skepticism and disfavor from the appellate courts. *See, e.g.*, *Matter of Saybrook Mfg. Co., Inc.*, 963 F.2d 1490, 1493–94 (11th Cir. 1992). The reason is straightforward. Postpetition lenders benefit from priority payment of prepetition debt at the expense of all other prepetition secured creditors. The prepetition secured creditors who once had a priority equal to the postpetition lenders have—by no fault of their own—lower chances at repayment. Roll-up and cross-collateral agreements also interfere with prepetition contract relationships between secured creditors, effectively elevating some and demoting others. Debtors have little incentive to protect the rights of other secured creditors if offering a roll-up helps them secure postpetition financing. For these reasons, and because the Bankruptcy Code nowhere authorizes such agreements, the only circuit court to consider their validity has outright forbidden them. *See id.*

In this case, through the roll-up, the DIP Lenders obtained superpriority on $90 million in prepetition debt at Credit Agricole's expense. Credit Agricole objected to this arrangement as impermissible under the Bankruptcy Code, violating a prepetition agreement between the secured creditors, and done without affording Credit Agricole adequate protection. *See generally* D.E.266, 167; ROA.999–1002, 2931–3049. The Bankruptcy Court overruled Credit Agricole's objection and authorized the postpetition financing—at both the interim and final stages—incorrectly concluding that a roll-up did not present unique concerns and that Credit Agricole had consented to the roll-up. D.E.266 at 105–10; D.E.90 at 69–70; ROA.943–44, 3035–40. The relevant details

surrounding the prepetition agreement, the postpetition agreement, and the proceedings before the Bankruptcy Court are laid out below.

A. The Prepetition Agreement

About two years before bankruptcy, SpeedCast entered a Syndicated Facility Agreement with Credit Agricole and the entities that would become the DIP Lenders, among others. D.E.208-10; ROA.1680. Credit Suisse AG, Cayman Islands Branch served as the Agreement's administrative agent, collateral agent, and security trustee to implement and manage the Agreement's complex requirements. D.E.208-10 at 7; ROA.1686.

In case SpeedCast defaulted, the Agreement specified the order of repayment among the secured creditors in a "waterfall" provision. D.E.208-10 at 165–70; ROA.1844–49. After a default, the Syndicated Facility Agreement required the secured parties to share *pro rata* in proceeds from the collateral that SpeedCast had put up, after certain costs and expenses. D.E.208-10 at 168–70; ROA.1847–48. It was by design and after careful negotiation that the parties to the Agreement had equal rights to repayment of claims owed by SpeedCast.

Credit Agricole wore two hats under the Agreement: lender and secured hedging bank. D.E.266 at 45–46; ROA.2975–76. A secured hedging bank is one that has an agreement to "hedge," or reduce the risk, of changes to, among other things, interest rates, price changes, or currency fluctuations—typically through financial instruments such as interest rate swaps.[5] As a secured hedging bank, Credit Agricole facilitated such interest rate swaps for SpeedCast. *See, e.g.*, D.E.208-16–208-18; ROA.2509, 2519, 2531. Credit Agricole declared an early termination of

[5] An interest rate swap basically means that financial firms exchange the basis of interest payments. For example, for a given cash flow, a firm might want to exchange a fixed interest rate (*e.g.*, 5%) for a floating interest rate that tracks a benchmark like the London Interbank Offered Rate, commonly called "LIBOR." A swap allows the firm to do this, fine-tuning the amount of the firm's risk. *See Thrifty Oil Co. v. Bank of Am. Nat'l Tr. & Sav. Ass'n*, 322 F.3d 1039, 1042–43 (9th Cir. 2003) (explaining in great detail the mechanics of swap agreements).

these swaps on April 27, 2020, after SpeedCast had declared bankruptcy. D.E.208-21; ROA.2560. SpeedCast owes $23,803,088 under them. D.E.208-21 at 1–3; ROA.2652. Additionally, as a lender, Credit Agricole provided SpeedCast with a revolving loan. Credit Agricole assigned this loan to a purchaser on May 7, 2020, a few weeks after SpeedCast's bankruptcy filing. D.E.207-5, 207-7; D.E.266 at 62–63; ROA.1229, 1235–39, 2992–93.

The Syndicated Facility Agreement could be amended by the consent of both SpeedCast and lenders holding more than "50% of the sum" of all outstanding loans. D.E.208-10 at 52–53, 191; ROA.1731–32, 1870. But there was an exception. The Agreement excluded secured hedging banks, such as Credit Agricole, from the binding effect of amendments to the waterfall provision absent consent in writing. The Agreement read: "Any amendment or modification to any of the following provisions that would directly and adversely affect a Secured Hedging Bank shall not be effective as to such Secured Hedging Bank without its prior written consent," including the waterfall provision. D.E.208-10 at 192; ROA.1871.

B. The Interim Postpetition Financing and Amendment to the Syndicated Facility Agreement

When bankruptcy is filed, the debtor requires immediate approval from the bankruptcy court to take the steps necessary to continue operating—for instance, to fulfill obligations to vendors, pay employees, and for the financing to do so. The debtor seeks this approval through "first-day" motions—typically filed the same day as the bankruptcy.

SpeedCast filed multiple first-day motions. Among them was one for interim postpetition financing. D.E.77; ROA.2386. SpeedCast had sought and received an offer for postpetition financing from the DIP Lenders, who were a group of prepetition secured creditors under the Syndicated Facility Agreement. The DIP Lenders offered SpeedCast $90 million in new loans, with a matching $90 million roll-up of prepetition debt that SpeedCast owed them. D.E.27 at 3;

ROA.154. Because the roll-up would allow the creditors to circumvent the waterfall provision by obtaining priority repayment of $90 million in prepetition debt, SpeedCast and the DIP Lenders agreed to attempt to amend the Syndicated Facility Agreement to permit the roll-up. D.E.27 at 5–6; ROA.156–57. SpeedCast found these terms acceptable and presented them to the Bankruptcy Court for interim approval. On an interim basis, SpeedCast requested $35 million and a matching $35 million roll-up. *Id.*

Many of the prepetition lenders signed a Third Amendment to the Syndicated Facility Agreement in connection with the postpetition financing. This Amendment stated that the postpetition financing (or "DIP") agreement "shall be deemed permitted and not in conflict with the provisions of the Credit Agreement or any other Loan Document," including the waterfall provision. D.E.208-14 at 2; ROA.2217. Credit Agricole did not consent to the Third Amendment as a secured hedging bank. Credit Agricole, however, did consent to the Third Amendment "as Lender." Credit Agricole's signature block to the Third Amendment is below.

[CREDIT AGRICOLE CIB],
as Lender

By: _____
Name: Anant BHAIWAGAR
Title: AUTHORISED SIGNATORY

By: _____
Name:
Title: Thomas DELMARRE
Managing Director
Chief Operating Officer
Structured Finance Asia
CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

D.E.208-14 at 57; ROA.2272. Credit Agricole signed as a lender because it was in the process of assigning its revolving loan with SpeedCast to a third-party purchaser who wished to consent to the Third Amendment. D.E.266 at 62–63; D.E.208-10 at 182; D.E.207-7 at 2–3; ROA.1235–36, 1861, 2992–93. But while Credit Agricole was selling off its lender hat, it still wore the secured hedging bank one.

During the hearing on the first-day motions, held after a few hours' notice to interested parties, Credit Agricole objected to the interim financing, arguing that that the roll-up was premature, in violation of the Syndicated Facility Agreement, and without adequate protection. D.E.90 at 57–58; ROA.931–32. Because of the short notice, Credit Agricole had little time to prepare or refine arguments. But Credit Agricole made clear that (1) it had not consented as a secured hedging bank, and (2) amendments to the Syndicated Facility Agreement did not affect secured hedging banks absent their consent in writing. D.E.90 at 64, 69; ROA.938, 943. The Bankruptcy Court overruled Credit Agricole's objection and granted the interim financing, seemingly based on the notion that Credit Agricole had consented, calling consent an "internal problem with the lender group" and that the Court "shouldn't be getting into the internal mechanics of the lending arrangement." D.E.90 at 68–70; ROA.942–44.

The Bankruptcy Court authorized SpeedCast's interim financing—$35 million and a $35 million roll-up of the DIP Lenders' prepetition debt. D.E.77 at 2; ROA.1153. The Court set a final approval hearing on SpeedCast's postpetition financing for May 2020. D.E.77 at 64; ROA.1215.

C. The Roll-up, the Bankruptcy Court, and the Final Order

The cycle repeated with the final approval hearing, including the remaining $55 million of financing and $55 million of roll-up. Credit Agricole again objected—arguing that the roll-up violated the Syndicated Facility Agreement, contravened the Bankruptcy Code, and failed to provide adequate protection. D.E.167 at 8–12; ROA.998–1002. SpeedCast, the DIP Lenders, and

Credit Suisse, as the Agreement's administrative agent, collateral agent, and security trustee, responded. D.E.222, 229, 233; ROA.2653, 2669, 2685. They argued that Credit Agricole had consented to the Third Amendment; the Third Amendment did not alter the waterfall provision; and Credit Agricole had waived any adequate protection argument by entering the Syndicated Facility Agreement and by consenting to the Third Amendment.[6] *See generally id.*

The parties re-urged these arguments and presented evidence during the final hearing. Mr. Anant Bhatnagar—an Executive Director at Credit Agricole and one of Credit Agricole's signatories on the Third Amendment—testified that Credit Agricole was a "revolving credit lender" and a "secured hedging bank" under the Syndicated Facility Agreement. D.E.266 at 45–46; ROA.2975–76. When counsel asked Mr. Bhatnagar if he had signed the Third Amendment in Credit Agricole's "capacity as a secured hedging bank," Mr. Bhatnagar responded, "No." D.E.266 at 54; ROA.2984. Credit Agricole, Mr. Bhatnagar testified, had reminded SpeedCast that "modifying the waterfall in the Syndicated Facility Agreement required Credit Agricole's consent as a secured hedging bank." D.E.266 at 50; ROA.2980. Neither SpeedCast nor any other parties offered evidence to rebut Mr. Bhatnagar's testimony.

Credit Agricole submitted emails and letters into evidence to substantiate Mr. Bhatnagar's testimony. In them, Mr. Bhatnagar and Mr. Edward Smith—a Managing Director of Credit Agricole—reached out to SpeedCast, along with counsel for the administrative agent and various lenders, in Credit Agricole's "capacity as swap provider." D.E.207-4–207-8; ROA.1219–43. They

[6] These parties raised a standing argument, too, but the Bankruptcy Court found that they had withdrawn it. D.E.266 at 76–77; ROA.3006–07. SpeedCast and others contended that SpeedCast had not defaulted on Credit Agricole's swap agreements because the agent had not issued a notice of default under Section 7.01 of the Syndicated Facility Agreement. D.E.222 at 15; D.E.229 at 7–8; ROA.2667, 2691–92. The Bankruptcy Court did not entertain this argument, with good reason. A chapter 11 filing automatically triggered a default under Section 7.01(h) of the Agreement without any requirement of notice from the administrative agent. D.E.208-10 at 168; ROA.1845-57.

wrote to request payment owed on swaps and to remind these parties that Credit Agricole's approval "as Senior Secured Hedge Provider is required on any change to the waterfall." D.E.207-5 at 2; ROA.1229. Counsel for the administrative agent did not contend that Credit Agricole had consented to the Third Amendment as a Secured Hedging Bank. Rather, counsel responded that Credit Agricole, as a secured hedging bank, had no right or need to consent to the Third Amendment. D.E.207-9 at 2–5; ROA.1245–48. The administrative agent's counsel failed to mention that amendments to the waterfall provision cannot affect secured hedging banks unless they consent. *Id.*

After hearing the parties' argument and evidence, the Bankruptcy Court overruled Credit Agricole's objection, issued findings of fact and conclusions of law, and approved SpeedCast's postpetition financing.[7] D.E.266 at 105–10; ROA.3035–40. Credit Agricole's objection, the Bankruptcy Court stated, presented "a much closer call than [it] thought it would be." D.E.266 at 110; ROA.3040. The Court framed the dispute in terms of "economic practicalities." D.E.266 at 106; ROA.3036. In the Court's view, a "group of lenders is prepared to put in $90 million . . . if they get back 180 million before anybody else gets paid." *Id.* The Court believed this situation no different than "if this money was coming from a third party." *Id.* Based on such "practical" reasoning, the Court concluded that: "it does not violate Credit Agricole's rights to borrow 90 [sic] and repay 180 nor does it violate [its] rights for somebody else to agree to waive collection of the 90 out of their [Syndicated Facility Agreement]." D.E.266 at 107; ROA.3037. The Court found

[7] The Bankruptcy Court made one minor change to the proposed postpetition financing. The change was that SpeedCast get "180 [million] up front and . . . waiving in exchange 90 [million]." D.E.266 at 106–07; ROA.3036–37. The postpetition financing had originally been structured so that SpeedCast would receive $90 million, pay back $180 million, and then exchange $90 million in prepetition debt. *Id.*

that neither the Syndicated Facility Agreement nor the Bankruptcy Code had been violated "because of the structure of the transaction." D.E.266 at 108; ROA.3038.

The Court's "economic practicalities" reasoning rested on tenuous grounds. First, the Bankruptcy Court conceded that the postpetition financing "affects the waterfall," which the Syndicated Facility Agreement prohibited as to a secured hedging bank, such as Credit Agricole, absent its consent. D.E.266 at 107; ROA.3037. Second, significant practical differences exist between roll-ups and postpetition financing from third parties. Subordination agreements often control the relationship among prepetition secured creditors, as one did here, and the Bankruptcy Code makes these agreements binding. *See* 11 U.S.C. § 510(a). Just as importantly, SpeedCast had different incentives when negotiating with prepetition creditors as opposed to third-party lenders. SpeedCast had no reason to resist the roll-up. It obtained financing in exchange for improving the postpetition creditors' priority on already-owed debt. In contrast, had SpeedCast been negotiating with third parties, it would have had every reason to resist the expensive terms—a 100% return on the loan and a superpriority basis—and so would *all* the prepetition secured creditors. Further, it is doubtful that the Bankruptcy Court would approve 100% return on a loan that is likely to mature or otherwise be addressed in less than 6 months, or in other words, an annualized rate of interest of possibly 200%.

The Bankruptcy Court made additional conclusions and findings—two of them relevant here. Both concerned consent. First, the Bankruptcy Court found that "[w]hen [Credit Agricole] signed the [T]hird [A]mendment, it consented." D.E.266 at 108; ROA.3038. According to the Bankruptcy Court, this consent ameliorated any violation of the waterfall provision. D.E.266 at 108; ROA.3038. Second, the Bankruptcy Court concluded that Credit Agricole was not entitled to adequate protection "because this is being done in a manner consistent with the Agreement that

they signed up to do and the agent under that Agreement has, in fact, consented." D.E.266 at 110; ROA.3040.

On May 20, 2020, the Bankruptcy Court issued the final order approving SpeedCast's postpetition financing with the roll-up included. D.E.239; ROA.2860. Credit Agricole timely filed a notice of appeal of the Bankruptcy Court's final order approving the postpetition financing. D.E.276; ROA.3051.

SUMMARY OF ARGUMENT

The Bankruptcy Court erred in three ways, each providing an independent basis for reversal and, at the least, modification of the final order approving SpeedCast's postpetition financing.

First, the Eleventh Circuit and a bankruptcy court in this District have held that the Bankruptcy Code does not permit agreements such as roll-ups, and that bankruptcy courts cannot approve them under their inherent equitable powers over the objection of a disadvantaged creditor. This Court should adopt the Eleventh Circuit's approach—decided with a Fifth Circuit judge on the panel—and hold that the Bankruptcy Court had no legal basis to authorize a nonconsensual roll-up in these circumstances.

Second, Credit Agricole and the post-bankruptcy creditors had a subordination agreement requiring *pro rata* distribution of proceeds from SpeedCast following a default. The Bankruptcy Court undid this agreement by authorizing the roll-up and allowing the post-bankruptcy creditors to receive payment before anyone else, including Credit Agricole. The Bankruptcy Code provides that bankruptcy courts shall enforce privately negotiated agreements between pre-bankruptcy creditors. *See* 11 U.S.C. § 510(a). The Bankruptcy Court sidestepped this prohibition by finding that Credit Agricole had consented to the roll-up. The evidence conclusively showed, however, that Credit Agricole had not consented in the relevant capacity.

Lastly, the Bankruptcy Court declined to ensure that Credit Agricole had "adequate protection" against the roll-up, as the Bankruptcy Code requires. The Bankruptcy Court reasoned that Credit Agricole was not entitled to adequate protection, again, because it had consented. Because the undisputed evidence showed that Credit Agricole had not consented in the relevant capacity, the Bankruptcy Court erred in failing to ensure that Credit Agricole had adequate protection.

ARGUMENT

I. The Bankruptcy Court erred in authorizing a roll-up of prepetition debt when not all creditors agreed to its terms.

This case demonstrates the need for clarification on the status of postpetition financing structured with nonconsensual roll-ups, cross-collateralization, or similar arrangements in this District. Although they have become increasingly common in cases in which no creditors object to their terms, the Eleventh Circuit and a different bankruptcy court in this District have held that neither the Bankruptcy Code nor equity tolerates agreements such as roll-ups over a valid objection. Promoting the prepetition interests of postpetition creditors at the expense of other creditors, is unfair, and, as the Second Circuit has explained, runs "contrary to the spirit of the Bankruptcy Act." *In re Texlon Corp.*, 596 F.2d 1092, 1098 (2d Cir. 1979). This Court should follow this precedent and hold that the Bankruptcy Court erred as a matter of law in issuing the final order approving a nonconsensual roll-up of prepetition debt.

The Bankruptcy Code nowhere authorizes postpetition financing that elevates the priority of lenders' prepetition claims. In Section 364, the Bankruptcy Code sets out how a debtor may obtain postpetition financing. This appeal concerns Section 364(d). D.E.239 at 34; ROA.2893. Section 364(d) allows the Bankruptcy Court to authorize the debtor to incur new debt secured by a senior lien. It states: "The court, after notice and hearing, may authorize the obtaining of credit

or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien." 11 U.S.C. § 364(d)(1). Because it speaks only in future terms—"obtaining" credit or "incurring" debt—that Section does not authorize the Bankruptcy Court to grant a senior lien that elevates the priority of prepetition debt through a nonconsensual roll-up. The option for debtors to obtain postpetition financing by agreeing to elevate the priority of lenders' prepetition loans is absent from the Code.

Seizing on this absence, the Eleventh Circuit—in a decision with a Fifth Circuit jurist on the panel, Judge Thomas Reavley—has forbidden postpetition financing agreements that, over the objection of a disadvantaged creditor, "authorize the granting of liens to secure pre-petition loans," a practice called cross-collateralization. *Saybrook*, 963 F.2d at 1495. The Eleventh Circuit documented the great skepticism and disfavor with which courts have viewed cross-collateral and similar financing arrangements that elevate the status of prepetition debt—even from courts that have approved them. *See id.* at 1493–95. Turning next to the text of the Code, the Eleventh Circuit noted that the "express terms" of Section 364 "apply only to future—i.e., post-petition—extensions of credit." *Id.* at 1495. "They do not authorize the granting of liens to secure pre-petition loans." *Id.*

Concluding that Section 364 does not authorize cross-collateral agreements, the Eleventh Circuit then rejected the only possible alternative—the bankruptcy court's equitable powers. It observed that, "Section 507 of the Bankruptcy Code fixes the priority order of claims and expenses against the bankruptcy estate. . . . Creditors within a given class are to be treated equally, and bankruptcy courts may not create their own rules of superpriority within a single class." *Id.* at 1495–96; *accord In re Patton*, 358 B.R. 911, 915 (Bankr. S.D. Tex. 2007) (Isgur, J.) ("Courts are not free to fashion their own rules of superpriorities or subpriorities within any given priority

class."). "Cross-collateralization, however, does exactly that." *Id.* at 1496. It elevates the priority of one lender's similarly situated prepetition claims above another. *Id*. Given these considerations, the Eleventh Circuit declared that "[c]ross-collateralization is directly inconsistent with the priority scheme of the Bankruptcy Code" and "may not be approved by the bankruptcy court" when it is contested. *Id.*; *see also In re Sun Runner Marine, Inc.*, 945 F.2d 1089, 1094 (9th Cir. 1991) (stating that there is no "applicable provision in the Bankruptcy Code authorizing the debtor to pay certain pre-petition unsecured claims in full while others remain unpaid").

Courts around the country—including in this District—have followed *Saybrook*'s holding and reasoning and prohibited cross-collateral and roll-up agreements in the face of a continued objection from prepetition creditors. *See e.g.*, *In re Equalnet Commc'ns Corp.*, 258 B.R. 368, 369 (Bankr. S.D. Tex. 2000) (Greendyke, J.); *In re Kaib*, 448 B.R. 373, 376 n.2 (Bankr. W.D. Pa. 2011) ("Cross collateralizing is generally disallowed in a bankruptcy context." (citing *Saybrook*, 963 F.2d at 1493)); *In re Gallegos Research Grp., Corp.*, 193 B.R. 577, 585 n.2 (Bankr. D. Colo. 1995) (same); *In re Monach Circuit Indus., Inc.*, 41 B.R. 859, 862 (Bankr. E.D. Pa. 1984) ("[C]ross-collateralization is not authorized" under Section 364(c)).

In some cases, lower courts have permitted cross-collateral and similar arrangements "as a last resort only when the debtor is otherwise unable to obtain needed financing on acceptable terms." *In re Vanguard Diversified, Inc.*, 31 B.R. 364, 366 (Bankr. E.D.N.Y. 1983). These cases are problematic, however. First, most of them came before *Saybrook* or rely on pre-*Saybrook* precedent. Second, these courts have articulated no legal basis for cross-collateral or similar agreements, other than that Section 364 does not expressly forbid them and sometime involve situations in which there was an "absence of any opposition from the creditors." *Id*. Third, these decisions rely on the Second Circuit's opinion in *Texlon*. *See Vanguard*, 31 B.R. at 366. In *Texlon*,

the Second Circuit stated that nothing in Section 364 "advances the case in favor of cross-collateralization" and declared cross-collateralization "contrary to the spirit of the Bankruptcy Act." *Texlon*, 596 F.2d at 1098. But because the bankruptcy court had not held a hearing, the Second Circuit narrowly held that in no case could cross-collateralization agreements be granted on an "Ex parte order"—leaving for another day whether they were permissible under any "conceivable circumstances." *Id.* Finally, even those courts and commentators that have permitted rollups have limited their availability to circumstances that do not exist here. *See, e.g.*, *Vanguard*, 31 B.R. at 366 (imposing a four-factor test); COMM'N TO STUDY THE REFORM OF CHAPTER 11, AM. BANKR. INST., 2012–2014 FINAL REPORT AND RECOMMENDATIONS 73 (2014), http://commission.abi.org/full-report (recommending that a rollup should only be approved if, among other criteria, it "repays the prepetition facility in cash"). This Court should follow *Saybrook*, not this line of lower court decisions.

Saybrook applies with full force to roll-ups. Roll-ups are a form of cross-collateralization that result in prepetition debt becoming secured with senior liens. In this case, the roll-up loans are secured with postpetition "DIP Liens" that are "senior in all respects to the Prepetition Liens," including those held by Credit Agricole. D.E.239 at 33; ROA.2892. As with cross-collateralization, this type of roll-up falls outside Section 364(d), which does "not authorize the granting of liens to secure pre-petition loans." *Saybrook*, 963 F.2d at 1495. Just as cross-collateral clauses contravene the Bankruptcy Code's priority scheme, so too do nonconsensual roll-ups. The roll-up here permits the DIP Lenders to obtain priority over other objecting prepetition secured creditors, including Credit Agricole. One a bankruptcy court in this District declared, "based on the Eleventh Circuit's ruling in the case of *Saybrook* . . . , a secured creditor's loan balance could not be paid off and/or 'rolled into' a postpetition line of debtor in possession financing, with

resultant enhancement of collateral position and administrative priority." *Equalnet Commc'ns*, 258 B.R. at 369.

Although the use of rollups to obtain postpetition financing has "skyrocketed in recent years," often in cases in which no creditor objects to their terms, commentators continue to recognize them as "controversial" and of questionable validity under the Bankruptcy Code, echoing the reasons articulated in *Saybrook*:

> Roll-ups are controversial because they are not authorized in the Bankruptcy Code. Section 364 on DIP financing makes no mention of paying off pre-bankruptcy debt. Indeed, roll-ups contravene the general notion that pre-bankruptcy claims must wait until the conclusion of the case for payment, pursuant to a distribution scheme memorialized in a confirmed plan of reorganization.

Federick Tung, *Financing Failure: Bankruptcy Lending, Credit Market Conditions, and the Financial Crisis*, 37 YALE J. REG. 651, 671 (2020).[8] With both roll-up and cross-collateral agreements, the debtor "is hardly neutral" and has every incentive to agree to elevate prepetition debt if the arrangement furthers "its own survival." *Texlon*, 596 F.2d at 1098. The debtor has no reason to look after the "equal treatment of creditors, and close relations with a lending institution tend to prevent the exploration of other available courses in which a more objective receiver or trustee would engage." *Id.*; *see* Tung, *supra*, at 705 ("The distortive effects of roll-ups on plan negotiation make cross-collateralization seem mild.").

[8] *See, e.g.*, 3 COLLIER ON BANKRUPTCY § 364.06 (16th ed. 2020) ("As with cross-collateralization, [the rolling up of pre-petition debt] is of questionable validity under the general bankruptcy principle favoring equal treatment of similarly situated creditors and disfavoring payment of prepetition debt outside of a reorganization plan."); Richard M. Hynes & Steven D. Walt, *Inequality and Equity in Bankruptcy Reorganization*, 66 U. KAN. L. REV. 875, 882 (2018) ("Cross-collateralization and roll-ups, if authorized, both allow for deviations from Bankruptcy Code priority rules."); Sandeep Dahiya & Korok Ray, *A Theoretical Framework for Evaluating Debtor-in-Possession Financing*, 34 EMORY BANKR. DEV. J. 57, 73–74 (2017) ("Conceptually, a roll-up facility is similar to a cross-collateralized DIP loan.").

Bankruptcy judges face a disadvantage. The proceedings are rushed and the roll-up is framed in terms of absolute necessity, leaving judges with little time or room to consider the consequences. *See* Tung, *supra*, at 659 ("[A] rushed approval process at the outset of the case makes it difficult for the bankruptcy court or junior claimants to challenge the debtor's generosity in its offering of lending inducements."). "The debtor and its lawyers claim that the debtor's cash needs are dire, so that a hearing is held only days after the bankruptcy filing, on expedited notice." *Id*. Judges must assess "whether the extraordinary terms are necessary to induce lending" on the fly and without "the benefit of counterfactuals." *Id*. at 655.

The Bankruptcy Court here faced these difficulties and incorrectly viewed the roll-up as no different than "if there had been a third-party loan." D.E.266 at 107; ROA.3037. The court characterized the DIP Lenders as unilaterally "waiving" $90 million in prepetition claims and, in exchange, entering into a new agreement "to put in $90 million if they get back 180 million before anybody else gets paid." *Id.* But regardless of how the rollup is characterized, the result is the same—SpeedCast obtained financing in exchange for improving the DIP Lenders priority on already-owed debt, at Credit Agricole's expense and over its objection. In contrast, had SpeedCast been negotiating with third parties for a $90 million loan in exchange for a $180 million repayment, it would have had very good reason to resist the expensive terms—a 100% return and a superpriority basis—as would each prepetition secured creditor.

As detailed below, and at least in situations where previously negotiated and enforceable agreements prohibit nonconsensual roll-ups, this Court should follow *Saybrook* in holding that nonconsensual roll-up agreements are impermissible and that the Bankruptcy Court erred as a matter of law in approving one.

II. The roll-up violated the Syndicated Facility Agreement and Section 510(a) of the Bankruptcy Code.

Bankruptcy courts may not interfere with agreements between creditors determining the priority of payment. *See* 11 U.S.C. § 510(a). The Syndicated Facility Agreement established an order of payment in the waterfall provision. After certain fees and expenses, the parties would share *pro rata* in any recovery from SpeedCast following default. D.E.208-10 at 165–70; ROA.1844–49. By authorizing the roll-up, the Bankruptcy Court allowed the DIP Lenders to be repaid under the Agreement before all the others. The roll-up thus violated the Agreement's waterfall provision. The Bankruptcy Court justified this violation on the ground that Credit Agricole had consented, but the only evidence proffered showed that Credit Agricole had not consented in the relevant capacity. The waterfall provision applied, the roll-up violated it, and the Bankruptcy Court clearly erred in finding otherwise.

A. The Syndicated Facility Agreement is strictly enforceable under Section 510(a) of the Bankruptcy Code.

The Syndicated Facility Agreement is strictly enforceable under Section 510(a) of the Bankruptcy Code. That Section makes a "subordination agreement" enforceable "to the same extent that such agreement is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 510(a); *see In re Bank of N.E. Corp.*, 364 F.3d 355, 362 (1st Cir. 2004). "Because equitable powers possessed by bankruptcy courts 'must and can only be exercised within the confines of the Bankruptcy Code,' . . . the enactment of section 510(a) means that the enforcement of subordination provisions is no longer a matter committed to the bankruptcy courts' notions of what may (or may not) be equitable." *Bank of N.E.*, 364 F.3d at 362 (quoting *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206 (1988)).

Subordination agreements "affect[] the priority of payment of claims in bankruptcy." *In re 203 N. LaSalle St. P'Ship*, 246 B.R. 325, 331 (Bankr. N.D. Ill. 2000) (quotation omitted); *see*

In re Hinderliter Indus., Inc., 228 B.R. 848, 850 (Bankr. E.D. Tex. 1999) (Section 510(a) allows "the consensual and contractual priority of payment to be maintained between creditors among themselves in a bankruptcy proceeding" (quotation omitted)). The waterfall provision in the Syndicated Facility Agreement affects the priority of payments among creditors and is "strictly enforceable" under Section 510(a) and New York law, which governs the enforcement of the Agreement. *In re Ion Media Networks, Inc*, 419 B.R. 585, 595 (Bankr. S.D.N.Y. 2009); *see In re La Paloma Generating Co.*, 595 B.R. 466, 470–71, 475–77 (Bankr. D. Del. 2018) (enforcing the subordination provisions of an "Intercreditor Agreement" much like the Syndicated Facility Agreement).

The Bankruptcy Court violated Section 510(a) of the Code when it authorized the roll-up of the DIP Lenders prepetition loans in a manner that breached the waterfall provision of the Syndicated Facility Agreement.

B. The roll-up violates the waterfall provision in Section 7.2 of the Syndicated Facility Agreement.

The roll-up runs afoul of the Syndicated Facility Agreement by ignoring the waterfall provision. The DIP Lenders and Credit Agricole have an equal and *pro rata* right to share in proceeds from SpeedCast's collateral. D.E.208-10 at 168–69; ROA.1847–48. The waterfall provision states that, after payment of certain fees and expenses, proceeds from SpeedCast's collateral must go:

> to the payment in full of all Obligations . . . consisting of . . . [among others] the termination values and any other Obligations in respect of Secured Hedging Agreements (the amount so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution).

D.E.208-10 at 169; ROA.1848. The roll-up violates this provision by allowing the DIP Lenders to get priority repayment on $90 million of their prepetition debt before Credit Agricole receives

repayment on the more than $23 million that SpeedCast owes under its Secured Hedging Agreement with Credit Agricole. D.E.239 at 23–24; D.E.208-21 at 1–3; ROA.2882–83, 2650–52.

Below, SpeedCast's arguments to the contrary went to form and ignored substance. SpeedCast and others contended that the waterfall provision concerns how the prepetition agent must distribute proceeds from SpeedCast's collateral. The roll-up, they argued, does not implicate funds held by the administrative agent or proceeds from collateral, making the waterfall provision irrelevant. D.E.233 at 6; D.E.229 at 5–7; D.E.222 at 12–13; ROA. 2664–65, 2689–91, 2702. SpeedCast's argument only highlights the unfairness of the roll-up. Through the roll-up, the DIP Lenders altogether circumvented the Agreement's procedures for repayment following default—a procedure which the parties had agreed and relied on. While other creditors must stand in line and wait, as the Syndicated Facility Agreement requires, the DIP Lenders—through a side deal with the host—have sped through the buffet-line before the others have even arrived at the party. Not only unfair, this violates the Syndicated Facility Agreement.

If it were true, as SpeedCast and the others argue, that the roll-up does not modify the waterfall or its priorities, then the roll-up itself would need to flow through the waterfall. When SpeedCast repays the $90 million roll-up loan, Credit Agricole and the other prepetition lenders would be entitled to their *pro rata* share of those proceeds. D.E.208-10 at 168–69; ROA.1847–48. But the Bankruptcy Court's order does not permit other prepetition lenders to share in the roll-up, nor do SpeedCast or the DIP Lenders intend to share the proceeds from the roll-up when they are distributed. Accordingly, the roll-up authorized by the Bankruptcy Court's final order violates that waterfall and Section 510(a) of the Bankruptcy Code.

C. Credit Agricole did not consent to the roll-up in its capacity as a secured hedging bank.

The Bankruptcy Court found that Credit Agricole consented to the roll-up in its capacity as a secured hedging bank by signing the Third Amendment to the Syndicated Facility Agreement as a "Lender." This was clear error.

As a secured hedging bank, Credit Agricole had to consent for changes to the waterfall provision to affect it. The Syndicated Facility Agreement stated: "Any amendment or modification to [the waterfall provision] that would directly and adversely affect a Secured Hedging Bank shall not be effective as to such Secured Hedging Bank without its prior consent." D.E.208-10 at 192; ROA.1871. The Third Amendment authorized the roll-up and allowed the postpetition lenders to circumvent the waterfall provision as to $90 million that would otherwise have been divided *pro rata* among the parties to the Agreement, effectively modifying the waterfall provision. D.E.208-14 at 2; ROA.2217. Credit Agricole, a secured hedging bank, was directly and adversely affected by this modification. The Bankruptcy Court itself found that the roll-up "affects the waterfall." D.E.266 at 107; ROA.3037. Credit Agricole's consent as a secured hedging bank was necessary.

Again, Credit Agricole signed the Third Amendment "as Lender," but not as a secured hedging bank. D.E.208-14 at 57; ROA.2272; *see Integrated Mktg. & Promotional Sols., Inc. v. JEC Nutrition, LLC*, No. 06-CV-5640, 2006 WL 3627753, *3 (S.D.N.Y. Dec. 12, 2006) (examining "the structure and content of the signature lines" to determine the capacity in which an agent signed).[9] At the time, Credit Agricole was in the process of assigning its loan to a third-party purchaser who wished to consent to Third Amendment. *See* D.E.266 at 62–63; D.E.208-10 at 182; ROA.2992–93, 1861. But Credit Agricole remained a secured hedging bank.

[9] New York law governs both the Syndicated Facility Agreement and the Third Amendment. D.E.208-14 at 6–7; D.E.208-10 at 190–91; ROA.2221–22, 1869–70

The Bankruptcy Court erred as a matter of law when it found that Credit Agricole's signature "as Lender" bound it to the Third Amendment as a "single entity." D.E.266 at 108; ROA.3038. A signature in one capacity is not a signature in all capacities. *See Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 543 n.6 (1986) ("Acts performed by the same person in two different capacities are generally treated as the transactions of two different legal personages." (quotation omitted)); *cf. Israel v. Chabra*, 537 F.3d 86, 97 (2d Cir. 2008) ("The most obvious indicator of intent is the form of the signature. . . . [W]here individual responsibility is demanded the nearly universal practice is that the officer signs twice—once as an officer and again as an individual." (quotation omitted)).

The Agreement distinguished between lenders and secured hedging banks. "Lender" was a broad term for "persons listed" in schedules to the Agreement and "any person that has become a party." D.E.208-10 at 41; ROA.1720. A "Secured Hedging Bank" provided "Hedging" services, meaning "any and all rate swap transactions, basis swaps, credit derivative transactions," and the list of specific financial instruments goes on. D.E.208-10 at 34, 55–56; ROA.1734–35, 1713. To attain "Secured Hedging Bank" status, a firm had to be "designated a 'Secured Hedging Bank'" in a "Secured Hedging Agreement" with SpeedCast. D.E.208-10 at 55; ROA.1734. While a lender could serve as a secured hedging bank, this does not mean that a firm's signature as "Lender" gave the firm's approval in all capacities. To the contrary, the Agreement stated that modifications to the waterfall provision—while agreed on by "Lenders"—would not affect any "Secured Hedging Bank without its prior written consent." D.E.208-10 at 191–92; ROA.1870–71.

The evidence before the Bankruptcy Court underscored what Credit Agricole's signature block reflected—that it signed solely as a lender. First, Mr. Bhatnagar—Credit Agricole's agent who signed the Third Amendment—testified that Credit Agricole did not sign in its capacity as a

secured hedging bank. D.E.266 at 54; ROA.2984. Second, Credit Agricole submitted correspondence between the parties highlighting that they did not consider Credit Agricole to have consented to the Third Amendment as a secured hedging bank. D.E.207-5 at 2–3; ROA.1229–30. In fact, the agent under the Agreement wrote a letter to Credit Agricole acknowledging that "we understand that your current objection and direction to the Prepetition Agents is solely in your capacity as a Secured Hedging Bank. In that capacity, you are not acting as a 'Lender' as that term is defined in the Facility Agreement." D.E.207-9 at 3; ROA.1246. The only competent evidence before the Bankruptcy Court showed that Credit Agricole had signed the Third Amendment in a single capacity: lender.

The Bankruptcy Court's finding that Credit Agricole's consent "as Lender" binds it in every capacity would upend complex agreements, like the one here, and chill piecemeal dispute resolution. The Syndicated Facility Agreement, for example, defines secured hedging banks and distinctly defines their rights. D.E.208-10 at 55–56; ROA.1734–35. If Credit Agricole could not act in separate, cabined capacities, the distinction between lender and secured hedging bank would mean nothing. Parties like Credit Agricole would not agree or consent, even on small issues, when doing so threatened rights in another capacity. The sophisticated parties who created the Agreement did not intend this, and the law does not require it. *See Bender*, 475 U.S. at 543 n.6; *Deutsche Bank Nat'l Tr. Co. v. Barclays Bank PLC*, 140 N.E.3d 511, 519 (N.Y. 2019) ("[A]greements are construed in accord with the parties' intent, and the best evidence of what parties to a written agreement intend is what they say in their writing." (alteration and quotation omitted)).

The evidence all flies in one direction, and the Bankruptcy Court clearly erred in ignoring it. Credit Agricole, as a secured hedging bank, did not consent to the roll-up through the Third

Amendment or otherwise. Without Credit Agricole's consent, the roll-up violated the waterfall provision by allowing the DIP Lenders to receive repayment of debt under the Agreement before Credit Agricole.

III. Alternatively, the Bankruptcy Court erred in failing to ensure that Credit Agricole had "adequate protection" against the roll-up.

The District Court erred in finding that Credit Agricole was not entitled to adequate protection. Before a bankruptcy court authorizes financing under Section 364(d), the debtor has the burden to show that the prepetition secured creditors have adequate protection for the diminution in the value of their interests. *See* 11 U.S.C. § 364(d)(1)(B), (2); *see* 3 COLLIER ON BANKRUPTCY P. § 364.05 (16th ed. 2020). For adequate protection, SpeedCast and the postpetition lenders provided the prepetition secured creditors "Adequate Protection Liens" for "an amount equal to the aggregate diminution in the value of the Prepetition Secured Parties' interests." D.E.239 at 41–42; ROA.2900. But these liens were junior to those securing the roll-up loans. *See id.* They provided Credit Agricole no protection against the roll-up. *See In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994) ("[T]he pre-prepetition secured creditor [should have] the same level of protection it would have had if there had not been post-petition superpriority financing.").

Rather than contesting this, SpeedCast argued that, "by executing the Third Amendment, [Credit Agricole] has consented to the DIP Order and the DIP Loans, and thus has already conceded the sufficiency of adequate protection provided by the DIP Order." D.E.222 at 14–15; ROA.2666–67. The Bankruptcy Court apparently agreed, finding that Credit Agricole was not "entitled to adequate protection" because the roll-up was "consistent with the Agreement that [Credit Agricole] signed . . . and the agent under that Agreement has, in fact, consented." D.E.266 at 109–10; ROA.3039–40. The Bankruptcy Court elaborated: "whether they like that consent today

or not, the consent that they authorized is not a basis on which they are entitled to anymore adequate protection than is already authorized under the proposed [postpetition] financing [o]rder." D.E.266 at 110; ROA.3040.

The Bankruptcy Court erred on two fronts. First, Credit Agricole did not consent to the Third Amendment as a secured hedging lender, as discussed above. Second, Credit Agricole, as a secured hedging bank, was exempt from modifications to the waterfall provision unless it consented. D.E.208-10 at 192; ROA.1871. The roll-up conflicted with the Syndicated Facility Agreement—regardless of whether the necessary consent existed among the "lenders"—at least as to non-consenting secured hedging banks, like Credit Agricole.

Because Credit Agricole had not consented to the roll-up or the adequate protection proposed by SpeedCast, the Bankruptcy Court erred in finding that Credit Agricole "was not entitled" to adequate protection. D.E.266 at 109–10; ROA.3039–40. And SpeedCast did not otherwise carry the burden of showing that Credit Agricole had adequate protection against the roll-up. *See Swedeland*, 16 F.3d at 564 ("A debtor has the burden to establish that the holder of the lien to be subordinated has adequate protection."). Because Credit Agricole lacked adequate protection against the roll-up, which the Bankruptcy Code demands, this Court should reverse and remand the final order approving the postpetition financing, with instructions for the Bankruptcy Court to ensure that Credit Agricole has adequate protection.

CONCLUSION

The Bankruptcy Court approved SpeedCast's roll-up without any authority to do so, in violation of a subordination agreement, and after failing to ensure that Credit Agricole had adequate protection. Credit Agricole respectfully requests that the Court remand with instructions for the Bankruptcy Court to:

(1) eliminate the roll-up from the final postpetition financing order;

(2) alternatively, order that, when the $90 million roll-up is repaid, Credit Agricole is entitled to receive the same portion of the repayment that Credit Agricole would have received had the payment flown through the waterfall provision of the Syndicated Facility Agreement;

(3) grant Credit Agricole "adequate protection" against the roll-up; or

(4) grant any and all further relief to which Credit Agricole is entitled.

Dated: July 2, 2020

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Bankruptcy Procedure 8015(a)(7)(B)(i) because it has **8,219** words, excluding the parts of the brief exempted by Federal Rule of Bankruptcy Procedure 8015(g).

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CERTIFICATE OF SERVICE

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NO. 4:20-CV-01970

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

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,

Appellant,

V.

SPEEDCAST INTERNATIONAL LIMITED, et al,

Appellees.

On Appeal from the United States Bankruptcy Court for the Southern District of Texas, Houston Division
Case No. 20-32243 (MI)

APPENDIX TO BRIEF OF APPELLANT CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

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TABLE OF CONTENTS

TABLE OF CONTENTS 1

INDEX OF RELEVANT DOCKET ENTRIES 2

CERTIFICATE OF SERVICE 1094

INDEX OF RELEVANT DOCKET ENTRIES

Tab	***Description***	***Date***	***Document Number***	***Page Number***
1.	Emergency Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief	04/23/20	27	4-271
2.	Corrected Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief	04/24/20	77	273-492
3.	Transcript - Telephonic First Day Motions	04/23/20	90	494-609
4.	Syndicated Facility Agreement	05/18/20	208-10	611-821
5.	Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief	05/20/20	239	823-893
6.	Transcript - Motion Hearing of May 20, 2020	05/27/20	266	895-1014
7.	Notice of Appeal	06/03/20	276	1016-1093

Tab 1

Emergency Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Joint Administration Requested)**
	§	**(Emergency Hearing Requested)**

EMERGENCY MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING AND (VI) GRANTING RELATED RELIEF

EMERGENCY RELIEF HAS BEEN REQUESTED. A VIDEO/TELEPHONIC HEARING WILL BE CONDUCTED ON THIS MATTER ON APRIL 23, 2020 AT 3:00 PM (PREVAILING CENTRAL TIME). PARTIES WISHING TO PARTICIPATE TELEPHONICALLY MUST DIAL IN USING THE COURT'S TELECONFERENCE SYSTEM AT 1-832-917-1510 AND ENTERING CONFERENCE CODE 954554. PARTIES WHO ALSO WISH TO PARTICIPATE BY VIDEOCONFERENCE MAY DO SO BY USE OF AN INTERNET CONNECTION, USING THE WEBSITE WWW.JOIN.ME, SELECTING "JOIN A MEETING," AND ENTERING MEETING CODE "JudgeIsgur."

IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU MUST EITHER APPEAR AT THE HEARING OR FILE A WRITTEN RESPONSE PRIOR TO THE HEARING. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

RELIEF IS REQUESTED NOT LATER THAN APRIL 23, 2020.

SpeedCast International Limited and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the "**Debtors**"), respectfully

[1] A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

represent as follows in support of this motion (the "**Motion**") for the relief requested herein. In support of this Motion, the Debtors respectfully submit the *Declaration of Adam Waldman in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief* (the "**Waldman Declaration**") and the *Declaration of Michael Healy in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**Healy Declaration**"),[2] each sworn to on the date hereof, incorporated by reference, and filed contemporaneously herewith.

Preliminary Statement

1. After exploring a variety of out-of-court transaction alternatives to recapitalize their businesses, and facing lasting distressed market conditions in key customer industries (exacerbated by the dramatic impact of the COVID-19 pandemic), the Debtors determined that the best path to properly restructure the Company and protect its operations and employees was to commence these chapter 11 cases. The Debtors have arrived here with the support of an ad hoc group of the Company's prepetition secured lenders (the "**Ad Hoc Group**"), who have spent weeks working with the Debtors, *first* to provide necessary relief through a prepetition Forbearance Agreement, *then* to work with the Company to carefully consider restructuring and liquidity options, and *now* to provide the Debtors with access to a postpetition financing facility (the "**DIP Facility**") and use of "cash collateral" as such term is defined in section 363 of the Bankruptcy Code (the "**Cash Collateral**"). These are essential

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Healy Declaration. All dollar ($) references in this Motion are to the U.S. dollar, unless stated otherwise.

components of the Debtors' restructuring strategy and vital to ensure the viability of the Company; without that financing, and all of its components, the Debtors would have no means of financing these cases and no path to an orderly restructuring.

2. The Debtors' ability to continue their operations without interruption is essential for the Debtors to maximize the value of their estates for the benefit of all stakeholders, avail themselves of the "breathing room" afforded by chapter 11, and best position themselves for a successful restructuring. To accomplish this, the Debtors desperately need additional liquidity. As of the Petition Date, the Debtors will only have approximately $30 million in cash on hand, approximately $21 million of which is subject to liens pledged in favor of the Prepetition Lenders (as defined herein) and constitutes Cash Collateral (as defined herein), and approximately $9 million of which is cash held by Debtors who are unrestricted subsidiaries (not Loan Parties under the prepetition debt facility). After conducting a marketing process, the Debtors were able to obtain a postpetition debtor-in-possession financing facility funded by the Ad Hoc Group and certain other prepetition secured lenders and agented by Credit Suisse AG, Cayman Islands Branch; no other actionable financing was available. The facility consists of senior secured, superpriority term loans in an aggregate principal amount of up to $180 million, consisting of: (i) a new money term loan facility in the aggregate principal amount of $90 million; and (ii) a two-stage roll-up to a second-out position term loan in the principal amount of $90 million (the "**DIP Facility**"). With approximately $680 million of prepetition funded indebtedness secured by liens on substantially all of the Debtors' assets, coupled with challenging and uncertain market conditions, the DIP Facility is the best postpetition financing alternative reasonably available to the Debtors under the circumstances.

3. The Debtors have also reached an agreement for consensual use of the Prepetition Lenders' (as defined herein) Cash Collateral. Without access to Cash Collateral as a supplement to the DIP Facility funds, the Debtors would lack adequate liquidity to continue operations or consummate a chapter 11 restructuring, resulting in a value-destructive, piecemeal liquidation and the loss of thousands of well-paying jobs that are desperately needed during these unprecedented times.

4. The DIP Facility and terms for use of cash collateral were negotiated in good faith and provide the Debtors with immediate access to critical capital, with the least amount of execution risk. For these reasons, the reasons set forth in the Waldman Declaration and the Healy Declaration, and the reasons set forth below, the Debtors believe that approval of the DIP Facility will maximize value for the Debtors' stakeholders, is in the exercise of the Debtors' sound business judgment, and is in the best interests of the Debtors and their estates. As such, the Debtors respectfully submit that the Court approve the relief requested herein.

Jurisdiction

5. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

6. By this Motion, pursuant to sections 105, 361, 362, 363, 364, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014, the Bankruptcy Local Rules for the Southern District of Texas (the "**Local Rules**") and the Procedures for Complex Chapter 11 Bankruptcy Cases (the "**Complex Case Procedures**") promulgated by the United States Bankruptcy Court for the Southern District of Texas (the "**Court**"), the Debtors request entry of an interim order, substantially in the form attached hereto at **Exhibit A** (the "**Interim**

Order") and a final order (the "**Final Order**" and, together with the Interim Order, collectively, the "**DIP Orders**"),[3] granting, among other things, the following relief:

(i) authorizing SpeedCast Communications, Inc. (the "**Borrower**") to obtain postpetition financing pursuant to a senior secured superpriority and priming debtor-in-possession term loan credit facility (the "**DIP Facility**") subject to the terms and conditions set forth in that certain *Senior Secured Superpriority Debtor-in-Possession Term Loan Credit Agreement* attached to the Interim Order as **Exhibit 1** (as amended, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), in an aggregate principal amount of up to $180 million, consisting of:

a. new money term loans in the aggregate principal amount of $90 million (the "**DIP New Money Loans**") from the DIP Lenders (as defined herein), of which $35 million will be available immediately upon entry of this Interim Order, and the remainder to be available no later than three (3) business days following the date of entry of the Final Order; and

b. term loans in an aggregate principal amount of $90 million (the "**DIP Roll-Up Loans**" and, together with the DIP New Money Term Loans, the "**DIP Loans**") from the DIP Lenders issued in substitution and exchange for (and in prepayment of) Prepetition Loans (as defined herein) of the DIP Lenders on a dollar-for-dollar basis pursuant to the terms and conditions of the DIP Credit Agreement;

by and among, SpeedCast International Limited, as parent, the Borrower, as borrower, the several banks and other financial institutions or entities from time to time party thereto as "Lenders" (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacity, the "**DIP Agent**" and, collectively, with the DIP Lenders, the **"DIP Secured Parties"**);

(ii) authorizing the Debtors other than the Borrower (such Debtors, the "**Debtor DIP Guarantors**," and together with the Borrower, the "**Debtor DIP Loan Parties**") to jointly and severally guarantee the DIP Loans and other DIP Obligations;

(iii) authorizing and directing the Debtors to use reasonable best efforts to cause the DIP Guarantors that are not Debtors (the "**Non-Debtor DIP Loan Parties**" and together with the Debtor DIP Guarantors, the "**DIP Guarantors**" and together with the Borrower and the Debtor DIP Guarantors, the "**DIP Loan Parties**") to jointly and severally guarantee on the basis set forth in the DIP Guarantee Agreement (as defined in the Credit Agreement), the DIP Loans and the other DIP Obligations (as defined herein);

[3] The Debtors will file the form of Final Order prior to the Final Hearing (as defined herein).

(iv) authorizing the Debtors, (i) subject to entry of this Interim Order, on the Syndication End Date (as defined in the DIP Credit Agreement), to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Initial Commitments in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Initial Roll-Up**") and (ii) upon entry of the Final Order, to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Delayed Draw Commitments (as defined in the DIP Credit Agreement) in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Delayed Draw Roll-Up**" and, together with the Initial Roll-Up, the "**Roll-Up**");

(v) authorizing the Debtor DIP Loan Parties to, and authorizing and directing the Debtor DIP Loan Parties to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, execute, deliver and perform under the DIP Credit Agreement and all other loan documentation, including security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, the Syndicated Facility Amendment,[4] the Fee Letter (as defined herein), and such other documents that may be reasonably requested by the DIP Agent and the DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Credit Agreement, all Loan Documents and this Interim Order, the "**DIP Documents**");

(vi) authorizing the Debtor DIP Loan Parties to incur, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to incur, loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees, administrative agency fees, exit fees, other fees and fees payable pursuant to the Fee Letter (as defined herein)), costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other obligations due or payable under the DIP Documents (collectively, the "**DIP Obligations**"), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

(vii) subject to the Carve Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtor DIP Loan Parties;

[4] That certain Syndicated Facility Amendment, dated as of May 15, 2018, by and among SpeedCast International Limited, as Parent Borrower, SpeedCast Americas Inc., the Borrower, and SpeedCast Limited, each of the other "Loan Parties" party thereto, and the lenders party thereto.

(viii) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to section 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 prepetition and postpetition property of the Debtor DIP Loan Parties' estates (other than certain excluded property as provided in the DIP Documents (the "**Excluded Assets**")) and all proceeds thereof, including, subject only to and effective upon entry of the Final Order (as defined herein), any Avoidance Proceeds (as defined herein), in each case subject to the Carve Out (as defined herein);

(ix) authorizing the DIP Agent, acting at the direction of the Requisite DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders (each, as defined below), to take all commercially reasonable actions to implement and effectuate the terms of the Interim Order;

(x) subject to the Carve Out (as defined herein), authorizing the Debtors to waive (a) their right to surcharge the Prepetition Collateral and the DIP Collateral (as defined herein) (together, but excluding any Excluded Assets, the "**Prepetition Collateral**") pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;

(xi) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);

(xii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, use proceeds of the DIP Facility solely in accordance with the Interim Order and the DIP Documents;

(xiii) authorizing the Debtors to, and to use commercially best efforts to cause the Non-Debtor DIP Loan Parties to, pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents;

(xiv) subject to the restrictions set forth in the DIP Documents and the Interim Order, authorizing the Debtors to use the Prepetition Collateral (as defined herein), including Cash Collateral of the Prepetition Secured Parties under the Prepetition Loan Documents (as defined herein), and provide adequate protection to the Prepetition Secured Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) (as defined herein), resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the "**Automatic Stay**"), the Debtors' use, sale, or lease of the Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral);

(xv) vacating and modifying the Automatic Stay to the extent necessary to permit the Debtors and their affiliates and the Prepetition Secured Parties to implement and effectuate the terms and provisions of the Interim Order, the DIP Documents and the Final Order and to deliver any notices of termination described below and as further set forth herein;

(xvi) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of the Interim Order and the Final Order; and

(xvii) scheduling a final hearing (the "**Final Hearing**") to consider final approval of the DIP Facility and use of Cash Collateral pursuant to a proposed Final Order.

Summary of Terms of DIP Facility and Use of Cash Collateral

7. In accordance with Rules 4001(b)-(d) of the Bankruptcy Rules, as incorporated by Rule 1075 of the Local Rules, the chart below summarizes material terms of the Interim Order and the DIP Credit Agreement.[5]

MATERIAL TERMS		Location
Borrower Bankruptcy Rule 4001(c)(1)(B)	**Borrower**. SpeedCast Communications, Inc. (the "**Borrower**"). **Guarantors**. The DIP Guarantors and certain other subsidiaries of Parent (collectively, with the Borrower, the "**DIP Loan Parties**"). **DIP Lenders**. The DIP Lenders. **DIP Agent**. DIP Agent and, collectively, with the DIP Lenders, the "**DIP Secured Parties**").	DIP Credit Agreement Preamble.
DIP Facility and Borrowing Limits Bankruptcy Rule 4001(c)(1)(B)	**New Money DIP Loans**. New money term loans in the aggregate principal amount of $90 million: (i) $35 million, upon entry of Interim Order, and (ii) $55 million following entry of the Final Order. **Roll-Up DIP Loans**. A two-stage roll-up to second-out position term loan in the principal amount of $90 million of the Prepetition Obligations: (i) upon the Syndication End Date (as defined in the DIP Credit Agreement) after entry of the Interim Order, loans under the Prepetition Credit	DIP Credit Agreement, § 2.01; DIP Interim Order ¶ 4

[5] The following summary of the terms of the DIP Facility is qualified entirely by the express terms of the referenced documents, including the DIP Credit Agreement and DIP Orders. If there are any inconsistencies between the summary below and such documents, the terms of such documents shall control. Capitalized terms used but not otherwise defined in this summary chart shall have the meanings ascribed to them in the DIP Credit Agreement or the DIP Orders, as applicable.

MATERIAL TERMS		Location
	Agreement held by the DIP Lenders in a principal amount of $35 million will be deemed exchanged for DIP Roll-Up Loans on a cashless, dollar-for-dollar basis; and (ii) after entry of the Final Order, Prepetition Loans held by the DIP Lenders in an additional principal amount of $55 million will be deemed exchanged for DIP Roll-Up Loans on a cashless, dollar-for-dollar basis.	
Interest Rate Bankruptcy Rule 4001(c)(1)(B)	**New Money DIP Facility**. LIBOR plus 8.0% for Eurocurrency Loan; 7.0% for ABR Loan. (2.0% LIBOR floor. **Roll-Up DIP Facility**. LIBOR plus 1.75% per annum. **Default Interest Rate**: For principal and interest, applicable rate listed above, plus 2.0%. For all other amounts, applicable ABR rate plus 2.0%.	DIP Credit Agreement § 2.06
Maturity Date; Duration for Use of DIP Collateral Bankruptcy Rule 4001(c)(1)(B) 4001	9 months from the Petition Date.	DIP Credit Agreement § 2.09
Events of Default Bankruptcy Rule 4001(c)(1)(B)	Usual and customary events of default for financings of this type, with the following exceptions: (a) Any Non-Debtor Subsidiary in Australia is unable to pay debts as they fall due, or suspends payment on any of its debts. (b) A moratorium on indebtedness is declared or takes effect on any Loan Party incorporated or registered in Singapore. (c) Any Loan Party is declared a Part IX company in Singapore. (d) Any termination or rejection in any insolvency proceeding of any Intelsat Agreement without consent of Required IC Lenders.	DIP Credit Agreement § 7.01; Interim Order ¶ 18(b)
Liens and Priority Granted for New Credit Bankruptcy Rule 4001(c)(1)(B)(i)	(a) Fully perfected first priority senior security interest on the Debtor Parties' unencumbered property. (b) Fully perfected first priority senior priming security interest upon all prepetition and postpetition property of the DIP Loan Parties, senior to Prepetition Liens and Adequate Protection Liens but junior to the carve-out. (c) Fully perfect junior lien upon all tangible and intangible prepetition property of the DIP Loan Parties subject to	Interim Order ¶¶ 4, 7(a)

MATERIAL TERMS		Location
	prepetition liens other than the primed liens The claims and liens in respect of the DIP Roll-Up Loans are subordinate to the DIP New Money Loans. If, prior to entry of the Final Order, the DIP New Money Loans are repaid in cash, then the Initial Roll-Up is unwound and those DIP Roll-Up Loan amounts revert back to Prepetition Loans.	
Superpriority Expense Claims for New Credit Bankruptcy Rule 4001(c)(1)(B)(i)	DIP Superpriority Claims. All obligations of the DIP Loan Parties arising under the DIP Documents shall constitute allowed superpriority administrative expense claims as provided in section 364(c)(1) of the Bankruptcy Code (the "**DIP Superpriority Claims**") against each of the Debtor DIP Loan Parties on a joint and several basis, subject and subordinate only to the Carve-Out, which DIP Superpriority Claims shall have recourse to and be payable from all prepetition and postpetition property of the Debtors, excluding the Carve-Out, and including, without limitation, the proceeds or property recovered in respect of any Avoidance Actions. The DIP Superpriority Claims shall be *pari passu* to one another and senior to 507(b) Claims and senior to all other administrative expenses and priority claims; provided, the Roll-Up DIP Loans shall be subject to the claims and liens in respect of the DIP New Money Loans in all respects. The claims and liens in respect of the DIP Roll-Up Loans are subordinate to the DIP New Money Loans. If, prior to entry of the Final Order, the DIP New Money Loans are repaid in cash, then the Initial Roll-Up is unwound and those DIP Roll-Up Loan amounts revert back to Prepetition Loans.	DIP Interim Order ¶¶ 4, 6
Carve Out to Superpriority Expense Claims for New Credit Bankruptcy Rule 4001(c)(1)(B)(i)	Equal to the sum of: (i) all court clerk and United States Trustee fees plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses incurred by a chapter 7 trustee in an amount not to exceed $50,000; and (iii) (a) all pre-Trigger Notice unpaid claims for fees, costs, disbursements and expenses to the extent allowed at any time of persons or firms retained by the Debtors (the "**Professional Fees**") (excluding any transaction fees or success fees), plus (b) all post-Trigger Notice Professional Fees up to $7,000,000 (the "**Post-Carve-Out Trigger Notice Cap**"). **"Trigger Notice**" shall mean a written notice delivered by the DIP Agent describing the Event of Default that is alleged. Immediately upon delivery of a Trigger Notice, and prior to the payment to any Prepetition Secured Party on account of	Interim Order ¶¶ 5, 6

MATERIAL TERMS		Location
	the adequate protection or otherwise, the Debtors shall be required to deposit, in a segregated account not subject to the control of the DIP Agent or the Prepetition Agent (the "**Professional Fees Account**"), an amount equal to the **Post-Carve-Out Trigger Notice Cap**. The funds on deposit in the Carve-Out Account shall be available only to satisfy obligations benefitting from the Carve-Out, and the DIP Agent and the Prepetition Agent, each on behalf of itself and the relevant secured parties, (i) shall not sweep or foreclose on cash of the Debtors necessary to fund the Carve-Out Account and (ii) shall have a security interest upon any residual interest in the Carve-Out Account available following satisfaction in cash in full of all obligations benefitting from the Carve-Out.	
Parties with an Interest in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)	Prepetition Secured Parties and DIP Secured Parties.	Interim Order ¶ F
Duration/Use of Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(iii)	Continuing unless terminated. Cash Collateral, along with financing sought hereby, may not be used for certain enumerated purposes that may be viewed as contrary to the rights and interests of the Prepetition Secured Parties and DIP Secured Parties (*e.g.*, for investigations and litigation against such parties). Right to use Cash Collateral shall terminate upon an Event of Default under § 7.01 of the Credit Agreement.	Interim Order ¶ 13
Liens, Cash Payments or Adequate Protection Provided for Use of Cash Collateral Bankruptcy Rules 4001(b)(1)(B)(iv), 4001(c)(1)(B)(ii)	The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Collateral, including the Cash Collateral, to the extent of any diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date (the "**Adequate Protection Claims**"): Replacement Liens. The Prepetition Agent is granted replacement liens on all DIP Collateral consisting of assets of the Debtors' estates, including liens on existing unencumbered and unperfected assets junior only to the liens securing the DIP Facility and the Carve-Out (the "**Adequate Protection Liens"**). 507(b) Claims. The Prepetition Agent is granted, subject to the Carve Out, allowed superpriority administrative expense claims as provided for in section 507(b) of the Bankruptcy	DIP Interim Order, ¶¶ 14, (a), (b), (c), (g)

MATERIAL TERMS		Location
	Code in the aggregate amount of the applicable Adequate Protection Claims with priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code, except claims securing the DIP Facility and the Carve-Out (the "**Prepetition Secured Parties 507(b) Claims**"). Information Rights. Upon repayment of the DIP Facility in full, the Debtors shall promptly provide the Prepetition Agent with all required written financial reporting and other periodic reporting that is delivered by the Loan Parties under the DIP Credit Agreement, including the Budget as and when delivered to the DIP Agent. Mandatory Prepayments. Upon repayment of the DIP Facility in full, the Prepetition Secured Parties shall receive the benefit of the mandatory prepayments provisions set forth in section 2.13 of the DIP Credit Agreement as adequate protection. Fees and Expenses of Advisors. Upon entry of the Interim Order, cash payment of all prepetition and postpetition reasonable and documented out-of-pocket professional fees, expenses and disbursements payable for Prepetition Agent and counsel to the Ad Hoc Group.	
Budget Bankruptcy Rule 4001(c)(1)(B)	Budget & Initial Budget. Use of Cash Collateral and proceeds of the DIP Facility are subject to a "**Budget**," the first of such Budget to be delivered (the "**Initial Budget**") is attached as **Schedule 1** to the Interim Order, consisting of a cash flow forecast, containing line items of sufficient detail to reflect the Loan Parties' projected receipts and operating disbursements for the 13-week period following the Closing Date, in form and in substance reasonably satisfactory to the Required IC DIP Lenders. Parent will furnish the Initial DIP Budget to the DIP Agent and the Lenders on or prior to the Closing Date, in a form satisfactory to the Required IC Lenders and the Required Lenders Updated Budget. The Initial Budget shall be updated upon request by the Parent, the Required IC Lenders, or the Required Lenders (each, an "**Updated Budget**). If Parent requests, the Lenders shall receive not less than three Business Days' prior written notice of delivery of the Updated Budget. If the Required IC Lenders or the Required Lenders request, the Updated Budget shall be delivered not later than three Business Days following such request. The Updated Budget must be approved by the Required IC Lenders and the Required Lenders. The Line Items in each Updated Budget shall only be used to calculate the projected line items commencing with the week in which such updated DIP Budget is so approved and for subsequent weeks set forth	DIP Credit Agreement, §§ 4.01(n); 5.04(j); 6.15 Interim Order ¶ 15(f)

MATERIAL TERMS		Location
	therein. Any prior weeks tested as part of any then applicable Test Period shall be calculated using the projected line items set forth in the applicable previously Approved Budget. Budget Variance. During (a) the period from the Petition Date to the second-to-last Friday prior to the delivery of the Variance Report (the "**Cumulative Budget Test Period**") and (b) the rolling four-week period most recently ended on the second to last Friday prior to the delivery of such variance report (the "**Budget Test Period**"), the Borrower shall not (i) allow the aggregate actual cash receipts of the Debtors to exceed a negative variance of 10%; (ii) allow the aggregate actual disbursements of the Debtors to the Bandwidth Vendors exceed a positive variance of 10%; (iii) allow the aggregate actual disbursements of the Debtors to all vendors exceed a positive variance of 10%; (iv) allow the aggregate actual disbursements of the Debtors to Capex exceed a positive variance of 10%; and (v) solely for the Cumulative Budget Test Period, allow the aggregate actual disbursements of the Debtors to professionals to exceed a positive variance of 10%.	
Conditions to Closing Bankruptcy Rule 4001(c)(1)(B)	Usual and customary for financings of this type, including, among other things: (a) Receipt of the Initial Budget; (b) Entry of the Interim Order and material "first day relief" in form and substance satisfactory to the Required IC DIP Lenders; (c) Release of claims against the DIP Lenders, the DIP Agent, the Prepetition First Lien Lenders and the Prepetition Agent; (d) Customary stipulations with respect to the continuance of the chapter 11 proceedings and dismissal or conversion into chapter 7; and (e) Payment in full all fees due under the Fee Letter and all out-of-pocket expenses required under the terms hereof or of the Fee Letter.	DIP Credit Agreement Art. IV
Covenants Bankruptcy Rule 4001(c)(1)(B)	Usual and customary affirmative and negative covenants for financings of this type including stipulations to, among other things: (a) Preserve, renew, and keep in full force the legal existence of the Debtor Companies; (b) Maintain adequate insurance on properties; (c) Continue paying obligations and taxes; (d) Deliver financial statements and reports to the DIP Agent	DIP Credit Agreement, Art. V and VI

MATERIAL TERMS		Location
	and the advisors to the Ad Hoc Group; and (e) Deliver notice to DIP Agent and each DIP Lender written notices of any defaults or commencement of any litigation. And covenants not to, among other things: (a) Incur, create, assume, or permit indebtedness generally; (b) Create, incur, assume, or permit existence of liens on any property or assets generally; (c) Making certain investments loans and advances; (d) Declare or pay any dividend or make any other distribution; and (e) Sell or transfer any property or assets to any Affiliates.	
Fees, Expenses and Additional Payments Bankruptcy Rule 4001(c)(1)(B)	The Debtors shall pay the reasonable and documented fees and out-of-pocket expenses of the advisors to the DIP Agent and the DIP Lenders, in their capacities as such and as advisors to the Prepetition Agent and the Prepetition Lenders, limited to (i) Davis Polk & Wardwell LLP, as counsel to the DIP Lenders, (ii) King & Wood Mallesons, as counsel to the DIP Lenders, (iii) Rapp & Krock, P.C., (iv) one counsel to the DIP Agent, (v) Greenhill & Co., LLC, as financial advisor to certain of the DIP Lenders, and (vi) any local legal counsel or other advisor in any foreign jurisdiction and any other advisors as are permitted under the DIP Documents (collectively, the "**Advisors**"). The DIP Facility also includes the following fees: Commitment Fee. 2.0% on the aggregate New-Money DIP Commitments as of the closing date of the DIP Facility, payable in the form of original issue discount. Delayed Draw Commitment Fee. 0.5% on the average daily unused amount of the New-Money DIP Commitment of such DIP Lender from and including the Closing Date, but excluding the Delayed Draw Termination Date. Exit Fee. 5.0% on the aggregate principal amount of the DIP Loans, payable in cash upon the maturity or acceleration of the DIP Facility or on the date of any prepayment and/or repayment, in whole or in part, of such DIP Loans. DIP Agent Fees. Certain fees to the DIP Agent in the amount and at the times specified in the letter agreements between the	DIP Credit Agreement §§ 2.05, 9.05; Interim Order ¶ 2(b)(iii)

MATERIAL TERMS		Location
	Borrower and the DIP Agent (the "**DIP Facility Fee Letter**"), filed contemporaneously herewith.[6]	
Prepayments Bankruptcy Rule 4001(c)(1)(B)	Voluntary Prepayments: Borrower may voluntarily prepay upon three business days' notice to the DIP Agent. Each partial prepayment shall be in an amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. Voluntary prepayments of Loans shall be applied on a pro rata basis. Mandatory Prepayments. Usual and customary terms triggering mandatory prepayment including, among other things: (i) Receipt of Net Cash Proceeds in respect of any Asset Sale (ii) Receipt of Net Cash Proceeds in respect of Extraordinary Receipts in excess of $500,000 in the aggregate for all such Extraordinary Receipts during the term of this Agreement; and (iii) Receipt of Net Cash Proceeds from the issuance or incurrence of any Indebtedness by Parent or any Subsidiary (other than any permitted indebtedness).	DIP Credit Agreement §§ 2.12, 2.13
Terms of Use and Purposes for Use of DIP Proceeds and Cash Collateral Bankruptcy Rule 4001(c)(1)(B) 4001(b)(1)(B)(ii)	Proceeds of the New-Money DIP Loans will be used solely in accordance with the Orders and the Approved Budget, including general corporate and working capital purposes (including by way of intercompany loans to non-Debtors), adequate protection payments and other costs in connection with the administration of the Cases (including the Carve Out). Limitations on Use. Proceeds of DIP Loans and Cash Collateral may not be used for certain enumerated purposes that are contrary to the rights and interests of the Prepetition Secured Parties and DIP Secured Parties (*e.g.*, for investigations and litigation against such parties).	DIP Credit Agreement § 3.13
Determination Regarding Prepetition Claims Bankruptcy Rule 4001(c)(1)(B)(iii)	The Interim Order contains stipulations of fact by the Debtors, including those related to the validity and enforceability of the Debtors' prepetition secured obligations.	Interim Order ¶ G

[6] The Debtors have sought authority to file the DIP Facility Fee Letter under seal pursuant to the Debtors' *Emergency Motion for Entry of an Order Authorizing Debtors to File DIP Facility Fee Letters Under Seal*, filed contemporaneously herewith.

MATERIAL TERMS		Location
Effect of Debtors' Stipulations on Third Parties Bankruptcy Rule 4001(c)(1)(B)(iii), (viii)	Subject to challenges properly filed during the Challenge Period, the stipulations and admissions contained in the Interim Order shall be binding upon all parties in interest. The "**Challenge Period**" end no later than (x) the earlier of (i) confirmation of a plan of reorganization, (ii) 60 calendar days from the formation of the Committee and (iii) 75 calendar days after entry of the Interim Order, (y) such date as is agreed in writing by the DIP Agent and Prepetition Agent, each acting with required lender direction and (z) such date as is ordered by the Court for cause after timely application and a hearing.	Interim Order ¶ 20
Waiver or Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	The automatic stay will be modified to the extent necessary to permit the DIP Agent to take all actions, as applicable, to (i) deliver a notice of an Event of Default to the Debtors; (ii) declare the termination, reduction or restriction of any further DIP Commitment to the extent any such DIP Commitment remains; (iii) declare the termination of the DIP Documents as to any future liability or obligation of the DIP Agent and the DIP Secured Parties (but, for the avoidance of doubt, without affecting any of the DIP Liens or the DIP Obligations); and (iv) declare all applicable DIP Obligations to be immediately due and payable; *provided* that the DIP Agent shall file a Stay Relief Motion on 5 business days action to pursue additional remedies following an event of default.	Interim Order ¶ 9(d).
Waiver or Modification of Authority to File a Plan, Extend Time to File Plan, Request Use of Cash Collateral, or Request Authority to Obtain Credit Bankruptcy Rule 4001(c)(1)(B)(v)	After occurrence of an Event of Default, the DIP Agent, with the consent of the Required Lenders may, and at the request of the Required Lenders shall, by notice to the Parent entity take any or all of these actions: (i) terminate commitments, (ii) accelerate loans, and (iii) exercise on behalf of itself and the other DIP Secured Parties all rights and remedies available to it and the Secured Parties under the DIP Documents, The DIP Agent shall give the Borrower five Business Days' notice prior to any of these actions (the "**Remedies Notice Period**"). After expiration of the Remedies Notice Period, the DIP Agent shall at the direction of the Required Lenders (i) terminate consensual use of Cash Collateral and (ii) exercise all other rights and remedies.	DIP Credit Agreement § 7.01
Milestones Bankruptcy Rule 4001(c)(1)(B)(vi)	Entry of Interim Order: Within five calendar days of the Petition Date. Entry of Final Order: Within 40 calendar days of the Petition Date. Delivery of preliminary tax and regulatory analysis: Within 7 days of the Petition Date.	DIP Credit Agreement § 5.16

MATERIAL TERMS		Location
	Delivery of separation analysis for Government Business Subsidiaries: May 15, 2020 Delivery of draft business plan: May 15, 2020 Delivery of the phase two report from Independent Network Review of the Company's network: May 8, 2020 Delivery of final business plan: May 29, 2020 Following the occurrence of a Plan Election: (i) filing of disclosure and solicitation documents within 14 days following such Plan Election; (ii) entry of an order approving the disclosure statement within 17 days following filing of the disclosure and solicitation documents; and (iii) entry of a confirmation order within 55 days of entry of the disclosure statement order. In the absence of a Sale Election: (i) filing of a bid procedures motion within 14 days of the date on which the Loan Parties have determined the material terms of an Approved Restructuring; (ii) entry of a bid procedures order within 24 days of filing the bid procedures motion; (iii) commencement of an auction within 35 days of entry of the bid procedures order; and; (iv) entry of a sale order within 5 days of the auction or a determination that no auction is required.	
Waiver or Modification of Applicability of Non-Bankruptcy Law Relating to the Perfection or Enforcement of a Lien Bankruptcy Rule 4001(c)(1)(B)(vii)	The DIP Agent, the DIP Secured Parties and the Prepetition Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be required or deemed reasonably appropriately by the DIP Agent under applicable local laws, or take possession of or control over cash or securities, or to amend or modify security documents, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to validate and perfect the liens and security interests granted to them. Whether or not the DIP Agent, on behalf of the DIP Secured Parties or the Prepetition Secured Parties shall, in their sole discretion, choose to take such Perfection Actions, the liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to	Interim Order ¶ 16.

MATERIAL TERMS		Location
	challenge, dispute or subordination, at the time and on the date of entry of the Interim Order.	
Release, Waivers or Limitation on any Claim or Cause of Action Bankruptcy Rule 4001(c)(1)(B)(viii)	Prepetition/DIP Lender Release. Effective as of entry of the Interim Order, the Debtors shall release the Prepetition Lenders and respective representatives from obligations and liabilities in connection with the Prepetition Loan Documents and the DIP Documents.	Interim Order ¶ (vii)
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	The DIP Documents and Interim Order contain indemnification provisions ordinary and customary for debtor-in-possession financings of this type by the Borrower and each DIP Guarantor (jointly and severally).	DIP Credit Agreement §§ 2.16, 9.05(b)
Section 506(c) Waiver Bankruptcy Rule 4001(c)(1)(B)(x)	Except to the extent of the Carve-Out, the Debtors waive any right to surcharge against the DIP Collateral or Prepetition Collateral.	Interim Order p. 4 ¶ (ix) DIP Credit Agreement § 5.19
Section 552(b) Waiver Bankruptcy Rule 4001(c)(1)(B)	In no event shall the "equities of the case" exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agent or the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits with respect to any of the Prepetition Collateral.	Interim Order ¶¶ H(xii), 11 DIP Credit Agreement § 5.19(i)
Liens on Avoidance Actions Bankruptcy Rule 4001(c)(1)(B)(xi)	Priority of Liens. Upon entry of the Interim Order and, when applicable, the Final Order, the Debtor loan party's obligations: (i) are allowed Superpriority Claims against each of the Debtor Secured Parties on a joint and several basis, which will be payable from and have recourse to all pre- and post-petition property of the Loan Parties and all proceeds thereof (excluding Avoidance Actions but including, subject to entry of a Final Order, Avoidance Proceeds) (ii) pursuant to section 364(c)(2) of the Bankruptcy Code and subject to the Carve-Out to the extent provided in the Interim Order or Final Order, as applicable, are secured by a fully-perfected first priority senior security interest and Lien on all of the assets of the	DIP Credit Agreement § 5.19(h) Interim Order ¶¶ 7, 12(b)

MATERIAL TERMS		Location
	Debtor Secured Parties, whether currently existing or thereafter acquired, of the same nature, scope and type as the Collateral that are not subject to (x) valid, perfected and non-avoidable liens as of the Petition Date or (y) valid Liens in existence as of the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, excluding Avoidance Actions but including, subject to entry of the Final Order, Avoidance Proceeds; (iii) the Collateral shall exclude Avoidance Actions, but shall, subject to entry of the Final Order, include Avoidance Proceeds DIP Superpriority Claims: shall be payable from and have recourse to all prepetition and postpetition property of the Debtor DIP Loan Parties and all proceeds thereof (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") but, subject to the entry of the Final Order, including any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance Proceeds**")) 507(b) Claims: shall have recourse to and be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions, but including, subject to entry of Final Order, Avoidance Proceeds)	

Statement Regarding Significant Provisions

8. Pursuant to paragraph 21 of the Complex Case Procedures, the DIP Facility and/or DIP Orders contain the following provisions ("**Significant Provisions**"):

DIP Facility Term	Relief Requested
Sale or Plan Confirmation Milestones Complex Case Procedures ¶ 23(a)	Following the occurrence of a Plan Election: (i) filing of disclosure and solicitation documents within 14 days following such Plan Election; (ii) entry of an order approving the disclosure statement within 17 days following filing of the disclosure and solicitation documents; and (iii) entry of a confirmation order within 55 days of entry of the disclosure statement order. In the absence of a Plan Election: (i) filing of a bid procedures motion within 14 days of the date on which the Loan Parties have determined the material terms of an Approved Restructuring; (ii) entry of a bid procedures order within 24 days of filing the bid procedures motion; (iii) commencement of an auction within 35 days of entry of the bid procedures order; and; (iv) entry of a sale order within 5 days of the auction or a determination that no auction is required. Justification. The Debtors submit that the sale or plan confirmation milestones are appropriate given the Prepetition Secured Lenders' provision of new money to the Debtors. As consideration for the new money, the Debtors have agreed to the Prepetition Secured Lenders' timeline for a plan or sale. Further, the milestones will not prejudice the Debtors' stakeholders because the Prepetition Secured Lenders have first-priority security interests on the Debtors' assets, and their approval is required for any proposed plan or sale.

DIP Facility Term	Relief Requested
Roll-ups Complex Case Procedures ¶ 23(c)	The Roll-Up is proposed to occur in multiple steps. First, upon the Syndication End Date (as defined in the DIP Credit Agreement) after entry of the Interim Order, loans under the Prepetition Credit Agreement held by the DIP Lenders in a principal amount of up to $35 million (corresponding to the amount of the initial draw of New Money DIP Loans) will be deemed exchanged for DIP Roll-Up Loans on a cashless, dollar-for-dollar basis. Second, after entry of the Final Order, loans under the Credit Agreement held by the DIP Lenders under the Credit Agreement held by the DIP Lenders in an additional principal amount of $55 million (corresponding to the amount second draw of New Money DIP Loans) will be deemed exchanged for DIP Roll-Up Loans on a cashless, dollar-for-dollar basis. The claims and liens in respect of the DIP Roll-Up Loans are subordinate to the DIP New Money Loans. If, prior to entry of the Final Order, the DIP New Money Loans are repaid in cash, then the Initial Roll-Up is unwound and those DIP Roll-Up Loan amounts revert back to Prepetition Loans. *See* Interim Order ¶ 4. Justification. The Roll-Up is a key feature of the DIP Facility and was required by the DIP Lenders as a condition to their commitment to provide the DIP Facility. The Debtors and the Prepetition Lenders engaged in arm's length negotiations and agreed to the Roll-Up as consideration for, among other things, the DIP Lenders' commitment to fund the DIP Facility. Without the Roll-Up, the Debtors would not have access to the necessary postpetition financing offered by the DIP Facility or any other means of financing the chapter 11 cases. Further, the Roll-Up will not prejudice the Debtors' stakeholders because the Prepetition Lenders have first-priority liens on substantially all the Debtors' assets and the DIP Liens, from which the refinancing obligations will benefit, are on substantially the same assets.
Liens on Avoidance Actions or Proceeds of Avoidance Actions Complex Case Procedures ¶ 23(d)	The Debtors' obligations pursuant to the Credit Agreement are secured by a fully-perfected first priority senior security interest and lien on all of the assets of the DIP Secured Parties that are Debtors, including, subject to entry of the Final Order, Avoidance Proceeds. Interim Order ¶¶ 7, 15 Justification. The liens are appropriate because the DIP Financing provides the Debtors with new money to fund the Debtors' reorganization and ensure the Debtors are able to maximize value for their estates. Moreover, the lien was required by the DIP lenders a condition to extending credit.

DIP Facility Term	Relief Requested
Releases of Claim Against Lender or Others Complex Case Procedures ¶ 23(f)	The Debtors are releasing claims against the DIP lenders and Prepetition Secured Lenders related to claims arising prepetition and related to the DIP Documents and Prepetition Loan Documents. Interim Order ¶ 8. Justification. The Debtors respectfully submit that this release is appropriate because the DIP Financing provides the Debtors with new money to fund the Debtors' reorganization and ensure the Debtors are able to maximize value for their estates. The Debtors and the Prepetition Secured Lenders engaged in arm's length negotiations and agreed to release the Prepetition Secured Lenders and DIP Lenders as consideration for, among other things, the provision of new money. Further, the Debtors are not aware of any meaningful claims against the Prepetition Secured Lenders or the DIP Lenders.
Limitations on the Use of Cash Collateral Complex Case Procedures ¶ 23(g)	Cash Collateral may not be used for certain enumerated purposes that are contrary to the rights and interests of the Prepetition Secured Parties and DIP Secured Parties (*e.g.*, for investigations and litigation against such parties). Justification. The Debtors respectfully submit that these limitations are usual and customary. The Debtors and the Prepetition Secured Lenders engaged in arm's length negotiations and agreed to limit the Debtors' use of their cash collateral as consideration for, among other things, the provision of new money.
Priming Liens Complex Case Procedures ¶ 23(h)	Subject only to the Carve Out, the DIP Lenders are provided first priority, senior priming liens on, and security interest in, all Prepetition Collateral to secure the DIP Obligations. Interim Order ¶ 8(b). In addition, subject to the Carve Out, the Adequate Protection Liens on the Prepetition Collateral shall be senior in all respects to the security interests in, and liens on, the Prepetition Collateral of each of the Prepetition Secured Parties. *See* Interim Order ¶ 9(a). Justification. The Debtors respectfully submit that it is appropriate to provide priming liens to the DIP Lenders to secure the DIP Obligations because (i) the Prepetition Secured Lenders have expressly consented to the priming liens and the other Prepetition Secured and (ii) such Prepetition Secured Lenders are receiving adequate protection in the form of adequate protection liens, superpriority claims. It is also appropriate to grant the Adequate Protection Liens on the Prepetition Collateral to prime the Prepetition Secured Parties' existing liens on the Prepetition Collateral because the Debtors do not have substantial unencumbered assets to grant as collateral and the DIP Lenders would not accept junior liens. There are no non-consensual, non-contractual priming liens granted pursuant to the DIP Order.

9. The Debtors respectfully submit that the foregoing Significant Provisions are appropriate as necessary components of the consensual agreement with the Prepetition

Lenders regarding the DIP Facility and use of Cash Collateral, including the adequate protection of the Prepetition Lenders' interests in their collateral. As set forth herein, granting the relief requested pursuant to the Interim Order is critical to the continued operation of the Debtors' businesses and will maximize the value of the Debtors' estates for all stakeholders.

10. In light of the foregoing, and under the facts and circumstances of these chapter 11 cases, the Debtors submit that the Significant Provisions are appropriate. Accordingly, the Significant Provisions in the DIP Orders should be approved.

Background

11. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases. The Debtors have also filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

12. The Debtors, combined with their non-debtor affiliates (collectively, "**Speedcast**" or the "**Company**"), are the largest provider of remote and offshore satellite communications and information technology services in the world. Speedcast's fully-managed service is delivered to more than 2,000 customers in 140 countries via a leading global, multi-access technology, multi-band and multi-orbit network of 80+ satellites and an interconnecting global terrestrial network, bolstered by on-the-ground local support from 40+ countries. Speedcast services customers in sectors such as Commercial Maritime, Cruise,

Energy, Mining, Government, NGOs, Enterprise, and Media.[7] Additional information regarding the Debtors' business and capital structure and the circumstances leading to the commencement of these chapter 11 cases is set forth in the Healy Declaration.

13. As of the Petition Date, the Debtors have outstanding funded debt obligations in the aggregate amount of approximately $689.1 million, which amount consists of (i) approximately $87.7 million of borrowings under the Revolving Credit Facility (as defined below); (ii) approximately $591.4 million in Term Loans (as defined below); and (iii) approximately $10.6 million of Prepetition Credit Facility Outstanding Letters of Credit (as defined below).

14. Certain of the Debtors are parties to that certain *Syndicated Facility Agreement*, dated as of May 15, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**" and the lenders thereunder, the "**Prepetition Lenders**") by and among (i) Speedcast and certain of its subsidiaries, as borrowers, (ii) the Lenders (as defined in the Credit Agreement), (iii) the Issuing Banks (as defined in the Credit Agreement), and (iv) Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent, and security trustee (the "**Prepetition Agent**" and together with the Prepetition Lenders, the "**Prepetition Secured Parties**"). Under the Credit Agreement, the Debtors received: (i) a $425 million senior secured credit facility with coupon of LIBOR plus 2.50% (the "**Initial Term Loan**"); and (ii) a $100 million senior secured revolving credit facility (the "**Revolving Credit Facility**"), including $30 million of letters of credit, maturing on May 15, 2023, of which $10.6 million is outstanding (the "**Prepetition Credit Facility Outstanding Letters of Credit**").

[7] None of the Speedcast entities associated with the Company's Government business are Debtors in these chapter 11 cases.

15. In September 2018, the Debtors received an additional $175 million of term loans under the Credit Agreement (the "**Incremental Term Loan**," and together with the Initial Term Loan, the "**Term Loan**"). The Incremental Term Loan, priced at LIBOR plus 2.75%, shares the same terms with the Initial Term Loan.

Need for DIP Financing and Access to Cash Collateral

16. The need for the financial stability provided by the DIP Facility is clear. As outlined in the Healy Declaration, the Debtors require immediate access to the DIP Facility and the authority to use Cash Collateral throughout the chapter 11 process to ensure they have sufficient liquidity to operate their businesses in the ordinary course and administer their estates. The Debtors are entering chapter 11 with a small cash balance, most of which is subject to liens pledged in favor of the Prepetition Lenders, and their operating cash flow, as currently projected, is insufficient to fund ongoing operations and expenses, including costs associated with these chapter 11 cases. Healy Decl. ¶ 37. Access to cash is essential so the Company can provide uninterrupted customer service, maintain their businesses, and avoid damaging reputational harm. *Id*. ¶ 38. Funding under the DIP Facility will also instill confidence in the Debtors' employees and key business partners. *Id*. ¶ 39. Absent the ability to access the DIP Facility, even for a limited period of time, there is a substantial risk that the Debtors will be unable to continue operating their businesses and will instead be forced to liquidate, resulting in a significant deterioration in the value of the Debtors' businesses to the detriment of all stakeholders. *Id*.

17. The Debtors' advisors, Moelis & Company LLC ("**Moelis**") with the assistance of the Debtors' management and FTI Consulting, Inc. ("**FTI**"), evaluated the Debtors' cash flow and liquidity needs in a chapter 11 scenario to determine the amount of postpetition

financing that would be required to operate the Debtors' businesses and pay administrative costs during a chapter 11 process, including the financing costs of postpetition credit facilities. Based on that analysis, led by FTI, the Debtors and their advisors concluded that the Debtors would require at least $90 million of new money, postpetition financing and access to Cash Collateral to finance their operations and maintain sufficient minimum liquidity (assuming a potential 9-month duration for these chapter 11 cases). Healy Decl. ¶¶ 44—46. The Debtors' current approved Initial Budget is attached to the Interim Order as **Schedule 1**. The Initial Budget reflects the Debtors' current need for approximately $90 million to fund the Debtors' chapter 11 process, while maintaining an adequate liquidity cushion. *Id.* ¶¶ 45—46. Without access to the DIP Facility, the Debtors would likely be unable to fund these chapter 11 cases, even for a short period of time, and would risk significant destruction of value to the detriment of all stakeholders in these chapter 11 cases.

Debtors' Efforts to Obtain Postpetition Financing

18. The Company's financing solicitation process dates back several months prior to the Petition Date. Beginning in early March 2020, the Debtors, assisted by Moelis and Moelis Australia Advisory Pty Limited ("**Moelis Australia**"), sought to obtain bridge financing for a six-to-nine month runway to pursue an out-of-court recapitalization. Waldman Decl. ¶ 19. Moelis and Moelis Australia reached out to 32 financial institutions that might be interested in providing such financing, and simultaneously engaged in conversations with the Prepetition Lenders to determine if they were interested in funding. *Id.* Several of the institutions conducted diligence, but most declined to make a proposal. *Id.*

19. The Debtors ultimately received two term sheet proposals in response. One from the Ad Hoc Group and one from a third party. *Id.* ¶ 20. The third party proposal was

not actionable because it required the Prepetition Lenders to grant the third party super priority status, and the Prepetition Lenders were unwilling to give such approval. *Id.*

20. After engaging in several rounds of discussions with the Ad Hoc Group regarding its bridge financing proposal, negotiations ceased and the parties pivoted to consider a postpetition financing facility. *Id.* ¶ 21. At this time, Moelis recommenced its solicitation process. *Id.* ¶¶ 22—23. Because the Prepetition Lenders consistently indicated an unwillingness to consent to any DIP financing from a third party on a priming or *pari passu* basis, Moelis requested third party proposals for postpetition financing on a junior basis. *Id.* Without the Prepetition Lenders' approval, if the Debtors sought a priming facility from a third party, the Debtors would face significant risk of costly and protracted litigation with the Prepetition Lenders at the outset of their chapter 11 cases regarding the value of the Debtors' assets, the amount of adequate protection to be provided, and the validity of the prepetition liens. *Id.* ¶¶ 22, 24. The Debtors determined this was untenable and would likely result in substantial destruction of value.

21. In this regard, and as described in further detail in the Waldman Declaration, Moelis reached out to 11 alternative lenders to gauge their interest in providing postpetition financing to the Debtors. *Id.* ¶ 23. These potential financing sources were selected based on their prior familiarity with and knowledge of the Debtors' business operations and their ability to move quickly to commit to financing on an expedited basis. *Id.* Ultimately, because the Debtors have limited unencumbered assets available to serve as security, none of these parties were willing to provide financing on a junior basis. *Id.* ¶ 24. Many also confirmed they would not provide a priming facility that would require litigation with the Prepetition Lenders. *Id.*

22. In parallel with the solicitation of proposals from new sources of postpetition financing, the Debtors received a proposal from the Ad Hoc Group for the DIP Facility. *Id.* ¶ 25. After engaging in multiple rounds of arm's-length, hard fought, good faith negotiations with the Ad Hoc Group, the Debtors, in consultation with their advisors, ultimately determined that the Ad Hoc Group's proposal is the best financing alternative available to the Debtors under the circumstances because it (i) provides the liquidity amount the Debtors project they will need during the chapter 11 cases and (ii) avoids the delay and expenses resulting from protracted litigation regarding the terms of any priming lien and adequate protection. *Id.* Without the financing as embodied in the proposal from the Ad Hoc Group, in the amount and on the terms contained therein, the Debtors would likely be unable to obtain financing for these chapter 11 cases and would face substantial doubt as to the prospects of a viable path to reorganization.

DIP Financing Was Negotiated in Good Faith and at Arm's Length

23. The terms of the DIP Facility are the product of extensive, good faith, arms' length negotiations between the Debtors, the Ad Hoc Group, and the DIP Agent, each of which was represented by experienced counsel and financial advisors. *Id.* ¶¶ 26—27. Over the course of several days, Moelis, along with the Debtors and the Debtors' other advisors, actively negotiated the terms and provisions of the DIP Facility. *Id.* ¶ 26. Indeed, throughout this process, the Debtors and their advisors pushed back on material terms of the proposed financing, including the economics, covenants, and terms of the Roll-Up. *Id.* This process culminated in the DIP Facility. *Id.* ¶ 27.

24. Based on extensive negotiations between the parties and the marketing efforts undertaken by the Debtors and Moelis, the DIP Facility represents the best financing

option reasonably available to the Debtors under the current circumstances. *Id.* ¶ 28. The terms, including the claim priority, liens, Roll-Up, and other protections were essential features of the facility, without which the lenders would not have committed to provide funding for the Debtors. *Id.* ¶¶ 29—33. The proposed DIP Facility is the Debtors' best and only viable opportunity to maximize the value of the Debtors' business and prevent substantial value destruction by (i) providing the Debtors with access to crucial liquidity at the outset and during the course of these chapter 11 cases in order to continue operations with minimal disruption and (ii) providing a runway for the Debtors to pursue a value preserving and maximizing restructuring process with the support of the Ad Hoc Group. *Id.* ¶ 28.

The DIP Facility and Cash Collateral Terms Should Be Approved

I. The Debtors Should be Authorized to Obtain Postpetition Financing Through the DIP Documents

25. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to obtain secured or superpriority financing under certain circumstances. The Debtors were unable to procure sufficient financing in the form of unsecured credit, which would be allowable under section 503(b)(1) or as an administrative expense, in accordance with sections 364(a) or (b) of the Bankruptcy Code. *See* 11 U.S.C. §§ 364(a)-(b), 503(b)(1). Having determined that postpetition financing was only available pursuant to sections 364(c) and (d) of the Bankruptcy Code, the Debtors negotiated with the DIP Lenders to secure the DIP Facility on the terms described herein. For these reasons, as discussed further below, the Debtors satisfy the necessary conditions under section 364 for authority to enter into the DIP Facility.

A. Entering into the DIP Facility Is a Sound Exercise of Business Judgment

26. The Court should authorize the Debtors, in an exercise of their sound business judgment, to enter into the DIP Documents and obtain access to the DIP Facility. If an agreement to obtain secured credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code, courts give debtors considerable deference in acting in accordance with their sound business judgment in obtaining such credit. *See, e.g.*, *In re N. Bay Gen. Hosp., Inc.*, No. 08-20368 (Bankr. S.D. Tex. July 11, 2008) [Docket No. 21] (order approving postpetition financing on an interim basis as exercise of debtors' business judgment); *In re Los Angeles Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

27. Courts generally will not second-guess a debtor's business decisions when those decisions involve the appropriate level of care in arriving at the decision on an informed basis, in good faith, and in the honest belief that the action was taken in the best interest of the debtor. *See In re Los Angeles Dodgers LLC*, 457 B.R. at 313. To determine whether the business judgment test is met, "the court 'is required to examine whether a reasonable business person would make a similar decision under similar circumstances.'" *In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (Bankr. D. Del. Aug. 15, 2007) (citation omitted). Further, in considering whether the terms of postpetition financings are fair and reasonable, courts consider the terms in light of the relative circumstances of both the debtor and

the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. 855—86 (Bankr. W.D. Mo. 2003); *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Tr. Co. of Escanaba (In re Ellingsen MacLean Oil Co., Inc.)*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing a debtor may have to enter into "hard bargains" to acquire funds for its reorganization).

28. The Debtors' determination to move forward with the DIP Facility is a sound exercise of their business judgment following a thorough process conducted with the guidance of experienced advisors, and after careful evaluation of alternatives, taking into account the Debtors' liquidity runway. Specifically, the Debtors and their advisors determined that the Debtors would require significant postpetition financing to support the administration of their chapter 11 cases and their ongoing operations. Given the nature of the Debtors' prepetition capital structure and limited unencumbered asset pool, the Prepetition Lenders surfaced as the best available financing source that could move quickly to commit to a facility, and enable the Debtors to avoid a potentially costly and protracted priming fight at the outset of these chapter 11 cases. The Debtors negotiated the DIP Documents with the DIP Lenders in good faith, at arm's length, and with the assistance of their advisors, and the Debtors believe that they have obtained the best financing available in an amount sufficient to fund operations and the costs of these chapter 11 cases, and on reasonable terms. Accordingly, the Court should authorize the Debtors' entry into the DIP Documents as a reasonable exercise of the Debtors' business judgment.

B. The Debtors Should Be Authorized to Obtain DIP Financing on a Secured and Superpriority Basis

29. The Debtors propose to obtain financing under the DIP Facility, in part, by providing superpriority claims and liens to the DIP Lenders pursuant to sections 364(c) and 364(d) of the Bankruptcy Code (in each case, subject to the Carve Out, as described below). The

Debtors propose to provide the DIP Lenders (i) first priority liens on all of the Debtors' unencumbered property, (ii) first priority, senior priming liens on all Prepetition Collateral (the "**Priming Liens**"), and (iii) junior liens on all other encumbered property.

30. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to obtain secured or superpriority financing under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that:

> If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt:
>
> (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
>
> (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
>
> (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

31. In determining whether to authorize financing under 364(c) of the Bankruptcy Code, Courts will consider whether (i) the debtor made a reasonable effort, but failed, to obtain unsecured credit under sections 364(a) and 364(b) of the Bankruptcy Code, (ii) the credit transaction benefits the debtor as necessary to preserve estate assets, and (iii) the terms of the credit transaction are fair, reasonable, and adequate, given the circumstances of the debtor and proposed lender. *In re Republic Airways Holdings Inc.*, No. 16-10429 (SHL), 2016 WL 2616717, at *11 (Bankr. S.D.N.Y. May 4, 2016); *In re Los Angeles Dodgers LLC*, 457 B.R. at 312–13; *In re Ames Dep't Stores, Inc.*, 115 B.R. at 40. However, section 364 "imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable."

Bray v. Shenandoah Fed. Savs. & Loan Ass'n (*In re Snowshoe Co.*), 789 F.2d 1085, 1088 (4th Cir. 1986).

32. Courts may also authorize a debtor to obtain postpetition credit secured by a lien that is senior or equal in priority to existing liens on encumbered property if the debtor cannot otherwise obtain such credit and the interests of existing lien holders are adequately protected. *See* 11 U.S.C. § 364(d)(1). Specifically, section 364(d)(1) of the Bankruptcy Code provides:

> (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:
>
> (A) the trustee is unable to obtain such credit otherwise; and
>
> (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

11 U.S.C. § 364(d). "Section 364(d) 'does not require that debtors seek alternative financing from every possible lender. However, the debtor must make an effort to obtain credit without priming a senior lien.'" *In re Republic Airways Holdings Inc.*, 2016 WL 2616717, at *11. Consent by the secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) ("[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.").

1. Alternative Sources of Financing Are Not Available to Debtors

33. As further described in the Waldman Declaration and herein, none of the financing sources Moelis contacted were willing to submit an offer on an unsecured or junior secured basis. Waldman Decl. ¶ 24. Further, the Debtors' available unencumbered assets are

limited and are predominantly located in foreign markets, making it challenging to raise sufficient capital with such assets serving as security. *Id.*

34. Having conducted a reasonable solicitation process and having determined that postpetition financing would only be available pursuant to senior liens under section 364(d) of the Bankruptcy Code, the Debtors negotiated with the Ad Hoc Group to secure the DIP Facility on the terms described herein. *Id.* ¶¶ 25—26. The Prepetition Lenders would not consent to be primed by a third party facility, and neither the Debtors nor any of the potential financing sources were prepared to endure the risk and costs associated with this litigation. *Id.* ¶¶ 22—24. As discussed below, the Debtors have two separate bases for granting the Priming Liens: (i) the Prepetition Secured Lenders have consented, and (ii) such Prepetition Lenders are receiving adequate protection under the DIP Orders.

2. Prepetition Secured Parties Have Consented to Priming and Are Adequately Protected

35. The Prepetition Agent and Prepetition Lenders have expressly consented to the Priming Liens. In addition, the Prepetition Secured Parties are adequately protected as contemplated by section 364(d) of the Bankruptcy Code. What constitutes adequate protection is decided on a case-by-case basis. *See In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994) ("[A] determination of whether there is adequate protection is made on a case by case basis.*")*; *In re N.J. Affordable Homes Corp.*, No. 05-60442 (DHS), 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006) ("The term 'adequate protection' is intended to be a flexible concept."); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992) (emphasizing that "the varying analyses and results contained in the . . . slew of cases demonstrate that what interest is entitled to adequate protection and what constitutes adequate protection must be decided on a case-by-case basis").

36. Pursuant to the DIP Orders, the Prepetition Secured Parties are receiving adequate protection in the form of adequate protection liens and superpriority claims. For these reasons, granting the Priming Liens to the DIP Lenders is reasonable, appropriate, and permissible under the Bankruptcy Code.

C. The Exchange of the Prepetition Obligations Pursuant to the Roll-Up Is Appropriate

37. The proposed Roll-Up, which is effectuated through an exchange of a portion of the Prepetition Obligations for DIP Loans concurrent with the availability of equal amounts of new-money funding under the DIP Facility, is an important feature of the DIP Facility required by the DIP Lenders, without which the DIP Financing would not be available, and the Debtors' agreement to this term is an exercise of the Debtors' sound business judgment. Section 363(b) of the Bankruptcy Code permits a debtor to use, sell, or lease property, other than in the ordinary course of business, with court approval. Courts in the Fifth Circuit have recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (authorizing payment of certain prepetition claims pursuant to "Doctrine of Necessity"); *In re Equalnet Commc'ns Corp.,* 258 B.R. 368, 369-70 (Bankr. S.D. Tex. 2000) (business transactions critical to the survival of the business of the debtor are exceptions to the general rule of nonpayment of prepetition claims prior to plan confirmation). The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*, 60 B.R. 612, 615—16 (Bankr. S.D.N.Y. 1986) ("[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

38. The repayment or exchange of prepetition debt for postpetition debt (often referred to as a "roll-up") is becoming a more common feature in debtor-in-possession financing arrangements. The importance of "roll up" provisions in DIP facilities has been recognized by courts in this district, and such courts have granted relief similar to the relief requested herein. *See, e.g., In re American Commercial Lines, Inc., et al.,* No. 20-30982 (MI) (Bankr. S.D. Tex. Feb 10, 2019) [Docket No. 88] (authorizing approximately $690 million that included a rollup and repayment of prepetition revolving ABL debt, pursuant to interim DIP order); *In re Legacy Reserves Inc.*, No. 19-33395 (MI) [Docket No. 86] (Bankr. S.D. Tex. June 20, 2019) (authorizing approximately $350 million in DIP financing that included repayment of approximately $87.5 million of prepetition debt, pursuant to the interim DIP order); *In re Sanchez Energy Corp.*, No. 19-34508 (MI) (Bankr. S.D. Tex. Aug. 15, 2019) [Docket No. 144] (authorizing approximately $350 million in DIP financing that included repayment of approximately $175 million of prepetition debt, pursuant to interim order); *In re Vanguard Natural Res., Inc.,* No. 19-31786 (DRJ) (Bankr. S.D. Tex. April 3, 2019) [Docket No. 118] (authorizing approximately $130 million in DIP financing that included repayment of approximately $65 million in prepetition debt, pursuant to the interim DIP order); *In re Westmoreland Coal Co.,* No. 18-35672 (MI) (Bankr. S.D. Tex. Oct. 10, 2018) [Docket No. 92] (authorizing approximately $110 million of DIP financing that included repayment of $90 million in prepetition debt, pursuant to the interim DIP order); *In re ATP Oil & Gas Corp.*, No. 12-36187 (MI) [Docket No. 126] (Bankr. S.D. Tex. Aug. 21, 2012) (approximately $617.6 million in DIP financing that included repayment of approximately $367.6 million of prepetition debt, pursuant to the interim DIP order); *cf. In re McDermott Int'l, Inc.*, No. 20-30336 (DRL) (Bankr. S.D. Tex. Feb. 24, 2020) [Docket No. 477] (authorizing approximately $2.8 billion of DIP financing that included repayment of $800

million in prepetition debt, pursuant to final DIP order); *In re Sheridan Holding Company II, LLC*, No. 19-35198 (MI) (Bankr. S.D. Tex. Oct. 21, 2019) [Docket No. 178] (authorizing approximately $100 million in DIP financing that included repayment of approximately $50 million of prepetition debt, pursuant to amended final order); *In re Gastar Exploration, Inc.*, No. 18-36057 (MI) (Bankr. S.D. Tex. Nov. 28, 2018) [Docket No. 213] (authorizing approximately $383 million in DIP financing that included repayment of approximately $283 million of prepetition debt, pursuant to the final DIP order).

39. Courts consider a number of factors when determining whether to authorize a roll-up of prepetition debt, including whether: (i) the proposed financing is an exercise of sound and reasonable business judgment; (ii) no alternative financing is available on any other basis; (iii) the financing is in the best interests of the estate and its creditors; (iv) no better offers, bids, or timely proposals are before the court; (v) the credit transaction is necessary to preserve the assets of the estate; (vi) the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor and proposed lender(s); (vii) the financing is necessary, essential, and appropriate for the continued operating of the Debtors' business and the preservation of their estates; and (viii) the financing agreement was negotiated in good faith and at arms' length between the debtor and the proposed lenders. *See In re Farmland Indus., Inc.*, 294 B.R. at 879-80 (surveying opinions authorizing roll-ups). Furthermore, courts have authorized the roll-up of prepetition obligations in interim orders. *See, e.g., In re Legacy Reserves Inc.*, No. 19-33395 (MI) (Bankr. S.D. Tex. July 23, 2019) [Docket Nos. 86, 255]; *In re Mission Coal Company, LLC*, No. 18-04177 (TOM) (Bankr. N.D. Ala. Oct. 16, 2018) [Docket Nos. 64, 300] (authorizing approximately $201,441,464 DIP and a roll-up of approximately $50 million, pursuant to an interim order); *In re Remington Outdoor Co., Inc.*,

No. 18-10684 (BLS) (Bankr. D. Del. Mar. 28, 2018) [Docket Nos. 68, 177] (authorizing approximately $388 million DIP and a roll-up of approximately $150 million, including a full ABL roll-up of $114 million, pursuant to an interim order); *In re Bon-Ton Stores, Inc.*, No 18-10248 (MFW) (Bankr. D. Del. Feb. 6, 2018) [Docket Nos. 120, 352] (authorizing full roll-up of all $489 million outstanding prepetition revolving obligations, pursuant to an interim order); *In re Real Indus. Inc.*, No. 17-12464 (KJC) (Bankr. D. Del. Nov. 20, 2017) [Docket Nos. 59, 348] (authorizing approximately $365 million DIP that included a creeping roll-up, pursuant to an interim order, and a full roll-up, pursuant to final order of approximately $266 million prepetition debt); *In re Radioshack Corp*., No 15-10197 (BLS) (Bankr. D. Del. Feb. 10, 2015) [Docket Nos. 190, 947] (authorizing approximately $285 million DIP and a roll-up of approximately $250 million prepetition debt, including a full ABL roll-up of $215 million, pursuant to an interim order).

40. Here, the proposed roll-up of $90 million of Prepetition Obligations, only $35 million of which will happen pursuant to the Interim Order, is justified under the circumstances. Waldman Decl. ¶¶ 32—33. Roll-Up of the Prepetition Facility is a material component of the structure of the DIP Facility required by the DIP Lenders as a condition to their commitment to provide postpetition financing and their consent to the Debtors' use of Cash Collateral. *Id.* ¶ 32. Under the terms of the Roll-Up, for every dollar of new money that the DIP Lenders provide, a corresponding portion of the Prepetition Obligations will be deemed exchanged for a second-out tranche position in the DIP Facility. *Id.* The Debtors and the DIP Lenders engaged in arm's length negotiations and ultimately agreed to the Roll-Up as consideration for, among other things, the Debtors' continued use of Cash Collateral and the risk associated with the extension of an additional $90 million of funding. *Id.*

41. The Roll-Up is only a portion of the current Prepetition Obligations, and only part of it is implemented in advance of the Final Order. Moreover, if the Debtors refinance the New Money DIP Loans before that time, the Roll-Up unwinds. This feature benefits the Debtors if they want to try to refinance the DIP Facility. *Id.*

42. Without the additional protections and compensation offered by the Roll-Up, the DIP Lenders would be unwilling to finance the DIP Facility. *Id.* The Debtors need this urgent funding or they will face liquidation, to the detriment of all stakeholder. *Id.*

D. Use of DIP Proceeds by Non-Debtor Affiliates is Appropriate

43. While unlikely, there is a risk that certain non-Debtors may need funds to cover unexpected operating shortfalls during the duration of the chapter 11 cases, including to properly maintain assets that are pledged as collateral under the DIP Facility. The funding of any such shortfalls will be addressed in ordinary course Intercompany Transactions effectuated pursuant to Intercompany Loans (each, as defined and pursuant to the relief sought in the *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Continue Use of Their Existing Cash Management System, Including (A) Maintain Existing Bank Accounts, (B) Continue Intercompany Transactions, (C) Continue to Pay Bank Fees, (D) Continue Using Credit Cards; (II) Granting an Extension of Time to Comply with Requirements of 11 U.S.C. § 345(b); and (III) Granting Related Relief* (the "**Cash Management Motion**") filed contemporaneously herewith). As further discussed in the Cash Management Motion, the movement of funds between Debtors and non-Debtors in the form of Intercompany Loans will directly benefit the Debtors by preserving the value of the non-Debtors' assets, which benefits the Company as a whole. Furthermore, it will enable to the Debtors to engage in a smooth restructuring without imminent risk of portions of the Debtors' enterprise collapsing

from liquidity concerns, and will maximize the value of the Debtors' assets for the benefit of their estates and creditors.

E. Carve Out Is Appropriate

44. The DIP Facility subjects the DIP Lenders' security interests, superpriority administrative expense claims, and the adequate protection claims and liens to the Carve Out. Without the Carve Out, the Debtors' estates or other parties in interest could be harmed because the services professionals might otherwise provide in these chapter 11 cases could be restricted. *See In re Ames Dep't Stores*, 115 B.R. at 38 (observing that courts insist on Carve Outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties in interest are sorely prejudiced"). Additionally, the Carve Out protects against administrative insolvency during the pendency of the chapter 11 cases by ensuring that assets are available to pay U.S. Trustee's fees and professional fees of the Debtors and any statutory committee. Accordingly, the Debtors submit that the Carve Out is appropriate.

F. The DIP Lenders Should Be Deemed Good Faith Lenders under Section 364(e)

45. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its rights with respect to liens securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) provides that:

> The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

46. As explained herein and in the Waldman Declaration, negotiations of the DIP Facility were conducted in good faith and at arm's length. The proceeds of the DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code. Accordingly, the Court should find that the DIP Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code, and therefore entitled to all of the protections afforded by that section.

G. Modification of the Automatic Stay Is Warranted

47. The relief requested herein contemplates a modification of the automatic stay to (i) permit the Debtors to grant the security interests, liens, and superpriority claims described above and to perform such acts as may be requested to assure the perfection and priority of such security interests and liens, (ii) permit the DIP Agent, DIP Lenders, and Prepetition Secured Parties to exercise rights and remedies under certain circumstances, and (iii) as otherwise, and to the extent, necessary to effectuate the terms of the Interim Order. That said, the DIP Agent or Prepetition Agent, as applicable, must file a motion, which may be on an emergency basis, seeking relief from the automatic stay on at least five business days' notice prior to exercising remedies. *See* Interim Order ¶ 9(d). These provisions were integral to the Debtors' ability to obtain the DIP Facility and consent to use Cash Collateral, as provided in the DIP Credit Agreement and in the Interim Order.

48. Stay modifications of this kind are ordinary and standard features of debtor-in-possession financing arrangements and, in the Debtors' business judgment, are reasonable and fair under the circumstances of these chapter 11 cases. *See, e.g.*, *In re Sheridan Holding Company II, LLC*, No. 19-35198 (MI) (Bankr. S.D. Tex. October 21, 2019) [Docket No. 178] (modifying automatic stay as necessary to effectuate the terms of the order); *In re Vanguard Natural Resources, Inc.*, No. 19-31786 (DRJ) (Bankr. S.D. Tex. April 3, 2019) [Docket No. 118]

(same); *In re Southcross Holdings LP*, No. 16-20111 (MI) [Docket No. 183] (Bankr. S.D. Tex. Apr. 11, 2016) (same); *In re Autoseis, Inc.*, No. 14-20130 (RSS) [Docket No. 64] (Bankr. S.D. Tex. Mar. 27, 2014) (same); *In re ATP Oil & Gas Corp.*, No. 12-36187 (MI) [Docket No. 135] (Bankr. S.D. Tex. Aug. 21, 2012) (same).

II. The Debtors Should Be Authorized to Use Cash Collateral

49. The Debtors' use of property of their estates, including the Cash Collateral, is governed by section 363 of the Bankruptcy Code, which provides in relevant part that:

> If the business of the debtor is authorized to be operated under section . . . 1108 . . . of this title and unless the court orders otherwise, the [debtor] may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c)(1).

50. Section 363(c)(2)(A) permits a debtor in possession to use cash collateral with the consent of the secured party. Here, the Prepetition Secured Parties consent to the Debtors' use of the Cash Collateral, subject to the terms and limitations set forth in the Interim Order. Therefore, the Debtors respectfully submit that they have satisfied the standards of section 363(c)(2) of the Bankruptcy Code.

51. As described above and in the Healy Declaration, access to Cash Collateral is essential to the continued operation of the Debtors' businesses and smooth entry into the chapter 11 cases. Healy Decl. ¶ 42. The Debtors believe use of Cash Collateral is in the best interests of the Debtors' estates and all of their stakeholders, including the Prepetition Secured Parties, and that the Interim Order should be approved.

52. As part of the Prepetition Lenders' consent to use of Cash Collateral, the Debtors have agreed to provide the Prepetition Secured Parties with certain forms of adequate protection to compensate for any postpetition diminution in value. Waldman Decl. ¶ 30. More specifically, the proposed adequate protection package includes replacement liens and superpriority claims granted under section 507(b) of the Bankruptcy Code, payment of professional fees and expenses, and continued access to information and financial reporting, among other things, all of which the Debtors submit are standard and customary for a case of this size and nature. *See* Healy Decl. ¶¶ 36—37.

III. Debtors Should Be Authorized to Pay Fees Required by DIP Documents

53. The Debtors have agreed to pay certain interest and fees to the DIP Agent and DIP Lenders as a condition to providing financing. Such terms are integral to the financing package. Under the circumstances, the contemplated fees and other economic terms of the DIP Facility are reasonable and were all negotiated at arm's length. Waldman Decl. ¶ 34. Accordingly, authorization to pay the fees is warranted.

IV. Immediate Access to Cash Collateral and DIP Facility Should Be Approved

54. The Court may grant interim relief in respect of a motion filed pursuant to section 363(c) or 364 of the Bankruptcy Code if, as here, interim relief is "necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(b)(2), (c)(2). In examining requests for interim relief under this rule, courts generally apply the same business judgment standard applicable to other business decisions. *See In re Ames Dep't Stores*, 115 B.R. at 36.

55. Here, the Debtors and their estates will suffer immediate and irreparable harm if the interim relief requested herein is not granted promptly. As set forth in the Healy Declaration and the Waldman Declaration, the Debtors have an immediate need for additional

liquidity and continued access to Cash Collateral, without which the Debtors will be prevented from making necessary disbursements and otherwise operating in the ordinary course, which would damage the value of the Debtors' businesses and their assets. *See* Healy Decl. ¶ 39; Waldman Decl. ¶ 16. Approval of the DIP Facility will not only provide essential funding, but will also assist the Debtors to instill confidence in their customer base, employees, counterparties, and business partners help assure those critical stakeholders that the Debtors will continue operating "business as usual" and otherwise pay their obligations as they come due after the Petition Date. *See* Healy Decl. ¶ 40; Waldman Decl. ¶ 17. Further, the DIP Facility will provide the Debtors with the liquidity needed to, among other things, fund payroll for employees and satisfy their other working capital and general corporate requirements. *See* Healy Decl. ¶ 40; Waldman Decl. ¶ 17. Absent the ability to access the DIP Facility, even for a limited period of time, there is a substantial risk that the Debtors will be unable to continue operating their businesses and will instead be forced to liquidate, resulting in a significant deterioration in the value of the Debtors' businesses to the detriment of all stakeholders. *See* Healy Decl. ¶ 40; Waldman Decl. ¶ 17.

56. Accordingly, prompt entry of the Interim Order is necessary to avoid the value-destruction that would otherwise result in immediate and irreparable harm to the Debtors' estates.

Request for Final Hearing

57. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for consideration of entry of the Final Order. The Debtors request that they be authorized to serve a copy of the signed Interim Order, which fixes the time and date for the filing of any objections by first class mail and e-mail upon the notice parties

listed below. The Debtors further request that the Court consider such notice of the Final Hearing to be sufficient notice under Bankruptcy Rule 4001(c)(2).

Bankruptcy Rule 6003 Has Been Satisfied

58. Pursuant to Local Rule 9013-1, the Debtors respectfully request emergency consideration of this Motion under Bankruptcy Rule 6003, which provides that the Court may grant relief within the first 21 days after the Petition Date to the extent such relief is necessary to avoid immediate and irreparable harm. As described herein and in the Waldman Declaration and the Healy Declaration, the relief requested is essential to avoid the immediate and irreparable harm that would be caused by the Debtors' lack of sufficient liquidity and the Debtors' resulting inability to transition smoothly into chapter 11. Accordingly, the Debtors submit that the requirements of Bankruptcy Rule 6003 are satisfied.

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

59. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion satisfies Bankruptcy Rule 6004(a) and that the Court waive the 14-day period under Bankruptcy Rule 6004(h).

Reservation of Rights

60. Except to the extent contemplated in the DIP Orders, nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver or limitation of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder, (vi) an admission as to the validity of any liens

satisfied pursuant to this Motion, (vii) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code, (viii) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates, (ix) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (x) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Notice

61. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the Southern District of Texas; (ii) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis; (iii) (A) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017 (Attn: Damian S. Schaible, Esq., David Schiff, Esq., and Jonah A. Peppiatt, Esq.) and (B) Rapp & Krock, PC, 1980 Post Oak Blvd, Suite 1200, Houston, TX 77056 (Attn: Henry Flores, Esq.), counsel to the Ad Hoc Group of Secured Lenders; (iv) Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, NY 10001 (Attn: Steven Messina, Esq. And George Howard, Esq.) and 155 N. Wacker Drive, Chicago, IL 60606 (Attn: David M. Wagener, Esq.), counsel to Credit Suisse AG, Cayman Islands Branch, as administrative agent under the Syndicated Facility Agreement and the DIP

Agent; (v) the Internal Revenue Service; (vi) the United States Attorney's Office for the Southern District of Texas; (vii) the Securities and Exchange Commission; (viii) the Banks; (ix) all parties known by the Debtors to hold or assert a valid, perfected, and enforceable lien on any asset of the Debtors; (x) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xi) any other party entitled to notice pursuant to Local Rule 9013-1(d).

No Previous Request

62. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the DIP Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: April 23, 2020
Houston, Texas

Respectfully submitted,

/s/ Alfredo R Pérez

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Proposed Attorneys for Debtors
and Debtors in Possession

Certificate of Service

I hereby certify that on April 23, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed claims, noticing, and solicitation agent.

/s/ Alfredo R. Pérez
Alfredo R. Pérez

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Joint Administration Requested)**
	§	**(Emergency Hearing Requested)**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**DIP Motion**")[2] of SpeedCast International Limited and each of its affiliates that are debtors and debtors-in-possession (each, a "**Debtor**" and collectively, the "**Debtors**") in the above-captioned cases (the "**Chapter 11 Cases**") and pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506(c) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "**Bankruptcy Code**"), Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1 of the Bankruptcy Local Rules of the United States Bankruptcy Court for the Southern District of Texas (together, the "**Local Rules**"), and the Procedures for Complex Chapter 11 Bankruptcy Cases (the "**Complex**

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1 A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

2 Capitalized terms used but not defined herein are given the meanings ascribed to such terms in the DIP Credit Agreement (as defined herein).

Case Rules" and, together with the Local Rules, the "**Bankruptcy Local Rules**"), seeking entry of this interim order (this "**Interim Order**") among other things:

(i) authorizing SpeedCast Communications, Inc. (the "**Borrower**") to obtain postpetition financing ("**DIP Financing**") pursuant to a senior secured, superpriority and priming debtor-in-possession term loan credit facility (the "**DIP Facility**") subject to the terms and conditions set forth in that certain Senior Secured Superpriority Debtor-in-Possession Term Loan Credit Agreement attached hereto as **Exhibit 1** (as amended, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), in an aggregate principal amount of up to $180 million, consisting of:

a. new money term loans in the aggregate principal amount of $90 million (the "**DIP New Money Term Loans**") from the DIP Lenders (as defined herein), of which $35 million will be available immediately upon entry of this Interim Order, and the remainder to be available no later than (3) three business days following the date of entry of the Final Order; and

b. term loans in an aggregate principal amount of $90 million (the "**DIP Roll-Up Loans**" and, together with the DIP New Money Term Loans, the "**DIP Loans**") from the DIP Lenders issued in substitution and exchange for (and in prepayment of) Prepetition Loans (as defined herein) of the DIP Lenders on a dollar-for-dollar basis pursuant to the terms and conditions of the DIP Credit Agreement;

by and among, SpeedCast International Limited, as parent, the Borrower, as borrower, the several banks and other financial institutions or entities from time to time party thereto as "Lenders" (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacity, together with its successors and permitted assigns, the "**DIP Agent**" and, collectively, with the DIP Lenders, the **"DIP Secured Parties"**);

(ii) authorizing the Debtors other than the Borrower (such Debtors, the "**Debtor DIP Guarantors**," and together with the Borrower, the "**Debtor DIP Loan Parties**") to jointly and severally guarantee the DIP Loans and the other DIP Obligations as set forth in that certain Guarantee Agreement among SpeedCast International Limited, certain subsidiaries thereof, and the DIP Agent (the "**DIP Guarantee Agreement**");

(iii) authorizing and directing the Debtors to use reasonable best efforts to cause the DIP Guarantors that are not Debtors (the "**Non-Debtor DIP Loan Parties**" and together with the Debtor DIP Guarantors, the "**DIP Guarantors**" and together with the Borrower and the Debtor DIP Guarantors, the "**DIP Loan Parties**") to jointly and severally guarantee on the basis set forth in the DIP Guarantee Agreement, the DIP Loans and the other DIP Obligations;

(iv) authorizing the Debtors, (i) subject to entry of this Interim Order, on the Syndication End Date, to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Initial Commitments in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Initial Roll-Up**") and (ii) upon entry of the Final Order, to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Delayed Draw Commitments in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Delayed Draw Roll-Up**" and, together with the Initial Roll-Up, the "**Roll-Up**");

(v) authorizing the Debtor DIP Loan Parties to, and authorizing and directing the Debtor DIP Loan Parties to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, execute, deliver and perform under the DIP Credit Agreement and all other loan documentation, including security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, the Syndicated Facility Amendment,[3] the Fee Letter, and such other documents that may be reasonably requested by the DIP Agent and the DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Credit Agreement, all Loan Documents and this Interim Order, the "**DIP Documents**");

(vi) authorizing the Debtor DIP Loan Parties to incur, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to incur, loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees, administrative agency fees, exit fees, other fees and fees payable pursuant to the Fee Letter), costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other Obligations due or payable under the DIP Documents (collectively, the "**DIP Obligations**"), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

(vii) subject to the Carve Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtor DIP Loan Parties;

(viii) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to section 364(c)(2) and 364(c)(3) of the Bankruptcy Code and priming liens pursuant

[3] That certain Syndicated Facility Amendment, dated as of [___], by and among SpeedCast International Limited, as Parent Borrower, SpeedCast Americas Inc., the Borrower, and SpeedCast Limited, each of the other "Loan Parties" party thereto, and the lenders party thereto.

to section 364(d) of the Bankruptcy Code on all prepetition and postpetition property of the Debtor DIP Loan Parties' estates (other than certain excluded property as provided in the DIP Documents (the "**Excluded Assets**")) and all proceeds thereof, including, subject only to and effective upon entry of the Final Order (as defined herein), any Avoidance Proceeds (as defined herein), in each case subject to the Carve Out (as defined herein);

(ix) authorizing the DIP Agent, acting at the direction of the Requisite DIP Lenders (as defined below), and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders (as defined below), to take all commercially reasonable actions to implement and effectuate the terms of this Interim Order;

(x) subject to the Carve Out (as defined herein), authorizing the Debtors to waive (a) their right to surcharge the Prepetition Collateral and the DIP Collateral (as defined herein) (together, but excluding any Excluded Assets, the "**Collateral**") pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;

(xi) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);

(xii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, use proceeds of the DIP Facility solely in accordance with this Interim Order and the DIP Documents;

(xiii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents;

(xiv) subject to the restrictions set forth in the DIP Documents and this Interim Order, authorizing the Debtors to use the Prepetition Collateral (as defined herein), including Cash Collateral of the Prepetition Secured Parties under the Prepetition Loan Documents (as defined herein), and provide adequate protection to the Prepetition Secured Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) (as defined herein), resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the "**Automatic Stay**"), the Debtors' use, sale, or lease of the Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral);

(xv) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the Debtors and their affiliates and the Prepetition Secured Parties to implement and effectuate the terms and provisions of this Interim

Order, the DIP Documents and the Final Order and to deliver any notices of termination described below and as further set forth herein;

(xvi) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order and the Final Order; and

(xvii) scheduling a final hearing (the "**Final Hearing**") to consider final approval of the DIP Facility and use of Cash Collateral pursuant to a proposed final order (the "**Final Order**"), as set forth in the DIP Motion and the DIP Documents filed with this Court.

The Court having considered the interim relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Adam Waldman in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Waldman Declaration**"), and the *Declaration of Michael Healy in Support of the Debtors' Chapter 11 Petitions and First Day Relief* (the "**Healy Declaration**"), the available DIP Documents, and the evidence submitted and arguments made at the interim hearing held on April 23, 2020 (the "**Interim Hearing**"); and due and sufficient notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Bankruptcy Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtor DIP Loan Parties and their estates pending the Final Hearing, otherwise is fair and reasonable and in the best interests of the Debtor DIP Loan Parties and their estates, and is essential for the continued operation of the Debtor DIP Loan Parties' businesses and the preservation of the value of the

Debtor DIP Loan Parties' assets; and it appearing that the Debtor DIP Loan Parties' entry into the DIP Documents is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[4]

A. *Petition Date*. On April 23, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Court**"). On [__], 2020, this Court entered an order approving the joint administration of the Chapter 11 Cases.

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

C. *Jurisdiction and Venue*. This Court has core jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Consideration of the DIP Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 363(m), 364(c),

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

364(d)(1), 364(e), and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014, and Bankruptcy Local Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1.

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

E. *Notice*. The Interim Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate and sufficient notice of the DIP Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Local Rules, and no other or further notice of the DIP Motion or the entry of this Interim Order shall be required.

F. *Cash Collateral*. As used herein, the term "**Cash Collateral**" shall mean all of the Debtors' cash except for cash that is an Excluded Asset, wherever located and held, including cash in deposit accounts, that constitutes or will constitute "cash collateral" of the Prepetition Secured Parties and DIP Secured Parties within the meaning of section 363(a) of the Bankruptcy Code.

G. *Debtors' Stipulations*. Subject to the limitations contained in paragraph 20 hereof, and after consultation with their attorneys and financial advisors, the Debtors admit, stipulate and agree that:

(i) *Prepetition Credit Facility*. Pursuant to that certain Syndicated Facility Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Credit Agreement**", and collectively with the other Loan Documents (as defined in the Prepetition Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Loan Documents**"), among (a) SpeedCast International Limited,

SpeedCast Americas, Inc., SpeedCast Communications, Inc. and SpeedCast Limited, as borrowers (in such capacity, the "**Prepetition Borrowers**"), (b) SpeedCast International Limited, as parent, (c) Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacities, the "**Prepetition Agent**"), (d) the Term Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Term Loan Lenders**"), (e) the Issuing Banks (as defined in the Prepetition Credit Agreement) party thereto (the "**Prepetition Issuers**"), and (f) the Revolving Credit Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Revolving Lenders**" and, together with the Prepetition Term Loan Lenders, the "**Prepetition Lenders**") (the Prepetition Lenders, collectively with the Prepetition Agent, the Prepetition Issuers and all other holders of Prepetition Credit Facility Debt (as defined herein), the "**Prepetition Secured Parties**"), (1)(x) the Prepetition Issuers issued and participated in letters of credit in support of the Prepetition Borrowers and (y) the Prepetition Revolving Lenders provided revolving loans and other financial accommodations to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Revolving Credit Facility**") and (2) the Prepetition Term Loan Lenders provided term loans to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Term Loan Credit Facility**" and, together with the Prepetition Revolving Credit Facility, the "**Prepetition Credit Facilities**").

(ii) *Prepetition Guarantee*. Pursuant to that certain Guarantee Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time), the Debtors party thereto (the "**Prepetition Guarantors**") guaranteed on a joint and several basis the obligations under the Prepetition Loan Documents.

(iii) *Prepetition Credit Facility Debt.* As of the Petition Date, the Prepetition Borrowers were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than $689.7 million including (a) $87.7 million in outstanding principal amount of Revolving Loans (as defined in the Prepetition Credit Agreement), (b) $10.6 million of outstanding Letters of Credit (as defined in the Prepetition Credit Agreement) and (c) $591.4 million in outstanding principal amount of Term Loans (as defined in the Prepetition Credit Agreement) (collectively, together with accrued and unpaid interest, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including attorneys' fees, accountants' fees, auditor fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Borrowers' or the Prepetition Guarantors' obligations pursuant to, or secured by, the Prepetition Credit Agreement, including all Obligations (as defined in the Prepetition Credit Agreement, the "**Prepetition Obligations**"), and all interest, fees, prepayment premiums, early termination fees, costs and other charges, the "**Prepetition Credit Facility Debt**") which Prepetition Credit Facility Debt has been guaranteed on a joint and several basis by each of the Prepetition Guarantors.

(iv) *Prepetition Credit Facility Liens.* As more fully set forth in the Prepetition Loan Documents, prior to the Petition Date, the Prepetition Borrowers and the Prepetition Guarantors each granted to the Prepetition Agent, for the benefit of itself and the other Prepetition Secured Parties, a security interest in and continuing lien on (the "**Prepetition Liens**")

substantially all of their assets and property, including Cash Collateral, subject to certain limited customary exclusions as set forth in the Prepetition Loan Documents (the "**Prepetition Collateral**").

(v) *Validity, Perfection and Priority of Prepetition Liens and Prepetition Debt.* The Debtors acknowledge and agree that as of the Petition Date (a) 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; (b) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law or otherwise permitted by the Prepetition Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date, the "**Prepetition Permitted Prior Liens**"); (c) the Prepetition Credit Facility Debt constitutes legal, valid, binding, and non-avoidable obligations of the Prepetition Borrowers and Prepetition Guarantors enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Credit Facility Debt exist, and no portion of the Prepetition Liens or Prepetition Credit Facility Debt is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors,

professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Credit Facilities; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Credit Facility Debt, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the Prepetition Liens securing the Prepetition Credit Facility Debt.

(vi) *No Control*. None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Prepetition Loan Documents.

(vii) *No Claims or Causes of Action*. No claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition Secured Parties (in their capacity as such) under any agreements by and among the Debtors and any Prepetition Secured Party that is in existence as of the Petition Date.

(viii) *Release*. Effective as of the date of entry of this Interim Order, each of the Debtors and the Debtors' estates, on its own behalf, on behalf of (to the greatest extent permitted by law) the Non-Debtor DIP Loan Parties, and on behalf of its and their past, present and future predecessors, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the "**Released Parties**"), from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date

(collectively, the "**Released Claims**") of any kind, nature or description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, upon contract or tort or under any state or federal law or otherwise, arising out of or related to (as applicable) the Prepetition Loan Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Order. For the avoidance of doubt, nothing in this release shall relieve the DIP Secured Parties of their Obligations under the DIP Documents from and after the date of this Interim Order.

H. *Findings Regarding the DIP Financing and Use of Cash Collateral.*

(i) Good and sufficient cause has been shown for the entry of this Interim Order and for authorization of the Debtor DIP Loan Parties to obtain financing pursuant to the DIP Credit Agreement.

(ii) The Debtor DIP Loan Parties have an immediate and critical need to obtain the DIP Financing and to use Prepetition Collateral (including Cash Collateral) in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, to satisfy other working capital and operational needs and to fund expenses of these Chapter 11 Cases. The access of the Debtor DIP Loan Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, the incurrence of new

indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern values of the Debtor DIP Loan Parties and to a successful reorganization of the Debtor DIP Loan Parties.

(iii) The Debtor DIP Loan Parties are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor DIP Loan Parties are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting to the DIP Secured Parties, the DIP Liens and the DIP Superpriority Claims (as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case subject to the Carve Out, under the terms and conditions set forth in this Interim Order and in the DIP Documents.

(iv) The Debtor DIP Loan Parties continue to collect cash, rents, income, offspring, products, proceeds, and profits generated from the Prepetition Collateral and acquire equipment, inventory and other personal property, all of which constitute Prepetition Collateral under the Prepetition Loan Documents that are subject to the Prepetition Secured Parties' security interests as set forth in the Prepetition Loan Documents.

(v) The Debtor DIP Loan Parties desire to use a portion of the cash, rents, income, offspring, products, proceeds and profits described in the preceding paragraph in their business operations that constitute Cash Collateral of the Prepetition Secured Parties under section 363(a) of the Bankruptcy Code. Certain prepetition rents, income, offspring, products, proceeds,

and profits, in existence as of the Petition Date, including balances of funds in the Debtor DIP Loan Parties' prepetition and postpetition operating bank accounts, also constitute Cash Collateral.

(vi) Based on the DIP Motion, the Healy Declaration, the Waldman Declaration and the record presented to the Court at the Interim Hearing, the terms of the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 15 of this Interim Order (the "**Adequate Protection**"), and the terms on which the Debtor DIP Loan Parties may continue to use the Prepetition Collateral (including Cash Collateral) pursuant to this Interim Order and the DIP Documents are fair and reasonable, reflect the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(vii) The DIP Financing (including the Roll-Up), the Adequate Protection and the use of the Prepetition Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtor DIP Loan Parties, the DIP Secured Parties, and the Prepetition Secured Parties, and all of the Debtor DIP Loan Parties' obligations and indebtedness arising under, in respect of, or in connection with, the DIP Financing and the DIP Documents, including, without limitation: all loans made to and guarantees issued by the Debtor DIP Loan Parties pursuant to the DIP Documents and any DIP Obligations shall be deemed to have been extended by the DIP Agent and the DIP Secured Parties and their respective affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(viii) The Prepetition Agent and the Prepetition Secured Parties have acted in good faith regarding the DIP Financing and the Debtor DIP Loan Parties' continued use of the Prepetition Collateral (including Cash Collateral) to fund the administration of the Debtor DIP Loan Parties' estates and continued operation of their businesses (including entry into the Syndicated Facility Amendment and the incurrence and payment of the Adequate Protection Obligations and the granting of the Adequate Protection Liens (as defined herein)), in accordance with the terms hereof, and the Prepetition Agent and Prepetition Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of sections 363(m) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(ix) The Prepetition Secured Parties are entitled to the Adequate Protection provided in this Interim Order as and to the extent set forth herein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Prepetition Collateral (including Cash Collateral) are fair and reasonable, reflect the Debtor DIP Loan Parties' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of the Prepetition Collateral, including the Cash Collateral, and the "Required Lenders" (as such term is defined in the Prepetition Credit Agreement, the "**Required Prepetition Lenders**"), have consented or are deemed hereby to have consented to the use of the Prepetition Collateral, including the Cash Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, and the Roll-Up; *provided* that nothing in this Interim Order or the DIP Documents shall (x) be construed as the affirmative consent by any of the Prepetition Secured Parties for the use of Cash Collateral other than on the terms set forth in

this Interim Order and in the context of the DIP Financing authorized by this Interim Order to the extent such consent has been or will be given, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the Prepetition Collateral (whether senior or junior) or (z) prejudice, limit or otherwise impair the rights of any of the Prepetition Secured Parties to seek new, different or additional adequate protection or assert the interests of any of the Prepetition Secured Parties, and the rights of any other party in interest, including the Debtor DIP Loan Parties, to object to such relief are hereby preserved.

(x) Upon (i) entry of this Interim Order and the occurrence of the Syndication End Date and (ii) entry of the Final Order, as applicable, the exchange and substitution (and prepayment) of Prepetition Loans with DIP Roll-Up Loans on a dollar-for-dollar basis in an amount of Prepetition Loans equal to 100% of the amount of the DIP Commitments (as of the Closing Date) reflects the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties. The Prepetition Secured Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined herein), and the DIP Secured Parties would not be willing to provide the DIP Facility or extend credit to the Debtor DIP Loan Parties thereunder without the Roll-Up. The Roll-Up will benefit the Debtors and their estates because it will enable the Debtors to obtain urgently needed financing critical to administering these Chapter 11 Cases and funding their operations, which financing would not otherwise be available.

(xi) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties an initial budget (the "**Initial DIP Budget**"), attached hereto as Schedule 1. The Initial DIP Budget reflects, among other things, the Parent's and its Subsidiaries' anticipated cash receipts and anticipated disbursements for each calendar week, in form and substance satisfactory to the

Requisite DIP Lenders. The Initial DIP Budget may be modified, amended and updated from time to time in accordance with the DIP Credit Agreement, and once approved by the Requisite DIP Lenders,[5] shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent approved budget, shall constitute without duplication, an "**Approved Budget**"). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances. The DIP Secured Parties are relying, in part, upon the DIP Loan Parties' agreement to comply with the Approved Budget (subject to only permitted variances), the other DIP Documents and this Interim Order in determining to enter into the postpetition financing arrangements provided for in this Interim Order.

(xii) Each of the Prepetition Secured Parties shall 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 with respect to any of the Prepetition Collateral.

I. *Immediate Entry*. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2) and Bankruptcy Local Rule 4001-1(b). Absent granting the relief set forth in this Interim Order, the Debtor DIP Loan Parties' estates will be immediately and irreparably harmed. Consummation of the DIP Financing and the use of Prepetition Collateral (including Cash Collateral), in accordance with this Interim Order and the DIP Documents are therefore in the best interests of the Debtor DIP Loan Parties' estates and

[5] "**Requisite DIP Lenders**" means, as applicable, pursuant to the requirements of the DIP Credit Agreement, either or both of the "Required IC Lenders" and/or "Required Lenders" (each as defined in the DIP Credit Agreement).

consistent with the Debtor DIP Loan Parties' exercise of their fiduciary duties. The DIP Motion and this Interim Order comply with the requirements of Bankruptcy Local Rule 4001-1(b).

J. *Permitted Prior Liens; Continuation of Prepetition Liens.* Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtor DIP Loan Parties, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties 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 DIP Liens (as defined herein). The Prepetition Liens, and the DIP Liens that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens in light of the integrated nature of the DIP Facility, the DIP Documents and the Prepetition Loan Documents.

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

IT IS HEREBY ORDERED THAT:

1. *Motion Granted.* The interim relief sought in the DIP Motion is granted, the interim financing described herein is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case subject to the terms and conditions set forth in the DIP Documents and this Interim Order. All objections to this Interim Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits.

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

(a) The Debtor DIP Loan Parties are hereby authorized, and the Debtors are authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties, as applicable, to execute, deliver, enter into and, as applicable, perform all of their obligations under the DIP Documents and such other and further acts as may be necessary, appropriate or desirable in connection therewith. The Borrower is hereby authorized to borrow money pursuant to the DIP Credit Agreement, each Debtor DIP Guarantor is hereby authorized to, and the Debtors are hereby authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, provide a guaranty of payment in respect of the Borrower's obligations with respect to such borrowings, subject to any limitations on borrowing under the DIP Documents, which shall be used for all purposes permitted under the DIP Documents (and subject to and in accordance with the Approved Budget) (subject to any permitted variances).

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor DIP Loan Party is authorized to, and authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages, financing statements and other similar documents), and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable for the DIP Loan Parties' performance of their obligations under or related to the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents;

(ii) the execution and delivery of, and performance under, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the DIP Loan Parties and the DIP Agent (acting in accordance with the terms of the DIP Credit Agreement and at the direction of the Requisite DIP Lenders) may agree, it being understood that no further approval of this Court shall be required for any authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees and other expenses (including attorneys', accountants', appraisers' and financial advisors' fees), amounts, charges, costs, indemnities and other obligations paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder; *provided* that, for the avoidance of doubt, updates and supplements to the Approved Budget required to be delivered by the DIP Loan Parties under the DIP Documents shall not be considered amendments or modifications to the Approved Budget or the DIP Documents;

(iii) the non-refundable payment to the DIP Agent and the DIP Secured Parties, as the case may be, of all fees, including unused facility fees, amendment fees, prepayment premiums, early termination fees, servicing fees, audit fees, liquidator fees, structuring fees, administrative agent's, collateral agent's or security trustee's fees, upfront fees, closing fees, commitment fees, exit fees, closing date fees, backstop fees, original issue discount fees, prepayment fees or agency fees, indemnities and professional fees (which fees shall be irrevocable, and shall be, and shall be deemed to have been, approved upon entry of this Interim Order, whether or not the fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination,

recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, applicable non-bankruptcy law or otherwise) and any amounts due (or that may become due) in respect of the indemnification and expense reimbursement obligations, in each case referred to in the DIP Credit Agreement or DIP Documents (or in any separate letter agreements, including, without limitation, any fee letters between any or all DIP Loan Parties, on the one hand, and any of the DIP Agent and/or DIP Secured Parties, on the other, in connection with the DIP Financing) and the costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained by, or on behalf of, any of the DIP Agent or DIP Secured Parties (including without limitation those of Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, Skadden, Arps, Slate, Meagher & Flom LLP, King & Wood Mallesons, Rapp & Krock, P.C., Greenhill & Co., LLC, and any local legal counsel or other advisors in any foreign jurisdictions and any other advisors as are permitted under the DIP Documents), in each case, as provided for in the DIP Documents (collectively, the "**DIP Fees and Expenses**"), without the need to file retention motions or fee applications; and

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

3. *DIP Obligations*. Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the DIP Loan Parties, enforceable against each Debtor DIP Loan Party and their estates and each Non-Debtor DIP Loan Party in accordance with the terms of the DIP Documents and this Interim Order, and any successors thereto, including 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 execution and delivery of the DIP Documents, 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 DIP Loan Parties to any of the DIP Agent or DIP Secured Parties, in each case, under, or secured by, the DIP Documents or this Interim Order, including all principal, interest, costs, fees, expenses, indemnities and other amounts under the DIP Documents (including this Interim Order). The DIP Loan Parties shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the DIP Secured Parties (including their Representatives) 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 subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

4. *Prepetition Credit Facility Debt Roll-Up.*

(a) Subject to entry of this Interim Order, and effective upon Syndication End Date in accordance with the DIP Credit Agreement and the other DIP Loan Documents, the Debtors shall be deemed to exchange and substitute (and prepay) Prepetition Loans of the DIP

Lenders on a cashless, dollar-for-dollar basis with the DIP Roll-Up Loans in an amount equal to the Initial Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective principal amounts of their DIP Loans as of such date and subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged (and used to prepay Prepetition Loans) under this paragraph 4(a) shall, subject to paragraph 4(c) of this Interim Order, be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged (and prepaid) therefor. The cashless substitution and exchange (and prepayment) dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(a) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans and the Carve-Out in all respects.

(b) Subject to and effective upon entry of the Final Order, in accordance with the DIP Credit Agreement and the other DIP Documents, the Debtors shall be deemed to exchange and substitute (and prepay) Prepetition Loans of the DIP Lenders on a cashless dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the Delayed-Draw Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective

principal amounts of their DIP Loans as of such date, subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged (and used to prepay Prepetition Loans) under this paragraph 4(b) shall be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged (and prepaid) therefor. The cashless substitution and exchange (and prepayment) dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(b) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans in all respects.

(c) If, prior to the entry of the Final Order, all DIP Obligations relating to the DIP New Money Term Loans are repaid in full in cash by the DIP Loan Parties with the proceeds of a debtor-in-possession financing loan obtained with the approval of this Court, then the provisions relating to the Initial Roll-Up will be reversed and (i) the DIP Roll-Up Loan amounts will no longer be part of the DIP Facility and (ii) the Prepetition Loans (the "**Rolled-Down Prepetition Loans**") for which the DIP Roll-Up Loans were exchanged and substituted (and that the DIP Roll-Up Loans were used to prepay) in connection with the Initial Roll-Up shall be exchanged and substituted for the DIP Roll-Up Loans that are reversed pursuant to this paragraph

4(c). The Rolled-Down Prepetition Loans shall be deemed to constitute Prepetition Loans held by the holders of the DIP Roll-Up Loans immediately prior to such exchange and substitution being reversed for all purposes under the Prepetition Credit Agreement, and the interest rate on the Rolled-Down Prepetition Loans amounts will revert to the interest rate in effect on all amounts that were not "rolled-up" under the Prepetition Credit Agreement, as though the Roll-Up had never occurred; *provided* that in such an event, (i) the DIP Lenders will retain all fees and charges previously received by them on account of the DIP Roll-Up Loans as part of the Initial Roll-Up and (ii) all DIP Commitments shall be deemed terminated; *provided*, *further* that upon entry of the Final Order, the provisions of this paragraph 4(c) shall be deemed null and void and shall have no further effect.

(d) The DIP Agent and Prepetition Agent, acting at the direction of, as applicable, the Requisite DIP Lenders or the Required Prepetition Lenders, is hereby authorized to take any actions as may be necessary or advisable to effectuate the terms of the Roll-Up, including entry into and performance under the DIP Intercreditor Agreement and in accordance with the terms thereof and of the other DIP Documents, and may conclusively rely on the provisions of this Interim Order in adjusting the Register and the Register (as defined in the Prepetition Credit Agreement) to reflect the Roll-Up.

5. *Professional Fee Account*.

(a) Contemporaneously with the initial funding of the DIP Loans, the Debtors shall transfer an amount equal to the total budgeted weekly fees and expenses to be incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee (the "**Committee Professionals**" and, together with the Debtor Professionals, the

"**Professional Persons**" and, such fees and expenses of the Professional Persons, the "**Professional Fees**") for the first two weekly periods set forth in the Approved Budget into a segregated account not subject to the control, liens, security interests, or claims of the DIP Agent, any DIP Lender, or any Prepetition Secured Party, other than the reversionary interest of the DIP Agent and Prepetition Agent (for the benefit of the DIP Secured Parties and Prepetition Secured Parties, respectively), which interest shall be senior to any interest of the Debtors therein (the "**Professional Fees Account**"). Thereafter, on a weekly basis, the Debtors shall transfer into the Professional Fees Account cash proceeds from the DIP Facility or cash on hand in an amount equal to the aggregate unpaid amount of Estimated Fees and Expenses (as defined herein) included in all Weekly Statements (as defined herein) timely received by the Debtors, which shall be reported to the DIP Agent (or, in the event of a DIP Repayment, the Prepetition Agent), or if an estimate is not provided, the total budgeted weekly fees of Professional Persons for the prior week set forth in the Approved Budget,

(b) Starting with the third full calendar week following the Petition Date, each Professional Person shall deliver to the Debtors a statement (each such statement, a "**Weekly Statement**") setting forth a good-faith estimate of the amount of unpaid fees and expenses incurred during the preceding week by such Professional Person (the "**Estimated Fees and Expenses**"). No later than one business day after the delivery of a Carve-Out Trigger Notice (as defined below) (the "**Carve-Out Statement Date**"), each Professional Person shall deliver one additional statement to the Debtors setting forth a good-faith estimate of the amount of Estimated Fees and Expenses incurred on and during the period prior to the Carve-Out Statement Date to the extent not otherwise paid or included in a previous Weekly Statement, and the Debtors shall transfer such amounts to the Professional Fees Account.

(c) The Debtors shall be authorized to use funds held in the Professional Fees Account to pay Professional Fees as they become allowed and payable pursuant to any interim or final order of the Bankruptcy Court or otherwise; *provided*, that when all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, any funds remaining in the Professional Fees Account shall revert to the Debtors for use solely in accordance with this Interim Order and the other DIP Documents and subject to the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims in the order of priority set forth herein; *provided*, *further*, that the Debtors' obligations to pay allowed Professional Fees shall in no way be limited or deemed limited to funds held in the Professional Fees Account.

(d) Notwithstanding anything herein to the contrary, (i) funds transferred to the Professional Fees Account shall be held in trust exclusively for the Professional Persons, including with respect to obligations arising out of the Carve-Out (as defined herein) and (ii) funds transferred to the Professional Fees Account shall not be subject to any liens or claims granted to the DIP Agent or DIP Lenders herein or any liens or claims granted to the Prepetition Agent or the Prepetition Secured Parties, and shall not constitute DIP Collateral, Prepetition Collateral, or Cash Collateral; provided, that the DIP Collateral and the Prepetition Collateral shall include a reversionary interest in funds held in the Professional Fees Account, if any, after all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, which reversionary interest shall be senior to (i) any liens and claims against the Debtors other than the Carve-Out and (ii) any interest of the Debtors therein.

6. *Carve-Out*.

(a) As used in this Interim Order, the term "**Carve-Out**" means the sum of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate (without regard to the notice set forth in clause (iv) below); (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 clause (iv) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all professional fees and expenses (excluding any transaction fees or success fees) of Professional Persons (collectively, the "**Allowed Professional Fees**") incurred at any time before or on the day of delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined herein), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice (as defined herein) and without regard to whether such fees and expenses are provided for in the Approved Budget; and (iv) Allowed Professional Fees incurred after the day following delivery by the DIP Agent of the Carve-Out Trigger Notice (as defined herein) in an aggregate amount not to exceed $7,000,000 (the amount set forth in this clause (iv) being the "**Post-Carve-Out Trigger Notice Cap**"); *provided*, *further*, that nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in this paragraph 6(a) on any grounds.

(b) 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 (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and lead counsel to the Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of

the obligations under the DIP Facility (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, any occurrence that would constitute an Event of Default hereunder) or the occurrence of the Maturity Date (as defined in the DIP Credit Agreement), stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(c) On the day on which a Carve-Out Trigger Notice is received by the Debtors, the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand to transfer to the Professional Fees Account cash in an amount equal to all obligations benefitting from the Carve-Out.

(d) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by the Debtors at any time before or on the first business day after delivery by the DIP Agent or the Prepetition Agent, as applicable, of a Carve-Out Trigger Notice but have not yet been allowed by the Bankruptcy Court, such professional fees and expenses of the Professional Persons shall constitute Allowed Professional Fees benefiting from the Carve-Out upon their allowance by the Bankruptcy Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the Debtors shall fund the Professional Fees Account in the amount of such professional fees and expenses.

(e) Following delivery of a Carve-Out Trigger Notice, the Debtors shall deposit into the Professional Fees Account any cash swept or foreclosed upon (including cash received as a result of the sale or other disposition of any assets) until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Notwithstanding anything to the contrary herein or in the DIP Documents, following delivery of a Carve-Out Trigger Notice, the DIP Agent shall not sweep or foreclose on cash (including cash received as a

result of the sale or other disposition of any assets) of the Debtors until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Further, notwithstanding anything to the contrary herein, (i) disbursements by the Debtors from the Professional Fees Account shall not constitute DIP Loans, (ii) the failure of the Professional Fees Account to satisfy in full the Professional Fees shall not affect the priority of the Carve-Out, and (iii) in no way shall the Carve-Out, Professional Fees Account, any Approved Budget, the Permitted Variance, Weekly Statements, Estimated Fees and Expenses, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors or that may be allowed by the Bankruptcy Court at any time (whether by interim order, final order, or otherwise).

7. *DIP Superpriority Claims*. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtor DIP Loan Parties on a joint and several basis (without the need to file any proof of claim) with priority over any and all claims against the Debtor DIP Loan Parties, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the "**DIP Superpriority Claims**") shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which DIP Superpriority Claims shall be payable from and have recourse to all prepetition and

postpetition property of the Debtor DIP Loan Parties and all proceeds thereof (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") but, subject to the entry of the Final Order, including any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance Proceeds**")) in accordance with the DIP Documents and this Interim Order, subject only to the liens on such property and the Carve Out and all other property of the Non-Debtor DIP Loan Parties as set forth in this Interim Order and the DIP Documents. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise. The DIP Superpriority Claims shall be *pari passu* in right of payment with one another and senior to the 507(b) Claims (as defined herein), and subordinated to the Carve Out.

8. *DIP Liens*. As security for the DIP Obligations, effective and automatically and properly perfected upon the date of this Interim Order and without the necessity of the execution, recordation or filing by the DIP Loan Parties or any of the DIP Secured Parties of mortgages, security agreements, control agreements, pledge agreements, financing statements, notation of certificates of title for titled goods or other similar documents, instruments, deeds, charges or certificates, or the possession or control by the DIP Agent of, or over, any Collateral, the following valid, binding, continuing, enforceable and non-avoidable security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**") are hereby granted to the DIP Agent for its own benefit and the benefit of the DIP Secured Parties (all property

identified in clauses (a) through (c) below being collectively referred to as the "**DIP Collateral**"); *provided* that notwithstanding anything herein to the contrary, the DIP Liens shall be (a) subject and junior to the Carve Out in all respects, (b) senior in all respects to the Prepetition Liens and (c) senior in all respects to the Adequate Protection Liens:

(a) *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, including, without limitation, any and all unencumbered cash of the Debtor DIP Loan Parties (whether maintained with any of the DIP Secured Parties or otherwise) and any investment of cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, goodwill, commercial tort claims and claims that may constitute commercial tort claims (known and unknown), chattel paper, interests in leaseholds, real properties, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, wherever located, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing (the "**Unencumbered Property**"), in each case other than the Avoidance Actions (but, for the avoidance of doubt, subject to entry of the Final Order, "Unencumbered Property" shall include Avoidance Proceeds);

(b) *Liens Priming Certain Prepetition Secured Parties' Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties subject to the Prepetition Liens, regardless of where located, regardless whether or not any liens on such assets are voided, avoided, invalidated, lapsed or unperfected (the "**Priming Liens**"), which Priming Liens shall prime in all respects the interests of the Prepetition Secured Parties arising from the current and future liens of the Prepetition Secured Parties (including, without limitation, the Adequate Protection Liens granted to the Prepetition Secured Parties) (the "**Primed Liens**").

(c) *Liens Junior to Certain Other Liens*. Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all tangible and intangible prepetition and postpetition property of each Debtor DIP Loan Party that is subject to either (i) valid, perfected and non-avoidable senior liens in existence immediately prior to the Petition Date (other than the Primed Liens) or (ii) any valid and non-avoidable senior liens (other than the Primed Liens) in existence immediately prior to the Petition Date that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, which shall be (x) junior and subordinate to any valid, perfected and non-avoidable liens (other than the Primed Liens) in existence immediately prior to the Petition Date, and (y) any such valid and non-avoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code; *provided* that nothing in the foregoing clauses (i) and (ii) shall limit the rights of the DIP Secured Parties under the DIP Documents to the extent such liens are not permitted thereunder; and

(d) *Liens Senior to Certain Other Liens.* The DIP Liens shall not be (i) subject or subordinate to or made *pari passu* with (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or in this Interim Order, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit (including any regulatory body), commission, board or court for any liability of the Debtor DIP Loan Parties, or (C) any intercompany or affiliate liens of the Debtor DIP Loan Parties or security interests of the Debtor DIP Loan Parties; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code granted after the date hereof.

9. *Protection of DIP Lenders' Rights.*

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

other than as necessary to give effect to this Interim Order other than, (x) solely as to this clause (iii), the DIP Agent filing financing statements or other documents to perfect the liens granted pursuant to this Interim Order, or (y) as may be required by applicable state law or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-avoidable liens or security interests existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the DIP Loan Parties' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent or the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the DIP Collateral subject to any sale or court-approved disposition.

(b) To the extent any Prepetition Secured Party has possession of any Prepetition Collateral or DIP Collateral or has control with respect to any Prepetition Collateral or DIP Collateral, or has been noted as secured party on any certificate of title for a titled good constituting Prepetition Collateral or DIP Collateral, then such Prepetition Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee and/or gratuitous agent for perfection for the benefit of the DIP Agent and the DIP Secured Parties, and such Prepetition Secured Party and the Prepetition Agent shall comply with the instructions of the DIP Agent, acting at the direction of the Requisite DIP Lenders, with respect to the exercise of such control.

(c) Any proceeds of Prepetition Collateral subject to the Primed Liens received by any Prepetition Secured Party, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Collateral or otherwise received by the Prepetition Agent, shall be segregated and held in trust for the benefit of and forthwith paid over to the DIP Agent for the benefit of the DIP Secured Parties in the same form as received, with any necessary

endorsements. The DIP Agent is hereby authorized to make any such endorsements as agent for the Prepetition Agent or any such Prepetition Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) The Automatic Stay is hereby modified to the extent necessary to permit the DIP Agent (acting at the direction of the Requisite DIP Lenders) (and in the case of the following clause (i), after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent, acting at the direction of the Required Prepetition Lenders) to take any or all of the following actions, at the same or different time, in each case without further order or application of the Court and immediately upon the occurrence of an Event of Default: (i) deliver a notice of an Event of Default to the Debtors; (ii) declare the termination, reduction or restriction of any further DIP Commitment to the extent any such DIP Commitment remains outstanding; (iii) declare the termination of the DIP Documents as to any future liability or obligation of the DIP Agent and the DIP Secured Parties (but, for the avoidance of doubt, without affecting any of the DIP Liens or the DIP Obligations); and (iv) declare all applicable DIP Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Debtors (or, in the case of the Prepetition Agent, rescind consent to the use of Prepetition Collateral (including Cash Collateral)). Following the delivery of such notice, the DIP Agent (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) may file a motion (the "**Stay Relief Motion**") seeking emergency relief from the Automatic Stay on at least five (5) business days' notice to request a further order of the Court permitting the DIP Agent (or Prepetition Agent, if applicable), whether or not the maturity of any of the DIP Obligations shall have been accelerated, to proceed to protect, enforce and exercise all other rights and remedies

provided for in the DIP Documents and under applicable law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in any such DIP Document or any instrument pursuant to which such DIP Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of any of such DIP Secured Parties. The Debtors shall not object to the fact that the Stay Relief Motion is being heard on such shortened notice. Until such time that the Stay Relief Motion has been adjudicated by the Court the Debtor DIP Loan Parties may use the proceeds of the DIP Facility (to the extent drawn prior to the occurrence of Event of Default) or Cash Collateral to fund operations in accordance with the DIP Credit Agreement and the Approved Budget (subject to permitted variances).

(e) No rights, protections or remedies of the DIP Agent or the DIP Secured Parties granted by the provisions of this Interim Order or the DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral; (ii) any actual or purported termination of the Debtors' authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtors' continued use of Cash Collateral or the provision of adequate protection to any party.

10. *Limitation on Charging Expenses Against Collateral*. No costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral (including Cash Collateral) or Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle

of law, without the prior written consent of the DIP Agent or the Prepetition Agent, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties, and nothing contained in this Interim Order shall be deemed to be a consent by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise.

11. *No Marshaling*. In no event shall the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Credit Facility Debt, or the Prepetition Collateral. Further, in no event shall the "equities of the case" exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agent or the Prepetition Secured Parties with respect to proceeds, products, offspring or profits of any Prepetition Collateral.

12. *Payments Free and Clear*. Any and all payments or proceeds remitted to the DIP Agent by, through or on behalf of the DIP Secured Parties pursuant to the provisions of this Interim Order, the DIP Documents or any subsequent order of the Court shall be irrevocable, received free and clear of any claim, charge, assessment or other liability, including without limitation, any claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtors.

13. *Use of Cash Collateral*. The Debtors are hereby authorized, subject to the terms and conditions of this Interim Order, to use all Cash Collateral; *provided* that (a) the Prepetition Secured Parties are granted the Adequate Protection as hereinafter set forth and (b) except on the

terms and conditions of this Interim Order, the Debtors shall be enjoined and prohibited from at any times using the Cash Collateral absent further order of the Court.

14. *Disposition of DIP Collateral*. The Debtor DIP Loan Parties shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as otherwise provided for in the DIP Documents or otherwise permitted by an order of the Court.

15. *Adequate Protection of Prepetition Secured Parties*. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents and this Interim Order, the payment of any amounts under the Carve Out or pursuant to this Interim Order, the Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "**Adequate Protection Claims**"). In consideration of the foregoing, the Prepetition Agent, for the benefit of the Prepetition Secured Parties, is hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such Adequate Protection Claims, and as an inducement to the Prepetition Secured Parties to consent to the priming of the Prepetition Liens and use of the Prepetition Collateral (including Cash Collateral) (collectively, the "**Adequate Protection Obligations**"):

(a) *Prepetition Adequate Protection Liens*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted (effective and perfected

upon the date of this Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Secured Parties' Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the "**Adequate Protection Liens**"), in each case subject and subordinate only to (A) the DIP Liens and (B) the Carve Out.

(b) *Section 507(b) Claims*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted, subject to the Carve Out, an allowed superpriority administrative expense claim as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Secured Parties' Adequate Protection Claims, with priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "**507(b) Claims**") which 507(b) Claims shall have recourse to and be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions, but including, subject to entry of Final Order, Avoidance Proceeds). The 507(b) Claims shall be subject and subordinate only to the Carve Out and the DIP Superpriority Claims. Except to the extent expressly set forth in this Interim Order, the Final Order or the DIP Documents, the Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(c) *Prepetition Secured Parties Fees and Expenses*. The Debtor DIP Loan Parties shall provide the Prepetition Agent, for the benefit of the Prepetition Secured Parties, without duplication of fees paid for the benefit of the DIP Secured Parties, current cash payments

of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Agent and ad hoc group of Prepetition Lenders, including without limitation (i) Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, King & Wood Mallesons, Greenhill & Co., LLC, Rapp & Krock, P.C., and any other advisors retained by or on behalf of the ad hoc group of Prepetition Lenders and (ii) Skadden, Arps, Slate, Meagher & Flom LLP as counsel to the Prepetition Agent (the "**Adequate Protection Fees and Expenses**") (and such counsel and advisors, the "**Prepetition Secured Parties Advisors**"), subject to the review procedures set forth in paragraph 19 of this Interim Order.

(d) *Adequate Protection Payments.* Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to application of all mandatory prepayments as described in Section 2.13 of the DIP Credit Agreement to repayment of the Prepetition Secured Obligations in accordance with the priorities set forth in the Prepetition Loan Documents (the "**Adequate Protection Payments**") and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification with respect to such Adequate Protection Payments.

(e) *Milestones*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to performance of those certain case milestones set forth in Section 5.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Milestones**"), and (ii) the Required Prepetition

Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification of such Adequate Protection Milestones.

(f) *Budget and Financial Covenants*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Budget Requirement**"), (ii) the Prepetition Secured Parties are hereby entitled to performance of those certain financial and other covenants set forth in Sections 5.11, 5.17, 5.18, 5.20, 6.15 and 6.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Covenants**") and (iii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Budget Requirement or Adequate Protection Covenants.

(g) *Prepetition Secured Parties' Information Rights*. The DIP Loan Parties shall promptly provide the Prepetition Agent, for distribution to the Prepetition Secured Parties (and subject to applicable confidentiality restrictions governing the Prepetition Credit Agreement, including with respect to any "private" side lender database), with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under Sections 5.04, 5.05, 5.06 and 5.07 of the DIP Credit Agreement (the "**Adequate Protection Reporting Requirement**"). Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any

amendment, extension, waiver or other modification relating to the Adequate Protection Reporting Requirement.

(h) *Maintenance of Collateral*. The DIP Loan Parties shall continue to maintain and insure the Prepetition Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Credit Facilities and the DIP Documents.

(i) *Prepetition Secured Parties' Additional Adequate Protection.* In the event the Debtors file, support, make a written proposal or counterproposal to any party relating to, or take any other similar action in furtherance of (any of the foregoing, a "**Non-Permitted Action**"), a chapter 11 plan, sale process or other restructuring transaction that does not (i) provide for the indefeasible payment on the effective date thereof of all claims on account of the Prepetition Credit Facility Debt in full in cash or (ii) constitute an Approved Restructuring (as defined in the DIP Credit Agreement) (in each case, a "**Non-Permitted Restructuring**"), the Debtors shall provide notice to counsel to the ad hoc group of Prepetition Lenders not less than seven (7) business days before taking such Non-Permitted Action (the "**Non-Permitted Restructuring Notice**"). Upon receipt of a Non-Permitted Restructuring Notice, each of the Prepetition Secured Parties shall have the right to immediately file a Stay Relief Motion on five Business Days' notice seeking to terminate the Debtor DIP Loan Parties' right to use Cash Collateral pursuant to this Interim Order (consistent with the procedures set forth in paragraph 9 of this Interim Order), and seek authority thereby to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

16. *Reservation of Rights of Prepetition Secured Parties*. Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is

reasonable and sufficient to protect the interests of the Prepetition Secured Parties and any other parties' holding interests that are secured by Primed Liens; *provided* that the Prepetition Agent, acting on its own behalf or at the direction of the requisite Prepetition Secured Parties, may request further or different adequate protection and the Debtor DIP Loan Parties or any other party in interest may contest any such request.

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

(a) Without in any way limiting the automatically effective perfection of the DIP Liens granted pursuant to paragraph 8 hereof and the Adequate Protection Liens granted pursuant to paragraph 15 hereof, the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the DIP Loan Parties and the Prepetition Secured parties (as applicable), as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be reasonably required or deemed appropriate by the DIP Agent, acting at the direction of the Requisite DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, under applicable local laws, or take possession of or control over cash or securities, or to amend or modify security documents, or enter into, amend or modify intercreditor agreements, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to document, validate and perfect the liens and security interests granted to them hereunder the ("**Perfection Actions**"). Whether or not the DIP Agent, on behalf of the DIP Secured Parties and acting at the direction of the Required DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Parties and acting at the direction of the Required Prepetition Lenders, shall

take such Perfection Actions, the liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of this Interim Order. Upon the request of the DIP Agent, acting at the direction of the Required DIP Lenders, or the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, each of the Prepetition Secured Parties and the Debtor DIP Loan Parties, without any further consent of any party, and at the sole cost of the Debtors as set forth herein, is authorized (in the case of the Debtor DIP Loan Parties), authorized and directed to use reasonable best efforts to cause (in the case of the Debtors with respect to the Non-Debtor DIP Loan Parties) and directed (in the case of the Prepetition Secured Parties), and such direction is hereby deemed to constitute required direction under the applicable DIP Documents or Prepetition Loan Documents, to take, execute, deliver and file such actions, instruments and agreements (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens in all jurisdictions required under the DIP Credit Agreement, including all local law documentation therefor determined to be reasonably necessary by the DIP Agent, acting at the direction of the Required DIP Lenders; provided, however, that no action need be taken in a foreign jurisdiction that would jeopardize the validity and enforceability of the Prepetition Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. To the extent necessary to effectuate the terms of this Interim Order and the DIP Documents, each of the DIP Agent and the Prepetition Agent hereby is deemed to appoint the other (and deemed to have accepted such appointment) to act as its agent with respect to the Shared Collateral (as defined in the DIP Documents) and under the Common Security Documents (as defined in the DIP Documents) to which they are a party in such capacity, with such powers as are expressly delegated thereto under the DIP Documents and Prepetition

Loan Documents (and even if it involves self-contracting and multiple representation to the extent legally possible), together with such other powers as are reasonably incidental thereto.

(b) A certified copy of this Interim Order may, in the discretion of the DIP Agent, acting at the direction of the Required DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized and directed to accept a certified copy of this Interim Order for filing and/or recording, as applicable. The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent and the Prepetition Agent to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

18. *Preservation of Rights Granted Under this Interim Order.*

(a) Other than the Carve Out and other claims and liens expressly granted by this Interim Order, no claim or lien having a priority superior to or *pari passu* with those granted by this Interim Order to the DIP Agent and the DIP Secured Parties or the Prepetition Agent and the Prepetition Secured Parties shall be permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in this Interim Order, the DIP Liens and the Adequate Protection Liens shall not be: (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise; (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body),

commission, board or court for any liability of the DIP Loan Parties; or (iv) subject or junior to any intercompany or affiliate liens or security interests of the DIP Loan Parties.

(b) The occurrence of (i) any Event of Default or (ii) any violation of any of the terms of this Interim Order, shall, after notice by the DIP Agent (acting in accordance with the terms of this Interim DIP Order) in writing to the Borrower (and, in the case of violation of any terms of this Interim Order, and after indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments, notice by the Prepetition Agent acting at the direction of the Required Prepetition Lenders), constitute an event of default under this Interim Order (each an "**Event of Default**") and, upon any such Event of Default, interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Credit Agreement. Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code: (A) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full (and that such DIP Superpriority Claims, 507(b) Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest); (B) the other rights granted by this Interim Order, including with respect to the Carve Out, shall not be affected; and (C) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in this Interim Order.

(c) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect: (i) the

validity, priority or enforceability of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay; or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens or the Carve Out. Notwithstanding any reversal, modification, vacatur or stay of any use of Cash Collateral, any DIP Obligations, DIP Liens, Adequate Protection Obligations or Adequate Protection Liens incurred by the Debtor DIP Loan Parties to the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties, as the case may be, prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Interim Order, and the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in sections 364(e) and 363(m) of the Bankruptcy Code, this Interim Order and the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, the 507(b) Claims and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents and the Carve Out shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases or terminating the joint administration of these Chapter 11 Cases or by any other act or omission;

(ii) the entry of an order approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents); (iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the DIP Loan Parties have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens and the Adequate Protection Obligations and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated (and in the case of rights and remedies of the Prepetition Agent and Prepetition Secured Parties, shall remain in full force and effect thereafter, subject to the terms of this Interim Order), and the Carve Out shall continue in full force and effect.

19. *Payment of Fees and Expenses*. The Fee Letter is hereby approved, and the Debtor DIP Loan Parties are authorized to and shall pay the DIP Fees and Expenses. Subject to the review procedures set forth in this paragraph 19, payment of all DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and the Prepetition Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines, however any time that such professionals seek payment of fees and expenses from the Debtor DIP Loan Parties after the Initial Funding and prior

to confirmation of a chapter 11 plan, each professional shall provide summary copies of its invoices (which shall not be required to contain time entries and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of their invoices shall not constitute any waiver of the attorney client privilege or of any benefits of the attorney work product doctrine) to the Debtor DIP Loan Parties, the U.S. Trustee, and counsel to any statutory committee appointed in these Chapter 11 Cases (together, the "**Review Parties**"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after the receipt by the Review Parties (the "**Review Period**"). If no written objection is received by 12:00 p.m., prevailing Eastern Time, on the end date of the Review Period, the Debtor DIP Loan Parties shall pay such invoices within three (3) calendar days. If an objection to a professional's invoice is received within the Review Period, the Debtor DIP Loan Parties shall promptly pay the undisputed amount of the invoice and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtor DIP Loan Parties are authorized and directed to pay on the Closing Date the DIP Fees and Expenses and Adequate Protection Fees and Expenses incurred on or prior to such date without the need for any professional engaged by, or on behalf of, the DIP Secured Parties or the Prepetition Secured Parties to first deliver a copy of its invoice or other supporting documentation to the Review Parties (other than the Debtor DIP Loan Parties). No attorney or advisor to the DIP Secured Parties or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to

the Petition Date by any of the Debtors to the (i) DIP Secured Parties in connection with or with respect to the DIP Facility and (ii) Prepetition Secured Parties in connection or with respect to these matters, are hereby approved in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtor DIP Loan Parties or any other person.

20. *Effect of Stipulations on Third Parties*. The Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) in all circumstances and for all purposes. The Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding upon all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors, in all circumstances and for all purposes unless: (a) such committee or any other party in interest with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so) has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by no later than (i) the earlier of (x) an order confirming a chapter 11 plan, (y) 60 calendar days after the appointment of the Creditors' Committee and (z) 75 calendar days after entry of this Interim Order; (ii) any such later late agreed to in writing by the DIP Agent (acting with the direction of the Requisite DIP Lenders) and Prepetition Agent (acting with the direction of the Required Prepetition Lenders); and (iii) any such later date as has been ordered by the Court for cause upon a motion filed and served within

any applicable period (the time period established by the foregoing clauses (i)-(iii), the "**Challenge Period**"), (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Credit Facility Debt or the Prepetition Liens, or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "**Challenges**") against the Prepetition Secured Parties or their respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (each, a "**Representative**" and, collectively, the "**Representatives**") in connection with matters related to the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral; and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; *provided*, *however*, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred. If no such Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding then: (1) the Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding on all parties in interest; (2) the obligations of the Debtor DIP Loan Parties under the Prepetition Loan Documents, including the Prepetition Credit Facility Debt, shall constitute allowed claims not subject to defense, claim, counterclaim, recharacterization, subordination, recoupment, offset or avoidance, for all purposes in the Chapter 11 Cases, and any subsequent

chapter 7 case(s); (3) the Prepetition Liens on the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to recharacterization, subordination, avoidance or other defense; and (4) the Prepetition Credit Facility Debt and the Prepetition Liens on the Prepetition Collateral shall not be subject to any other or further claim or challenge by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party in interest acting or seeking to act on behalf of the Debtor DIP Loan Parties' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition Secured Parties and their Representatives arising out of or relating to any of the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral shall be deemed forever waived, released and barred. If any such Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements and releases contained in this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any statutory or nonstatutory committee appointed or formed in the Chapter 11 Cases and on any other person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in this Interim Order vests or

confers on any Person (as defined in the Bankruptcy Code), including any statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition Loan Documents, the Prepetition Credit Facility Debt or the Prepetition Liens, and any ruling on standing, if appealed, shall not stay or otherwise delay the Chapter 11 Cases or confirmation of any plan of reorganization.

21. *Limitation on Use of DIP Financing Proceeds and Collateral*. Notwithstanding any other provision of this Interim Order or any other order entered by the Court, no DIP Loans, DIP Collateral, Prepetition Collateral (including Cash Collateral) or any portion of the Carve Out, may be used directly or indirectly, (a) in connection with the investigation, threatened initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against any of the DIP Secured Parties, or the Prepetition Secured Parties, or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, in each case in their respective capacity as such, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Credit Facility Debt, and/or the Adequate Protection Obligations and Adequate Protection Liens granted to the Prepetition Secured Parties, as applicable, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the DIP Obligations, the Prepetition Credit Facility Debt and/or the liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under this Interim Order, the Final Order, the DIP Documents or the Prepetition Loan Documents in respect of the Prepetition Credit Facility Debt, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise

(provided that, notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and/or DIP Collateral (including Cash Collateral) may be used by any Committee to investigate but not to prosecute (A) the claims and liens of the Prepetition Secured Parties and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties (together, the "**Investigation**"), up to an aggregate cap of no more than $50,000 (the "**Investigation Budget**"), (b) to prevent, hinder, or otherwise delay or interfere with the Prepetition Agent's, the Prepetition Secured Parties', the DIP Agent's, or the DIP Secured Parties', as applicable, enforcement or realization on the Prepetition Credit Facility Debt, Prepetition Collateral, DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or Final Order, as applicable, each in accordance with the DIP Documents, the Prepetition Loan Documents or this Interim Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, or the DIP Secured Parties under this Interim Order, the Prepetition Secured Debt Documents or the DIP Documents, as applicable; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims granted to the Prepetition Secured Parties; or (e) to pay or to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved or authorized by the Court, agreed to in writing by the DIP Lenders, expressly permitted under this Interim Order or permitted under the DIP Documents (including the Approved Budget, subject to permitted variances), in each case unless all DIP Obligations, Prepetition Credit Facility Debt, Adequate Protection Obligations, and claims granted to the DIP Agent, DIP Secured Parties, Prepetition Agent and Prepetition Secured

Parties under this Interim Order, have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the DIP Secured Parties. For the avoidance of doubt, this paragraph 21 shall not limit the Debtors' right to use DIP Collateral to contest that an Event of Default has occurred hereunder pursuant to and consistent with paragraph 9(d) of this Interim Order.

22. *Interim Order Governs*. In the event of any inconsistency between the provisions of this Interim Order and the DIP Documents (including, but not limited to, with respect to the Adequate Protection Obligations) or any other order entered by this Court, the provisions of this Interim Order shall govern. Notwithstanding anything to the contrary in any other order entered by this Court, any payment made pursuant to any authorization contained in any other order entered by this Court shall be consistent with and subject to the requirements set forth in this Interim Order and the DIP Documents, including, without limitation, the Approved Budget (subject to permitted variances).

23. *Binding Effect; Successors and Assigns*. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties, any statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties and the Debtors and

their respective successors and assigns; *provided* that the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties shall have no obligation to permit the use of the Prepetition Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

24. *Exculpation*. Nothing in this Interim Order, the DIP Documents, the Prepetition Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Secured Party or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts. The DIP Secured Parties and Prepetition Secured Parties shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the DIP Collateral or Prepetition Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person and (b) all risk of loss, damage or destruction of the DIP Collateral or Prepetition Collateral shall be borne by the Debtors.

25. *Limitation of Liability*. In determining to make any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or Prepetition Collateral (including Cash Collateral) or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents or Prepetition Loan Documents, none of the DIP Secured Parties or Prepetition Secured Parties shall (a) have any liability to any third party or be deemed to be in "control" of the operations of the Debtors; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (c) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" or "managing agent" with respect to the operation

or management of any of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Agent, DIP Secured Parties, Prepetition Agent or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

26. *Master Proof of Claim.* The Prepetition Agent, and/or any other Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Cases or any Successor Case in order to assert claims on behalf of themselves or the Prepetition Secured Parties for payment of the Prepetition Credit Facility Debt arising under the Prepetition Loan Documents, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts under the Prepetition Loan Documents. The statements of claim in respect of such indebtedness set forth in this Interim Order, together with any evidence accompanying the DIP Motion and presented at the Interim Hearing, are deemed sufficient to and do constitute proofs of claim in respect of such debt and such secured status. However, in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, the Prepetition Agent is authorized, but not directed or required, to file in the Debtors' lead chapter 11 case *In re Speedcast International Limited*, Case No. 20-32243 (MI), a master proof of claim on behalf of its respective Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Loan Documents and hereunder (each, a "**Master Proof of Claim**") against each of the Debtors. Upon the filing of a Master Proof of

Claim by the Prepetition Agent, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Loan Documents, and the claim of each applicable Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if it had filed a separate proof of claim in each of these Chapter 11 Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among the holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 26 and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Chapter 11 Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the Prepetition Agent. The DIP Agent and the DIP Secured Parties shall similarly not be required to file proofs of claim with respect to their DIP Obligations under the DIP Documents, and the evidence presented with the DIP Motion and the record established at the Interim Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

27. *Forbearance of the Prepetition Secured Parties.* Prior to the occurrence of an Event of Default, except as expressly permitted pursuant to the terms of this Interim Order or the DIP Documents, the Prepetition Secured Parties shall not (i) exercise any rights or remedies with

respect to any Prepetition Liens or Prepetition Collateral, (ii) enforce or pursue an event of default or other breach under any Prepetition Loan Document, or (iii) assert any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any Prepetition Obligations; *provided* that, following (x) payment in full of the DIP Obligations and termination of the DIP Commitments and (y) the occurrence of any Event of Default or other violation of the terms of this Interim Order, subject to five (5) business days' notice; *provided* that such notice period will not apply with respect to any non-Debtor Loan Parties, (i) the forbearance set forth in this paragraph 27 shall be of no further force or effect, and (ii) the Prepetition Secured Parties shall be permitted to rescind any consent given under this Interim Order regarding the use of Prepetition Collateral (including Cash Collateral) and file a Stay Relief Motion (consistent with the procedures set forth in paragraph 9 of this Interim Order) seeking authority to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

28. *Insurance*. To the extent that the Prepetition Agent is listed as loss payee under the Borrower's or DIP Guarantors' insurance policies, the DIP Agent is also deemed to be the loss payee under the insurance policies and shall act in that capacity and distribute any proceeds recovered or received in respect of the insurance policies, to the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments, and to the payment of the applicable Prepetition Credit Facility Debt.

29. *Credit Bidding*. (a) The DIP Agent shall have the right to credit bid, in accordance with the DIP Documents, up to the full amount of the DIP Obligations in any sale of the DIP Collateral and (b) the Prepetition Agent shall have the right, consistent with the provisions of the

Prepetition Loan Documents (and providing for the DIP Obligations to be indefeasibly repaid in full in cash and the termination of the DIP Commitments), to credit bid up to the full amount of the Prepetition Credit Agreement Debt, in each case as and to the extent provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether any such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, in each case unless the Court for cause orders otherwise.

30. *Effectiveness*. This Interim Order shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

31. *Modification of DIP Documents and Approved Budget*. The Debtors are hereby authorized, without further order of this Court, to enter into agreements with the DIP Secured Parties (or the Prepetition Secured Parties after the indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments) providing for any consensual non-material modifications to the Approved Budget or the DIP Documents, or of any other modifications to the DIP Documents necessary to conform the terms of the DIP Documents to this Interim Order, in each case consistent with the amendment provisions of the DIP Documents; *provided*, *however*, that notice of any material modification or amendment to the DIP Documents shall be provided to the U.S. Trustee and any statutory committee which shall have five (5) days from the date of such

notice within which to object, in writing, to the modification or amendment. If the U.S. Trustee or any statutory committee timely objects to any material modification or amendment to the DIP Documents, the modification or amendment shall only be permitted pursuant to an order of the Court. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a material modification on an expedited basis.

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

33. *Payments Held in Trust*. Except as expressly permitted in this Interim Order or the DIP Documents and except with respect to the DIP Loan Parties, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the benefit of the DIP Agent and the DIP Secured Parties and shall immediately turn over the proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Interim Order.

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

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

36. *Necessary Action*. The Debtors, the DIP Secured Parties and the Prepetition Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of this Interim Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in these Chapter 11 cases to take all actions as are necessary or appropriate to implement the terms of this Interim Order.

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

38. *Final Hearing*. A final hearing to consider the relief requested in the Motion shall be held on _____, 2020 at _____ (Prevailing Central Time) and any objections or responses to the Motion shall be filed on or prior to _____, 2020 at 4:00 p.m. (Prevailing Central Time).

39. *Objections*. Any party in interest objecting to the relief sought at the Final Hearing shall file and serve (via mail and e-mail) written objections, which objections shall be served upon (a) the U.S. Trustee; (b) entities listed as holding the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the Debtors, SpeedCast International Ltd. c/o SpeedCast Communications, Inc., 4400 S. Sam Houston Pkwy E, Houston TX 77048 (Attn.: Dominic Gyngell (dominic.gyngell@speedcast.com)); (d) counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 5th Avenue, New York, New York 10153, (Attn.: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), David Nigel Griffiths, Esq. (david.griffiths@weil.com) and Kelly DiBlasi, Esq. (kelly.diblasi@weil.com)); (e) counsel to the DIP Agent and Prepetition Agent, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York, 10001

(Attn.: Steven Messina, Esq. (steven.messina@skadden.com) and George Howard, Esq. (george.howard@skadden.com)) and 155 N. Wacker Drive, Chicago, Illinois 60606 (Attn.: David M. Wagener, Esq. (david.wagener@skadden.com)); (f) counsel to the Ad Hoc Group of Term Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn.: Damian Schaible, Esq. (damian.schaible@davispolk.com) and Jon Finelli, Esq. (jon.finelli@davispolk.com)); (g) the Office of the United States Attorney for the Southern District of Texas; (h) the state attorneys general for states in which the Debtor DIP Loan Parties conduct business; (i) the Internal Revenue Service; (j) the Securities and Exchange Commission; (k) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtor DIP Loan Parties conduct business; and (l) any other party that has filed a request for notices with this Court pursuant to Bankruptcy Rule 2002, with a copy to the Court's chamber, in each case to allow actual receipt by the foregoing no later than [____], 2020 at 4:00 p.m., prevailing Central Time and otherwise in conformity with the Court's order establishing notice and case management procedures.

40. The Debtors shall promptly serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Interim Hearing and to any party that has filed a request for notices with this Court.

Dated: _____, 2020
Houston, Texas

_____
MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

DIP Credit Agreement

FILING VERSION

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT

dated as of April [24], 2020,

among

SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241),
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,

as Parent,

SPEEDCAST COMMUNICATIONS, INC.,
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,

as the Borrower,

THE LENDERS NAMED HEREIN

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,

as Administrative Agent, Collateral Agent and Security Trustee

TABLE OF CONTENTS

PAGE

ARTICLE I
DEFINITIONS

SECTION 1.01. Defined Terms 1
SECTION 1.02. Terms Generally 35
SECTION 1.03. LLC Division 35
SECTION 1.04. Classification of Loans and Borrowings 36
SECTION 1.05. Dutch Terms 36

ARTICLE II
THE CREDITS

SECTION 2.01. Commitments and Loans 36
SECTION 2.02. Loans 38
SECTION 2.03. Borrowing Procedure 39
SECTION 2.04. Evidence of Debt; Repayment of Loans 39
SECTION 2.05. Fees 40
SECTION 2.06. Interest on Loans 41
SECTION 2.07. Default Interest 41
SECTION 2.08. Alternate Rate of Interest 42
SECTION 2.09. Termination of Commitments 42
SECTION 2.10. Conversion and Continuation of Borrowings 42
SECTION 2.11. Repayment of Borrowings 43
SECTION 2.12. Voluntary Prepayment 44
SECTION 2.13. Mandatory Prepayments 44
SECTION 2.14. Reserve Requirements; Change in Circumstances 45
SECTION 2.15. Change in Legality 46
SECTION 2.16. Indemnity 47
SECTION 2.17. Pro Rata Treatment 47
SECTION 2.18. Sharing of Setoffs 47
SECTION 2.19. Payments 48
SECTION 2.20. Taxes 48
SECTION 2.21. [Reserved] 52
SECTION 2.22. Assignment of Loans Under Certain Circumstances; Duty to Mitigate 52
SECTION 2.23. [Reserved] 54
SECTION 2.24. Parent as Borrower Agent 54
SECTION 2.25. Disbursement of Funds from the Escrow Account 54
SECTION 2.26. Defaulting Lenders 56
SECTION 2.27. Payments to Administrative Agent for Fronting Exposure 57

ARTICLE III
REPRESENTATIONS AND WARRANTIES

SECTION 3.01. Organization; Powers 57

SECTION 3.02. Authorization 58
SECTION 3.03. Enforceability 58
SECTION 3.04. Governmental Approvals 58
SECTION 3.05. Financial Statements 59
SECTION 3.06. No Material Adverse Change 59
SECTION 3.07. Title to Properties; Possession Under Leases 59
SECTION 3.08. Subsidiaries 60
SECTION 3.09. Litigation; Compliance with Laws 60
SECTION 3.10. Agreements 60
SECTION 3.11. Federal Reserve Regulations 61
SECTION 3.12. Investment Company Act 61
SECTION 3.13. Use of Proceeds 61
SECTION 3.14. Tax Returns 61
SECTION 3.15. No Material Misstatements 62
SECTION 3.16. Employee Benefit Plans 62
SECTION 3.17. Environmental Matters 63
SECTION 3.18. Insurance 64
SECTION 3.19. Security Documents 64
SECTION 3.20. Location of Material Owned Real Property 64
SECTION 3.21. Labor Matters 64
SECTION 3.22. [Reserved] 64
SECTION 3.23. Sanctions, Anti-Terrorism and Anti-Bribery Laws 65
SECTION 3.24. Senior Indebtedness 65
SECTION 3.25. Australian Tax Consolidation 65
SECTION 3.26. Trustee; Benefit; Financial Assistance; Etc 66
SECTION 3.27. Beneficial Ownership 66
SECTION 3.28. Cases; Orders 66

ARTICLE IV
CONDITIONS

SECTION 4.01. Credit Event 67
SECTION 4.02. Delayed Draw Borrowing 72
SECTION 4.03. Disbursements 73

ARTICLE V
AFFIRMATIVE COVENANTS

SECTION 5.01. Existence; Businesses and Properties 75
SECTION 5.02. Insurance 75
SECTION 5.03. Obligations and Taxes 76
SECTION 5.04. Financial Statements, Reports, etc 77
SECTION 5.05. Litigation and Other Notices 80
SECTION 5.06. Employee Benefits 80
SECTION 5.07. Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings 81
SECTION 5.08. Use of Proceeds 81

SECTION 5.09. Compliance with Environmental Laws....81
SECTION 5.10. Preparation of Environmental Reports....82
SECTION 5.11. Guarantors; Further Assurances; Etc....82
SECTION 5.12. Senior Indebtedness....84
SECTION 5.13. Compliance with Tax Sharing Agreement and Tax Funding Agreement....85
SECTION 5.14. Post-Closing Matters....85
SECTION 5.15. Federal Reserve Regulations....85
SECTION 5.16. Milestones....86
SECTION 5.17. Lender Conference Calls....88
SECTION 5.18. Chief Restructuring Officer....88
SECTION 5.19. Priority of Liens....88
SECTION 5.20. Bankruptcy Related Matters....90

ARTICLE VI
NEGATIVE COVENANTS

SECTION 6.01. Indebtedness....92
SECTION 6.02. Liens....94
SECTION 6.03. Sale and Lease-Back Transactions....97
SECTION 6.04. Investments, Loans and Advances....97
SECTION 6.05. Mergers, Consolidations and Sales of Assets....99
SECTION 6.06. Dividends and Distributions; Restrictions on Ability of Subsidiaries to Pay Dividends....99
SECTION 6.07. Transactions with Affiliates....100
SECTION 6.08. Business of Parent and Subsidiaries....100
SECTION 6.09. Other Indebtedness and Agreements....100
SECTION 6.10. [Reserved]....102
SECTION 6.11. Fiscal Year....102
SECTION 6.12. [Reserved]....102
SECTION 6.13. Certain Issuances of Equity Interests....102
SECTION 6.14. Sanctions-Compliant Repayment of Obligations....102
SECTION 6.15. Budget Variance....102
SECTION 6.16. Liquidity....103
SECTION 6.17. Subsidiaries....103
SECTION 6.18. Additional Bankruptcy Matters....103

ARTICLE VII
EVENTS OF DEFAULT

SECTION 7.01. Events of Default....104
SECTION 7.02. Application of Proceeds....111

ARTICLE VIII
THE AGENTS, ETC.; CERTAIN ERISA MATTERS

SECTION 8.01. The Administrative Agent, the Collateral Agent and the Security Trustee, Etc....112

SECTION 8.02. Certain ERISA Matters 119

ARTICLE IX
MISCELLANEOUS

SECTION 9.01. Notices 121
SECTION 9.02. Survival of Agreement 124
SECTION 9.03. Binding Effect 125
SECTION 9.04. Successors and Assigns 125
SECTION 9.05. Expenses; Indemnity 129
SECTION 9.06. Right of Setoff 132
SECTION 9.07. Applicable Law 132
SECTION 9.08. Waivers; Amendment 132
SECTION 9.09. Interest Rate Limitation 135
SECTION 9.10. Entire Agreement 135
SECTION 9.11. WAIVER OF JURY TRIAL 135
SECTION 9.12. Severability 135
SECTION 9.13. Counterparts 136
SECTION 9.14. Headings 136
SECTION 9.15. Jurisdiction; Consent to Service of Process; Waivers 136
SECTION 9.16. Conversion of Currencies 137
SECTION 9.17. Confidentiality 138
SECTION 9.18. [Reserved] 139
SECTION 9.19. [Reserved] 139
SECTION 9.20. No Advisory or Fiduciary Responsibility 139
SECTION 9.21. USA PATRIOT Act and Beneficial Ownership Regulation Notice 139
SECTION 9.22. [Reserved] 140
SECTION 9.23. Acknowledgment and Consent to Bail-In of EEA Financial Institutions 140
SECTION 9.24. Certain Privacy Principles and Laws 140
SECTION 9.25. Release of Liens 141
SECTION 9.26. Exclusion of Certain PPSA Provisions 141
SECTION 9.27. DIP Orders 142

SCHEDULES

Schedule 1.01(a) Agreed Security Principles
Schedule 1.01(b) Excluded Subsidiaries
Schedule 1.01(c) Operating Accounts
Schedule 1.01(d) Initial Subsidiary Guarantors
Schedule 2.01 Lenders; Commitments
Schedule 3.01 Organization; Powers
Schedule 3.08 Subsidiaries
Schedule 3.09 Litigation
Schedule 3.10(b) Agreements
Schedule 3.17 Environmental Matters
Schedule 3.18 Insurance

Schedule 3.19	Additional Security Requirements
Schedule 3.20	Material Owned Real Property
Schedule 3.21	Labor Matters
Schedule 4.01(d)	Initial Security Documents and Certain Closing Deliverables
Schedule 4.01(j)	Existing Indebtedness for Borrowed Money
Schedule 5.14	Post-Closing Matters
Schedule 6.01	Indebtedness
Schedule 6.02	Liens
Schedule 6.04	Investments
Schedule 6.07	Transactions with Affiliates

EXHIBITS

Exhibit A	Form of Administrative Questionnaire
Exhibit B	Form of Assignment and Acceptance
Exhibit C	Form of Borrowing Request
Exhibit D	Form of Guarantee Agreement
Exhibit E	Form of Security Trust Deed
Exhibit F	Form of Compliance Certificate
Exhibit G	Form of Solvency Certificate
Exhibit H	Form of Promissory Note
Exhibit I	[Reserved]
Exhibit J-1	Form of U.S. Tax Compliance Certificate
Exhibit J-2	Form of U.S. Tax Compliance Certificate
Exhibit J-3	Form of U.S. Tax Compliance Certificate
Exhibit J-4	Form of U.S. Tax Compliance Certificate
Exhibit K	Form of Notice of Disbursement
Exhibit L	Form of Liquidity Certificate
Exhibit M	Form of Global Subordinated Intercompany Note
Exhibit N	Interim Order

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT, dated as of April [24], 2020 (this "***Agreement***"), among SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241), a company organized under the laws of Australia and registered in Victoria, Australia and a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code ("***Parent***"), SPEEDCAST COMMUNICATIONS, INC., a Texas corporation and a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code (the "***Borrower***"), the Lenders (as defined in Article I) and CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as administrative agent (in such capacity, including any successor thereto, the "***Administrative Agent***") for the Lenders, as collateral agent (in such capacity, including any successor thereto, the "***Collateral Agent***") for the Secured Parties, and as security trustee (in such capacity, including any successor thereto, the "***Security Trustee***") for the Secured Parties.

On April [23], 2020 (the "***Petition Date***"), the Borrower, Parent and certain Subsidiary Guarantors (each a "***Debtor***" and collectively, the "***Debtors***") filed voluntary petitions with the Bankruptcy Court commencing their respective cases that are pending under Chapter 11 of the Bankruptcy Code (each case of the Borrower and each other Debtor, a "***Case***" and collectively, the "***Cases***") and have continued in the possession of their assets and management of their business pursuant to Section 1107(a) and 1108 of the Bankruptcy Code.

The Borrower has requested that the Lenders extend credit (or be deemed to extend credit) to the Borrower in the form of new money loans in an aggregate principal amount of up to $90,000,000 and loans issued hereunder in substitution and exchange (and prepayment) of existing Pre-Petition First Lien Loans in an aggregate principal amount equal $90,000,000 pursuant to this Agreement (collectively, the "***DIP Term Facility***"), with all of the Borrower's obligations under the DIP Term Facility to be guaranteed by Parent and each Subsidiary Guarantor.

The priority of the DIP Term Facility with respect to the Collateral granted to secure the Obligations shall be as set forth in the Interim Order and the Final Order, as applicable, in each case upon entry thereof by the Bankruptcy Court and in the DIP Intercreditor Agreement.

The Borrower, Parent and the Subsidiary Guarantors are engaged in related businesses, and Parent and each Subsidiary Guarantors will derive substantial direct and indirect benefit from the making of the extensions of credit under this Agreement.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. ***Defined Terms***. As used in this Agreement, the following terms shall have the meanings specified below:

"***ABR***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"***Acceptable Plan***" shall mean a plan of reorganization implementing an Approved Restructuring (which may, for the avoidance of doubt and without limitation, contemplate one or more sale of assets).

"***Acceptable Sale Transaction***" shall mean a sale of assets pursuant to section 363 of the Bankruptcy Code that is utilized to implement an Approved Restructuring and includes bid procedures that, without limitation, permit credit bidding of the Obligations at the full face amount thereof in accordance with Section 8.01.

"***Ad Hoc Group of Lenders***" shall mean those certain Lenders represented by the Ad Hoc Lender Advisors as of the Closing Date.

"***Ad Hoc Lender Advisors***" shall mean (i) Davis Polk, (ii) Greenhill, (iii) KWM and (iv) any other financial advisor, auditor, attorney, accountant, appraiser, auditors, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts reasonably retained by the Ad Hoc Group of Lenders and/or the Required Lenders with the prior consent of Parent (not to be unreasonably withheld or delayed).

"***Additional Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Adjusted LIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to the LIBO Rate in effect for such Interest Period multiplied by Statutory Reserves.

"***Administrative Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Administrative Questionnaire***" shall mean an Administrative Questionnaire substantially in the form of Exhibit A, or such other form as may be supplied by the Administrative Agent.

"***Affected Financial Institution***" shall mean (a) any EEA Financial Institution or (b) any UK Financial Institution.

"***Affiliate***" shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

"***Agent Fees***" shall have the meaning assigned to such term in Section 2.05.

"***Agents***" shall have the meaning assigned to such term in Article VIII.

"***Agreed Security Principles***" means the principles set out in Schedule 1.01(a) hereto (Agreed Security Principles).

"***Agreement***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Agreement Value***" shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to any such Hedging Agreement, (i) for any date on or after the date such Hedging Agreement has been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (ii) for any date prior to the date referenced in clause (i), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreement (which may include a Lender or any Affiliate of a Lender).

"***Agreement Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Alternate Base Rate***" shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate in effect on such day for a one-month Interest Period commencing on the second Business Day after such day plus 1.00%; *provided* that the Alternate Base Rate shall not be less than 3.00%. If the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or the Adjusted LIBO Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) or (c), as applicable, of the preceding sentence until the circumstances giving rise to such inability no longer exist. The term "***Prime Rate***" shall mean the rate of interest per annum determined from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City and notified to the Borrower. The term "***Federal Funds Effective Rate***" shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System of the United States, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, as the case may be.

"***Anti-Bribery Laws***" shall have the meaning assigned to such term in Section 3.23(b)**Error! Reference source not found.**.

"***Applicable Creditor***" shall have the meaning assigned to such term in Section 9.16(b).

"***Applicable Rate***" shall mean, for any day, with respect to (a) Roll-Up Loans, 1.75% per annum and (b) with respect to New-Money Loans, (i) 8.00% per annum, in the case of a Eurocurrency Loan, or (ii) 7.00% per annum, in the case of an ABR Loan.

"***Approved Budget***" shall mean the Initial DIP Budget or the then most current DIP Budget prepared by Parent and approved by the Required IC Lenders and the Required Lenders pursuant to Section 5.04(j), as applicable.

"***Approved Restructuring***" shall mean a restructuring transaction (or series of transactions) to be implemented through (a) prior to the occurrence of a Plan Election, an Acceptable Sale Transaction or (b) following the occurrence of a Plan Election, an Acceptable Plan, in each case with the consent of the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, with terms and conditions and definitive documents acceptable to the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, in each case in their sole discretion (including, except as otherwise agreed by the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, in each case in their sole discretion, as such terms, conditions and/or documents are amended, restated, amended and restated, supplemented, superseded and/or otherwise modified).

"***Asset Sale***" shall mean the sale, transfer or other disposition (by way of merger, casualty, condemnation or otherwise and including by way of a Sale and Leaseback) by Parent or any Subsidiary to any person other than any Loan Party of (a) any Equity Interests of any Subsidiary (other than directors' or foreign nationals' qualifying shares) or (b) any other assets of Parent or any Subsidiary (other than sales, transfers or other dispositions in the ordinary course of business and consistent with the Approved Budget).

"***Assignment and Acceptance***" shall mean an assignment and acceptance entered into by a Lender and an assignee, and accepted by the Administrative Agent, substantially in the form of Exhibit B or such other form as shall be approved by the Administrative Agent.

"***ASX***" means ASX Limited.

"***Auction***" shall have the meaning assigned to such term in Section 5.16(c).

"***Australian Corporations Act***" shall mean the Corporations Act 2001 of Australia (Cth).

"***Australian Employee Benefit Account***" shall mean any bank account established or designated as such (including after the date of this Agreement) in accordance with clause 9 of the Forbearance Agreement and held with an Australian authorized deposit taking institution which is secured in favor of the Secured Parties for the sole purpose of holding funds to pay when due entitlements of Australian employees which would have priority under sections 556(1)(e), 556(1)(f) and 556(1)(g) of the Australian Corporations Act.

"***Australian Privacy Principles***" shall mean the Australian Privacy Principles in Schedule 1 of the Privacy Act 1988 (Cth) of Australia.

"***Australian Tax Act***" shall mean the Income Tax Assessment Act 1936 of Australia or the Income Tax Assessment Act 1997 of Australia, as the context requires, and includes any amended or successor provisions thereof.

"***Australian Withholding Tax***" means any Australian Tax required to be withheld or deducted from any payment or deemed payment of interest or other payment under Division 11A of Part III of the Australian Tax Act or Subdivision 12-F of Schedule 1 to the Taxation Administration Act 1953 (Cth).

"***Avoidance Action***" shall mean the Debtors' claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code.

"***Avoidance Proceeds***" shall mean any proceeds or property recovered, unencumbered or otherwise in connection with successful Avoidance Actions, whether by judgment, settlement or otherwise.

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

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

"***Bankruptcy Code***" shall mean Title 11 of the United States Code entitled "***Bankruptcy***" as now or hereafter in effect, or any successor statute.

"***Bankruptcy Court***" shall mean the United States Bankruptcy Court for the Southern District of Texas, or any appellate court having jurisdiction over the Cases from time to time.

"***Bankruptcy Rules***" shall mean the Federal Rules of Bankruptcy Procedure, as the same may from time to time be in effect and applicable to the Cases.

"***Beneficial Ownership Certification***" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

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

"***Benefit Plan***" shall mean any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of

Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"***Bid Procedures Motion***" shall have the meaning assigned to such term in Section 5.16(c).

"***Bid Procedures Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Board***" shall mean the Board of Governors of the Federal Reserve System of the United States of America.

"***Borrower Materials***" shall have the meaning assigned to such term in Section 9.01.

"***Borrower***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Borrowing***" shall mean a group of Loans of a single Type made (or, in the case of Roll-Up Loans, deemed made) by the Lenders on, and converted or continued on, the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

"***Borrowing Minimum***" shall mean $500,000.

"***Borrowing Multiple***" shall mean $100,000.

"***Borrowing Request***" shall mean a request by Parent in accordance with the terms of Section 2.03 and substantially in the form of Exhibit C, or such other form as shall be approved by the Administrative Agent.

"***Breakage Event***" shall have the meaning assigned to such term in Section 2.16.

"***Budget Test Period***" shall have the meaning specified in the definition of "Budget Variance Report".

"***Budget Variance Report***" shall mean a variance report, in a form satisfactory to Greenhill (which may take direction from the Required IC Lenders and the Required Lenders) and certified by the chief financial officer and chief restructuring officer of Parent, setting forth (a) (x) for the period beginning on the Petition Date through the second to last Friday prior to delivery of such variance report (the "***Cumulative Budget Test Period***") and (y) the rolling four-week period most recently ended on the second to last Friday prior to the delivery of such variance report (commencing on the first Friday following the fourth anniversary following the Petition Date) (the "***Budget Test Period***"), (i) the cumulative negative variance (as compared to the Approved Budget) of the aggregate cash receipts of the Loan Parties and their Subsidiaries (presented on a line-item basis) and (ii) the cumulative positive variance (as compared to the Approved Budget) of the aggregate operating disbursements made by the Loan Parties and their Subsidiaries (presented on a line-item basis) and (b) an explanation, in reasonable detail, of any material variance and a distinction between permanent and timing-related variances.

"***Business Day***" shall mean any day other than a Saturday, Sunday or day on which banks in New York City are authorized or required by law to close; *provided* that when used in connection with a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"***Capital Lease Obligations***" of any person shall mean the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as, or accounted for in a similar way to, a finance lease or capital lease on a balance sheet or statement of financial position of such person under GAAP, and the amount of such obligations shall be the principal or capitalized amount thereof determined in accordance with GAAP.

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

"***Case***" and "***Cases***" shall have the meaning assigned to such term in the recitals to this Agreement.

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

"***Change in Law***" shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of Sections 2.14 and 2.15, by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; *provided* that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or non-U.S. regulatory authorities, in each case pursuant to Basel III, and (iii) any law or regulation that implements or applies Basel III Standards (including the Capital Requirement Regulation (EU) no. 575/2013 dated 26 June 2013 and the Capital Requirement Directive 2013/36/EU dated 26 June 2013), shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

A "***Change of Control***" shall be deemed to have occurred if (a) any person or group shall (i) own directly or indirectly, beneficially or of record, shares representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent or (ii) obtain or acquire the power to appoint or remove all, or the majority, of the directors or other equivalent officers of Parent; (b) any "change of control" (or similar event, however denominated) with respect to Parent or any of its Subsidiaries shall occur under and as defined in any indenture or agreement in respect of Indebtedness in an outstanding principal amount in excess of the Threshold Amount to which Parent or any of its Subsidiaries is a party and incurred on or after the Petition Date; (c) any person or group shall otherwise directly or

indirectly Control Parent or (d) Parent shall cease to own beneficially, directly or indirectly, 100% of the issued and outstanding Equity Interests of the Borrower.

"***Charges***" shall have the meaning assigned to such term in Section 9.09.

"***Closing Date***" shall mean the date on which the conditions precedent set forth in Section 4.01 shall have been satisfied or waived, notice of which date shall be provided by the Administrative Agent to the Lenders (provided that references in any other Loan Document to "Funding Date" shall be a reference to the Closing Date).

"***Class***" shall mean, when used in reference to (a) any Loan or Borrowing, whether such Loan, or the Loans comprising such Borrowing, are Roll-Up Loans or New Money Loans, and (b) any Lender, whether such Lender has a Loan or Borrowing with respect to a particular Class of Loans or Borrowings.

"***Code***" shall mean the United States Internal Revenue Code of 1986, as amended from time to time.

"***Collateral***" shall mean all the "Collateral" (or equivalent term) as defined in the Interim Order (and, when entered into, the Final Order) and (a) all the "Collateral", "Pledged Collateral" and any similar term as defined in any Security Document, (b) the "Trust" and the "Trust Fund" (as such terms are defined in the Security Trust Deed), (c) the Mortgaged Properties and (d) any other asset that is otherwise subject to any Transaction Security Interest (as defined in the Security Trust Deed), pursuant to this Agreement or any Security Document.

"***Collateral Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Commitment***" shall mean, with respect to any Lender, individually or collectively, as the context may require, such Lender's Initial Commitment or Delayed Draw Commitment. The aggregate amount of the Commitments as of the Closing Date is $90,000,000, as set forth on the Commitment Schedule.

"***Commitment Schedule***" shall mean the Schedule attached hereto as Schedule 2.01.

"***Commitment Fee***" shall have the meaning assigned to such term in Section 2.05(b).

"***Committee***" shall mean the official committee of unsecured creditors appointed in the Cases pursuant to section 1102 of the Bankruptcy Code.

"***Commodity Exchange Act***" shall mean the United States Commodity Exchange Act (7 § 1 et seq.), as amended from time to time, and any successor statute.

"***Communications***" shall have the meaning assigned to such term in Section 9.01.

"***Compliance Certificate***" shall mean a certificate of the chief financial officer and the chief restructuring officer of Parent, substantially in the form of Exhibit F or such other form as shall be approved by the Administrative Agent.

"***Confirmation Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Connection Income Taxes***" shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"***Control***" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and the terms "***Controlling***" and "***Controlled***" shall have meanings correlative thereto; *provided* that any reference to "Control" in the definition of "Change of Control" shall have the meaning given in section 50AA of the Australian Corporations Act.

"***Credit Date***" shall mean the date on which any Borrowing is made.

"***Cumulative Budget Test Period***" shall have the meaning assigned to such term in the definition of "Budget Test Period."

"***Davis Polk***" shall mean Davis Polk & Wardwell LLP, acting in their capacity as counsel to the Ad Hoc Group of Lenders.

"***Debtor***" shall have the meaning assigned to such term in the recitals of this Agreement.

"***Debtor Relief Laws***" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, judicial management, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief statute, law, ordinance, rule or regulation of the United States of America, any State thereof or the District of Columbia, or other applicable jurisdictions from time to time in effect.

"***Declined Amounts***" shall have the meaning assigned to such term in Section 2.13(e).

"***Declining Lender***" shall have the meaning assigned to such term in Section 2.13(e).

"***Default***" shall mean any event or condition which upon notice, lapse of time or both would constitute an Event of Default.

"***Defaulting Lender***" shall mean, subject to Section 2.26(b), any Lender that has (a) failed to fund any portion of its Loans within two Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) notified any Borrower and the Administrative Agent in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit, unless such writing or public statement indicates that such position is based on such Lender's good-faith determination that a condition precedent to funding (specifically identified, including, if applicable, by reference to a specific Default) has not been

satisfied, (c) failed, within three Business Days after written request by the Administrative Agent, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans; *provided* that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent, (d) otherwise failed to pay over to the Administrative Agent or any other Lender any other amount (other than a *de minimis* amount) required to be paid by it hereunder within two Business Days of the date when due, unless the subject of a good faith dispute, (e) (i) has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or has a parent company that has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or (ii) become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, administration, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachments on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender, or (f) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under this definition shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to Parent and each Lender (or each Lender of the applicable Class).

"***Delayed Draw Borrowing Date***" shall mean the date on which the conditions precedent in Section 4.02 have been satisfied and the Delayed Draw Loan is made, which shall be no earlier than the Final Order Entry Date.

"***Delayed Draw Commitment***" shall mean, with respect to each Lender, the commitment of such Lender to make a Delayed Draw Loan to the Borrower in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on the Commitment Schedule, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate amount of the Lenders' Delayed Draw Commitments on the Closing Date is $55,000,000.

"***Delayed Draw Commitment Fee***" shall have the meaning assigned to such term in Section 2.05(d).

"***Delayed Draw Commitment Termination Date***" shall mean the earlier to occur of (a) the Delayed Draw Borrowing Date and (b) the Termination Date.

"***Delayed Draw Loan***" shall have the meaning assigned to such term in Section 2.01.

"***DIP Budget***" shall mean a budget in form and substance satisfactory to the Required IC Lenders and the Required Lenders delivered on or prior to the Closing Date and updated from time to time as set forth Section 5.04(j), setting forth on a weekly basis, among other things, Parent's and its Subsidiaries' projected cash receipts and cash disbursements (including professional fee expenses and capital expenditures) during such period.

"***DIP Intercreditor Agreement***" shall mean that certain Intercreditor Agreement, dated as of the date hereof, among Parent, the Borrower, the borrowers party to the Pre-Petition First Lien Credit Agreement, the Collateral Agent, the Security Trustee, the Pre-Petition First Lien Security Agents and the other parties thereto.

"***DIP Term Facility***" shall have the meaning assigned to such term in the recitals to this Agreement.

"***Disbursement***" shall mean a release of funds from the Escrow Account.

"***Disbursement Date***" shall mean the date of the release of funds from the Escrow Account constituting a Disbursement.

"***Disbursement Termination Instruction***" shall have the meaning assigned to such term in Section 2.25(b).

"***Disclosure and Solicitation Documents***" shall have the meaning assigned to such term in Section 5.16(c).

"***Disclosure Statement Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Disqualified Stock***" shall mean any Equity Interest that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case at any time on or prior to the first anniversary of the Stated Maturity Date, or (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interest referred to in clause (a) above, in each case at any time prior to the first anniversary of the Stated Maturity Date.

"***Dollar Equivalent***" shall mean, on any date of determination, with respect to any amount denominated in any currency other than dollars, the equivalent in dollars of such amount, determined by the Administrative Agent using the applicable Exchange Rate with respect to such currency at the time in effect.

"***dollars***", "***Dollars***" or "***$***" shall mean lawful money of the United States of America.

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

"***EEA Member Country***" shall mean any member state of the European Union, Iceland, Liechtenstein and Norway.

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

"***environment***" shall mean ambient air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, the workplace or as otherwise defined in any Environmental Law.

"***Environmental Claim***" shall mean any written notice of violation, claim, demand, order, directive, cost recovery action or other cause of action by, or on behalf of, any Governmental Authority or any person for damages, injunctive or equitable relief, personal injury (including sickness, disease or death), Remedial Action costs, tangible or intangible property damage, natural resource damages, nuisance, pollution, any adverse effect on the environment caused by any Hazardous Material, or for fines, penalties or restrictions, resulting from or based upon (a) the existence, or the continuation of the existence, of a Release (including sudden or non-sudden, accidental or non-accidental Releases), (b) exposure to any Hazardous Material, (c) the presence, use, handling, transportation, storage, treatment or disposal of any Hazardous Material or (d) the violation or alleged violation of any Environmental Law or Environmental Permit.

"***Environmental Law***" shall mean any and all applicable present and future treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the presence, management, Release or threatened Release of any hazardous or toxic material or to health and safety matters.

"***Environmental Permit***" shall mean any permit, approval, authorization, certificate, license, variance, filing or permission required by or from any Governmental Authority pursuant to any Environmental Law.

"***Equity Interests***" shall mean shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity interests in any person and any option, warrant or other right (other than Indebtedness that is convertible into, or exchangeable for, any such equity interest) entitling the holder thereof to purchase or otherwise acquire any such equity interest.

"***Equity Issuance***" shall mean any issuance or sale by Parent or any Subsidiary of any Equity Interests of Parent or any Subsidiary, as applicable.

"***ERISA***" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time.

"***ERISA Affiliate***" shall mean any trade or business (whether or not incorporated) that, together with the Borrower or Parent, is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code. When any provision of this Agreement relates to a past event, the term "ERISA Affiliate" includes any person who was an ERISA Affiliate at the time of such past event.

"***ERISA Event***" shall mean (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period has been waived); (b) the adoption of any amendment to a Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code; (c) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived, under any Plan; (d) the filing of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the failure of any Loan Party or an ERISA Affiliate to make any required contributions to a Plan or Multiemployer Plan on or before the due date for such contributions; (f) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Plan or the incurrence of Withdrawal Liability by any Loan Party or any of its ERISA Affiliates from any Multiemployer Plan; (g) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (h) the receipt by any Loan Party or any ERISA Affiliate of any notice concerning a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA, or is in an endangered, critical and declining, or critical status, within the meaning of Section 305 of ERISA; (i) the occurrence of a non-exempt "prohibited transaction" within the meaning of Section 4075 of the Code of Section 406 of ERISA with respect to which any Loan Party or any of its Subsidiaries is a "disqualified person", within the meaning of Section 4975 of the Code, or a "party-in-interest", within the meaning of Section 3(14) of ERISA, or with respect to which any Loan Party or any such Subsidiary could otherwise be liable; (j) the failure of any Benefit Plan of any Loan Party or any ERISA Affiliate that is intended to be qualified under Section 401(a) of the Code to be so qualified; (k) the incurrence of any other liability by any Loan Party or any of its ERISA Affiliates to the PBGC or to any Plan or any trust established under Title IV of ERISA; and (l) any Non-U.S. Benefit Event.

"***Escrow Agreement***" shall mean the escrow agreement, dated as of April [24], 2020, between the Escrow Account Deposit Bank, the Administrative Agent and the Borrower governing the terms of the Escrow Account.

"***Escrow Account***" shall mean the deposit account in the name of, and for the account of, the Administrative Agent maintained by the Escrow Account Deposit Bank as account number [_____].

"***Escrow Account Deposit Bank***" shall mean The Bank of New York Mellon, in its capacity as depository bank in respect of the Escrow Account.

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

"***Eurocurrency***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"***Events of Default***" shall have the meaning assigned to such term in Section 7.01.

"***Exchange Rate***" shall mean, on any day, with respect to any currency other than dollars (for purposes of determining the Dollar Equivalent) the rate at which such currency may be exchanged into dollars as set forth at approximately 11:00 a.m., New York City time, on such date on the applicable Bloomberg Key Cross Currency Rates Page. In the event that any such rate does not appear on any Bloomberg Key Cross Currency Rates Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates selected by the Administrative Agent for such purpose, or, at the discretion of the Administrative Agent, such Exchange Rate shall instead be the spot rate of exchange of the Administrative Agent, at or about 10:00 a.m., local time in such market, on such date for the purchase of dollars for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any other reasonable method it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

"***Excluded Subsidiaries***" shall mean the Subsidiaries listed on Schedule 1.01(b) hereto and any other Subsidiary designated as an "Excluded Subsidiary" by Parent (which may include any Subsidiary whose Guarantee would result in material adverse tax consequences to Parent or its Subsidiaries as determined by Parent in good faith) with the consent of the Required IC Lenders and the Required Lenders (each in their sole discretion).

"***Excluded Taxes***" shall mean any of the following Taxes imposed on or with respect to, or required to be withheld or deducted from a payment to, the Administrative Agent or any Lender: (i) Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes of the Administrative Agent or any Lender (or any Transferee), in each case (A) imposed by the jurisdiction under the laws of which the Administrative Agent or such Lender (or Transferee) is organized or incorporated, or the jurisdiction in which the Administrative Agent's or such Lender's (or Transferee's) principal

office or applicable lending office is located (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) Taxes attributable to such recipient's failure to comply with Section 2.20(f), (iii) in the case of a Lender (or Transferee thereof), Taxes imposed by a Governmental Authority in the United States or Hong Kong, in each case on amounts payable to or for the account of such Lender (or Transferee thereof) with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (x) such Lender (or Transferee thereof) acquires such interest in the Loan or Commitment by way of assignment (other than pursuant to an assignment made at the request of Parent) or (y) such Lender (or Transferee thereof) changes its lending office, except in each case to the extent that pursuant to Section 2.20, amounts with respect to such Taxes were payable either to the assignor of such Lender (or Transferee thereof) immediately before such Lender (or Transferee thereof) acquired the applicable interest in such Loan or Commitment or to such Lender (or Transferee thereof) immediately before it changed its lending office and (iv) any U.S. federal withholding Taxes arising under FATCA.

"***Exit Fee***" shall have the meaning assigned to such term in Section 2.05(c).

"***Extraordinary Receipts***" shall mean an amount equal to (a) any cash payments or proceeds (including Permitted Investments) received (directly or indirectly) by or on behalf of Parent or any of its Subsidiaries not in the ordinary course of business and not consisting of Net Cash Proceeds described in Section 2.13(a) in respect of (i) insurance proceeds in connection with a casualty event, (ii) foreign, United States, state or local tax refunds, (iii) pension plan reversions, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) indemnity payments (other than to the extent such indemnity payments are (A) immediately payable to a Person that is not an Affiliate of Parent or any of its Subsidiaries or (B) received by Parent or its Subsidiaries as reimbursement for any payment previously made to such Person) and (vi) any purchase price adjustment received in connection with any purchase agreement to the extent not constituting Net Cash Proceeds, minus (b) (A) any selling and settlement costs and out-of-pocket expenses (including reasonable broker's fees or commissions and legal fees) and any taxes paid or reasonably estimated to be payable by Parent or its Subsidiaries (after taking into account any tax credits or deductions actually realized by Parent or the Borrower with respect to the transactions described in clause (a) of this definition) in connection with the transactions described in clause (a) of this definition, and (B) for purposes of determining Extraordinary Receipts under Section 2.13, any funding loss expenses incurred by the Borrower under Section 2.16 as a result of a mandatory prepayment required by Section 2.13.

"***FATCA***" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing such Sections of the Code.

"***FCPA***" shall have the meaning assigned to such term in Section 3.23(b).

"***Federal Funds Effective Rate***" shall have the meaning assigned to such term in the definition of "Alternate Base Rate".

"***Fee Letter***" shall mean that certain Fee Letter, dated as of the Closing Date, among the Agents and the Borrower.

"***Fees***" shall mean the Agent Fees, the Commitment Fee, the Exit Fee and the Delayed Draw Commitment Fee.

"***Final Order***" shall mean an order of the Bankruptcy Court (and as to which no stay has been entered) authorizing and approving on a final basis, among other things, the DIP Term Facility and the Transactions contemplated by this Agreement (including the Roll-Up in consideration for providing the New Money Loans) in the form of the Interim Order (with only such modifications thereto as are necessary to convert the Interim Order to a final order and such other modifications as are (subject to Section 9.08) satisfactory to the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion) (as the same may be amended, supplemented, or modified from time to time after entry thereof (subject to Section 9.08) with the consent of the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion).

"***Final Order Entry Date***" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"***Financial Officer***" of any person shall mean the chief financial officer, a Vice President-Finance, principal accounting officer, Head of Capital Management or Group Financial, Treasurer or Controller of such person and any other officer or similar official thereof responsible for financial matters of such person (or any other person reasonably acceptable to the Administrative Agent).

"***Forbearance Agreement***" shall mean that certain Forbearance Agreement dated as of April 1, 2020 entered into by and among Parent, the Borrower, the other Loan Parties party thereto, Prepetition First Lien Administrative Agent and certain of the lenders under the Prepetition First Lien Credit Agreement party thereto.

"***GAAP***" shall mean Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board and the Australian Corporations Act, applied on a consistent basis, or similar accounting standards and interpretation as applied locally for the respective Subsidiary.

"***Government Business***" or "***Government Business Subsidiaries***" shall mean, collectively, UltiSat, Inc. and each direct and indirect subsidiary thereof.

"***Governmental Authority***" shall mean the government of any Specified Jurisdiction, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or

pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"***Granting Lender***" shall have the meaning assigned to such term in Section 9.04(j).

"***Greenhill***" shall mean Greenhill & Co., LLC, acting in their capacity as financial advisor to the Ad Hoc Group of Lenders.

"***Group Liabilities***" has the meaning given in section 721-10 of the Australian Tax Act.

"***Guarantee***" of or by any person shall mean any obligation, contingent or otherwise, of such person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligations of any other person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of such person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligations or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligations, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligations of the payment of such Indebtedness or other obligations or (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligations; *provided*, *however*, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business.

"***Guarantee Agreement***" shall mean the Guarantee Agreement, substantially in the form of Exhibit D, among Parent, the Subsidiaries of Parent party thereto, the Security Trustee and the Collateral Agent, for the benefit of the Secured Parties.

"***Guarantors***" shall mean Parent and the Subsidiary Guarantors.

"***Hazardous Materials***" shall mean all explosive or radioactive materials, substances or wastes, hazardous or toxic materials, substances or wastes, pollutants, solid, liquid or gaseous wastes, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls ("***PCBs***") or PCB-containing materials or equipment, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"***Head Company***" has the meaning given in section 703-15 of the Australian Tax Act.

"***Hedging Agreement***" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b)

any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of ISDA Master Agreement, including any such obligations or liabilities under any ISDA Master Agreement.

"***IC Lender New Money Exposure***" shall have the meaning assigned to such term in the definition of "Required IC Lenders."

"***Indebtedness***" of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes, loan stock or similar instruments, (c) receivables sold or discounted (other than to the extent sold on a non-recourse basis or in the ordinary course of business and not as part of a financing transaction), (d) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person (excluding trade accounts payable and other accrued obligations, in each case incurred in the ordinary course of business), (e) all obligations of such person issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business) with payment terms exceeding 120 days, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person, whether or not the obligations secured thereby have been assumed, but limited to the lower of (i) the fair market value of such property and (ii) the amount of the Indebtedness so secured, (g) all Guarantees by such person of Indebtedness of others, (h) all Capital Lease Obligations and Synthetic Lease Obligations of such person, (i) net obligations of such Person under any Hedging Agreements, valued at the Agreement Value thereof, (j) all obligations of such person as an account party in respect of letters of credit, bond, bank guarantee or similar instrument issued by a bank or financial institution, (k) all obligations of such person as an account party in respect of bankers' acceptances and any other amount raised under any acceptance credit, bill acceptance or bill endorsement facility, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Disqualified Stock of such Person or any other Person or any warrants, rights or options to acquire such equity interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends. The Indebtedness of any person shall include the Indebtedness of any partnership in which such person is a general partner, to the extent such person is liable therefor as a result of such person's ownership interest in or other relationship with such entity, except to the extent the express terms of such Indebtedness do not provide that such person is liable therefor. Notwithstanding the foregoing, the term "Indebtedness" shall not include, for any Person, obligations of such Person in respect of operating leases.

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

"***Indemnitee***" shall have the meaning assigned to such term in Section 9.05(b).

"***Independent Network Review***" shall mean an independent review of Parent's and its Subsidiaries' network by a network engineering firm acceptable to the Required Lenders.

"***Ineligible Assignee***" shall mean (a) Parent or any Affiliate of Parent, (b) any natural person (or any holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, any natural person), (c) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary thereof or (d) a Person that at the time of such assignment, is the subject of Sanctions.

"***Information***" shall have the meaning assigned to such term in Section 9.17.

"***Initial Commitment***" shall mean, with respect to each Lender, the commitment of such Lender to make an Initial Loan to the Borrower in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on the Commitment Schedule, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate amount of the Lenders' Initial Commitments on the Closing Date is $35,000,000.

"***Initial Committing Lenders***" shall mean those Lenders identified on Schedule 2.01 hereto as "Initial Committing Lenders."

"***Initial DIP Budget***" shall have the meaning assigned to such term in Section 4.01(n)(i).

"***Initial Loan***" shall have the meaning assigned to such term in Section 2.01.

"***Initial Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Intellectual Property***" shall have the meaning assigned to such term in the Agreed Security Principles.

"***Intelsat***" shall mean Intelsat US LLC and its Affiliates.

"***Instelsat Agreement***" shall mean any agreements with Intelsat that are in effect immediately prior to the Petition Date or that take effect following the Petition Date.

"***Intercompany Note***" shall mean that certain Global Subordinated Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit M.

"***Intercreditor Agreement***" shall mean the DIP Intercreditor Agreement and any other intercreditor agreement executed in connection with any transaction requiring such agreement to be executed pursuant to the terms hereof, among any of the Agents or any other party, as the case may be, on such terms that are reasonably acceptable to the Agents, in each case, as amended, restated, supplemented or otherwise modified or replaced from time to time with the consent of the Administrative Agent.

"***Interest Payment Date***" shall mean (a) with respect to any ABR Loan or Roll-Up Loans, the last Business Day of each calendar month and the Termination Date, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and the Termination Date.

"***Interest Period***" shall mean (a) as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day

(or, if there is no numerically corresponding day, on the last day) in the calendar month that is one month thereafter and (b) as to any ABR Borrowing, the period commencing on the date of such Borrowing and ending on the earliest of (i) the last Business Day of each calendar month and (ii) the Stated Maturity Date; *provided* that (i) if any Interest Period for any Eurocurrency Borrowing would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period for any Eurocurrency Borrowing that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period and (iii) no Interest Period for any Loan shall extend beyond the maturity date of such Loan. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing. Notwithstanding the foregoing, the Interest Period with respect to the borrowing of the Loans shall be a period commencing on the Closing Date and ending on [__], [__].

"***Interest Rate Protection Agreement***" shall mean any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or similar agreement or arrangement entered into in the ordinary course of business of Parent or any Subsidiary and solely for non-speculative purposes.

"***Interim Order***" shall mean an order of the Bankruptcy Court, in the form set forth in Exhibit N, authorizing on an interim basis, among other things, the DIP Term Facility and the Transactions contemplated by this Agreement (including the Roll-Up), with only such modifications as are satisfactory to the Borrower and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion.

"***Interim Order Entry Date***" shall mean the date on which the Interim Order is entered by the Bankruptcy Court.

"***Interpolated Rate***" shall mean, in relation to the LIBO Rate for any Borrowing, the rate which results from interpolating on a linear basis between: (a) the rate published by ICE Benchmark Administration Limited (or another commercially available source as designated by the Administrative Agent from time to time) for the LIBO Rate for the longest period (for which that rate is available) which is less than the Interest Period for such Borrowing and (b) the rate appearing on such screen or other source, as the case may be, for the shortest period (for which that rate is available) which exceeds the Interest Period for such Borrowing as of approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

"***ISDA Master Agreement***" shall mean the Master Agreement (Multicurrency-Cross Border) published by the International Swap and Derivatives Association, Inc., as in effect from time to time.

"***Judgment Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Key Employee or Director***" shall mean any director or officer of any Loan Party or Subsidiary or management personnel employed or to be employed by any Loan Party or Subsidiary, in each case, that has or will be entitled to (A) annual total cash compensation in excess of $300,000 or (B) a severance payment in excess of $200,000.

"***KWM***" shall mean King & Wood Mallesons, acting in their capacity as counsel to the Ad Hoc Group of Lenders.

"***Lenders***" shall mean each person listed on the signature pages hereto as a lender with a Commitment or an outstanding Loan, including each Person identified as a "Lender" on Schedule 2.01 and any Person that becomes a party hereto pursuant to an Assignment and Acceptance, other than, in each case, any such Person that has ceased to be a party hereto pursuant to an Assignment and Acceptance.

"***LIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of the relevant Interest Period (as specified in the applicable Borrowing Request) by reference to the Intercontinental Exchange Benchmark Administration Ltd. rates for deposits in dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the Intercontinental Exchange Benchmark Administration Ltd. (or any successor or substitute agency) as an authorized information vendor for the purpose of displaying such rates), for a period equal to one month; *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBO Rate" for the relevant Interest Period shall be (a) the Interpolated Rate, for a period equal in length to such Interest Period or (b) if such rate is not available at such time for any other reason, a comparable successor rate that is, at such time, broadly accepted by the syndicated loan market for loans denominated in Dollars in lieu of the "LIBO Rate", as determined by the Administrative Agent, or, if no such broadly accepted comparable successor rate exists at such time, a successor index rate as the Administrative Agent may determine with the consent of Parent and the Required Lenders. Notwithstanding the foregoing, the "LIBO Rate" in respect of any Interest Period applicable to any Borrowings will be deemed to be 2.00% per annum if the LIBO Rate for such Interest Period calculated pursuant to the foregoing provisions would otherwise be less than 2.00% per annum.

"***Lien***" shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, encumbrance, charge or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities (and including, for the avoidance of doubt, any "security interest" as defined in sections 12(1) or 12(2) of the PPSA).

"***Liquidity***" shall mean, at any time, an amount equal to the amount of Parent's unrestricted cash calculated in a manner consistent with determining Parent's "Ending Unrestricted Cash" as set forth in the Approved Budget.

"***Liquidity Certificate***" shall mean a certificate substantially in the form of Exhibit L.

"***LLC Division***" shall mean the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or a comparable provision of a different jurisdiction's laws.

"***Loan Documents***" shall mean this Agreement, each Intercreditor Agreement, the Guarantee Agreement, the Security Documents, the promissory notes, if any, executed and delivered pursuant to Section 2.04(e) and any other document executed by or on behalf of any of the Loan Parties (including any officer or employee thereof) and delivered to any of the Secured Parties in connection with the foregoing.

"***Loan Parties***" shall mean the Borrower and the Guarantors.

"***Loans***" shall mean (i) an Initial Loan made by a Lender to the Borrower pursuant to Section 2.01(a)(i) of this Agreement, (ii) a Delayed Draw Loan made by Lender to the Borrower pursuant to Section 2.01(a)(ii) and (iii) a Roll-Up Loan. The Loans shall be Eurocurrency Loans or ABR Loans.

"***Margin Stock***" shall have the meaning assigned to such term in Regulation U.

"***Material Adverse Effect***" shall mean (a) a material adverse effect on the business, assets, financial condition or operating results of Parent and its Subsidiaries, taken as a whole, (b) material impairment of the ability of the Borrower or of the Loan Parties (taken as a whole) to perform their obligations under the Loan Documents or (c) material impairment of the rights of, remedies of or benefits available to the Lenders under any Loan Document; *provided* that "Material Adverse Effect" shall expressly exclude (i) any matters disclosed in any "first day" pleadings or declarations and (ii) the effect of filing the Cases, the events and conditions related to, resulting from and/or leading up thereto and the effects thereon and any action required to be taken under the Loan Documents or the Orders.

"***Material Owned Real Property***" shall mean real property which is owned by Parent or another Loan Party with a fair market value in excess of $500,000.

"***Maximum Rate***" shall have the meaning assigned to such term in Section 9.09.

"***Milestones***" shall mean the Milestones set forth in Section 5.16.

"***Moody's***" shall mean Moody's Investors Service, Inc., or any successor thereto.

"***Mortgaged Properties***" shall mean the Material Owned Real Properties with respect to which a Mortgage is executed and delivered in accordance with Section 6 of the Agreed Security Principles or Section 5.11.

"***Mortgages***" shall mean the mortgages, deeds of trust, assignments of leases and rents, modifications and other security documents delivered pursuant to Section 6 of the Agreed Security Principles or Section 5.11, each in form and substance reasonably acceptable to the Agents.

"***Multiemployer Plan***" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"***Net Cash Proceeds***" shall mean (a) with respect to any Asset Sale, the cash proceeds received by Parent or any Subsidiary (including cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received and including all insurance settlements and condemnation awards), net of (i) transaction expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, transfer and similar taxes and Parent's good faith estimate of income taxes paid or payable in connection with the receipt of such cash proceeds), (ii) amounts provided as a reserve, in accordance with GAAP, including pursuant to any escrow arrangement, against any liabilities under any indemnification obligations or purchase price adjustment associated with such Asset Sale (*provided* that, to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Cash Proceeds), (iii) in the case of insurance settlements and condemnation awards, amounts previously paid by Parent and its Subsidiaries consistent with the Approved Budget to replace or restore the affected property, and (iv) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness for borrowed money which is secured by the asset sold in such Asset Sale and is required to be repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such asset), (b) with respect to any issuance or incurrence of Indebtedness or any Equity Issuance, the cash proceeds thereof, net of all taxes and customary fees, commissions, costs and other expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, and underwriter's discounts and commissions) incurred in connection therewith and (c) with respect to any Extraordinary Receipts, 100% of such cash or proceeds received by Parent or any Subsidiary.

"***New Money Loans***" shall mean, individually or collectively, as the context may require, the Initial Loans and the Delayed Draw Loans.

"***Non-Debtor Subsidiary***" shall mean any Subsidiary of Parent that is not a Debtor.

"***Non-U.S. Benefit Event***" shall mean, with respect to any Non-U.S. Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Non-U.S. Pension Plan or to appoint a trustee or similar official to administer any such Non-U.S. Pension Plan, or alleging the insolvency of any such Non-U.S. Pension Plan and (d) the incurrence of any liability in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency) by any Loan Party or any of its Subsidiaries under applicable law on account of the complete or partial termination of such Non-U.S. Pension Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and could reasonably be expected to result in the incurrence of any liability by any Loan Party or any of its Subsidiaries, or the imposition on any Loan Party or any of its Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law, in each case in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency).

"***Non-U.S. Lender***" shall mean any Lender that not a U.S. Person.

"***Non-U.S. Pension Plan***" shall mean any plan, fund, scheme, or program that (i) is not subject to United States law, (ii) provides retirement income to employees or results in the deferral of income by employees for periods extending to the termination of covered employment or beyond, (iii) is maintained or contributed to by any Loan Party or any Subsidiary or with respect to which any such entities could reasonably be expected to have any current, future or contingent liability or responsibility, and (iv) is maintained for or contributed to on behalf of employees whose principal place of employment is outside the United States.

"***Non-U.S. Subsidiary***" shall mean any Subsidiary that is not a U.S. Subsidiary.

"***Notice of Disbursement***" shall mean a notice substantially in the form of Exhibit K.

"***Obligations***" shall mean all obligations defined as "Obligations" in the Guarantee Agreement.

"***Operating Account***" shall mean each of the deposit accounts maintained by Parent and its Subsidiaries listed on Schedule 1.01(c).

"***Orders***" shall mean the Interim Order and the Final Order, as applicable, in each case upon entry thereof by the Bankruptcy Court.

"***Organization Documents***" shall mean (a) with respect to any corporation, the certificate or articles of incorporation or articles of association and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction).

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

"***Other Taxes***" shall mean any current or future stamp, documentary, excise, transfer, sales, property or similar Taxes, charges or levies (including mortgage recording Taxes and similar fees) that arise from any payment made hereunder or under any other Loan Document or from the execution, delivery, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Document imposed by any Governmental Authority in the United

States or the jurisdiction in which Parent or the Borrower has a place of business other than any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made at the request of the Borrower).

"***Parent***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Participant Register***" shall have the meaning assigned to such term in Section 9.04(f)(ii).

"***Participating Member State***" shall mean any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"***PBGC***" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"***Permitted Investments***" shall mean:

(a) direct obligations of the United States of America or by any of its agencies or instrumentalities, in each case maturing within ten years from the date of acquisition thereof;

(b) direct obligations of any State of the United States of America (or any political subdivision or public instrumentality thereof), U.S. or non-U.S. corporations, or U.S. or non-U.S. commercial banking institutions having, at such date of acquisition, a rating of at least "A" by S&P or "A2" by Moody's, in each case maturing within eighteen months from the date of acquisition thereof;

(c) investments in commercial paper and variable rate notes maturing within one year from the date of acquisition thereof and having, at such date of acquisition, the highest short-term credit rating obtainable from S&P or from Moody's;

(d) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market, checking or demand deposit accounts issued or offered by, (i) the Administrative Agent or any U.S. office of any commercial bank organized under the laws of the United States of America or any State thereof or (ii) a commercial banking institution organized and located in a country recognized by the United States of America, in each case that has a combined capital and surplus and undivided profits of not less than $250,000,000 (or the Dollar Equivalent thereof in another currency);

(e) repurchase obligations with a term of not more than ninety days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above;

(f) (i) investments in money market funds which invest substantially all their assets in securities of the types described in clauses (a) through (e) above or (ii) enhanced yield funds or European money market funds having, at such date of acquisition, a rating of at least

"A" by S&P or "A2" by Moody's and that are capable of being fully liquidated at their respective net asset values at any time within ten Business Days;

(g) dollars, Euros or the currency of any country having a long-term credit rating of at least "A" by S&P or "A2" by Moody's and any other foreign currency held by Parent or any of the Subsidiaries in the ordinary course of business; and

(h) other short-term investments utilized by Parent or any Non-U.S. Subsidiary in accordance with normal investment practices for cash management in investments of a type analogous to the foregoing.

"***person***" or ***"Person"*** shall mean any natural person, corporation, business trust, joint venture, association, company, limited liability company, partnership, other business entity or Governmental Authority.

"***Petition Date***" shall have the meaning assigned to such term in the recitals to this Agreement.

"***PIK Interest***" shall have the meaning assigned to such term in Section 2.06(c).

"***Plan***" shall mean any employee pension benefit plan, as defined in Section 3(2) of ERISA, (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

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

"***Plan Election***" means an election by the Required Lenders, the Required IC Lenders and the Required First Lien Lenders to have an Approved Restructuring implemented through an Acceptable Plan rather than an Acceptable Sale Transaction, which election shall be made within fourteen days of the Petition Date or at such later date as agreed to by the Required IC Lenders.

"***Platform***" shall have the meaning assigned to such term in Section 9.01.

"***Post-Petition***" means the time period commencing immediately upon the filing of the Cases.

"***PPSA***" shall mean the Personal Property Securities Act 2009 (Cth).

"***PPSR***" shall mean the register established under section 147 of the PPSA.

"***Pre-Petition First Lien Administrative Agent***" shall mean the administrative agent under the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Agents***" shall mean, individually or collectively, as the context may require, the Pre-Petition First Lien Administrative Agent and the Pre-Petition First Lien Security Agents.

"***Pre-Petition First Lien Credit Agreement***" shall mean that certain Syndicated Facility Agreement, dated as of May 15, 2018, among, *inter alios*, Parent, the Borrower, the other borrowers named therein, the lenders named therein, the issuing banks named therein, the Pre-Petition First Lien Agent and the Pre-Petition Security Agents.

"***Pre-Petition First Lien Lenders***" shall means lenders under the Pre-Petition First Lien Credit Agreement holding Pre-Petition First Lien Loans.

"***Pre-Petition First Lien Loan Documents***" shall mean the "Loan Documents" as defined in the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Loans***" shall mean the Loans (under and as defined in) the Pre-Petition First Lien Credit Agreement, including, for the avoidance of doubt, the New Incremental Term Loans (as defined in the Incremental Assumption and Amendment Agreement, dated as of October 16, 2018).

*"**Pre-Petition First Lien Obligations**"* shall mean the "Obligations" as such term is defined in the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Security Agents***" shall mean the collateral agent and security trustee under the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Security Documents***" shall mean the "Security Documents" as defined in the Pre-Petition First Lien Credit Agreement.

"***Prime Rate***" shall have the meaning assigned to such term in the definition of the term "Alternate Base Rate".

"***Private Lenders***" shall mean Lenders other than Public Lenders.

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

"***Public Lender***" shall have the meaning assigned to such term in Section 9.01.

"***Purchase Money Indebtedness***" shall mean any Indebtedness of Parent or any Subsidiary to any seller or other person incurred to finance the acquisition (including in the case of a Capital Lease Obligation or Synthetic Lease Obligation, the lease), construction, improvement or repair of any fixed or capital assets and which is (i) incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair and (ii) secured only by the assets so acquired, constructed, improved or repaired and proceeds and products thereof, accessions thereto and improvements thereon.

"***Qualified Capital Stock***" of any Person shall mean any Equity Interest of such Person that is not Disqualified Stock.

"***Receiver***" means a receiver and manager or other receiver appointed in respect of all or any part of the Collateral and shall, if allowed by law, include an administrative receiver.

"***Register***" shall have the meaning assigned to such term in Section 9.04(d).

"***Regulation T***" shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation U***" shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation X***" shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Related Business***" shall mean any business that is the same, similar or otherwise reasonably related, ancillary or complementary to the businesses of Parent and its Subsidiaries on the Closing Date.

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

"***Release***" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, emanating or migrating of any Hazardous Material in, into, onto or through the environment.

"***Remedies Notice Period***" shall have the meaning assigned to such term in Section 7.01.

"***Remedial Action***" shall mean (a) "remedial action" as such term is defined in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601(24), and (b) all other actions required by any Governmental Authority or voluntarily undertaken to: (i) clean up, remove, treat, abate or in any other way address any Hazardous Material in the environment; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health, welfare or the environment; or (iii) perform studies and investigations in connection with, or as a precondition to, (i) or (ii) above.

"***Required First Lien Lenders***" shall mean the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement.

"***Required IC Lenders***" shall mean Initial Committing Lenders having outstanding New Money Loans and New Money Commitments (such loans and commitments, the "***IC Lender New Money Exposure***") representing more than 50% of the sum of all New Money Loans outstanding and New Money Commitments at such time; *provided* that if at any time there are three or more Initial Committing Lenders, "Required IC Lenders" shall include two or more

unaffiliated Initial Committing Lenders; *provided*, *further*, that at any time an Initial Committing Lender holds less than 50% of its IC Lender New Money Exposure as of the date hereof, such Lender shall no longer be considered as an Initial Committing Lender for purposes of calculating Required IC Lenders.

"***Required Lenders***" shall mean, at any time, Lenders having outstanding Loans and Commitments representing more than 50% of the sum of all Loans outstanding and Commitments at such time; *provided* that the Loans and Commitments of any Defaulting Lender shall be disregarded in the determination of Required Lenders at any time.

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

"***Responsible Officer***" of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement (or any other person reasonably acceptable to the Administrative Agent).

"***Restricted Payment***" shall have the meaning assigned to such term in Section 6.06(a).

"***Roll Up***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Date***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Schedule***" shall have the meaning assigned to such term in Section 2.01(b).

"***S&P***" shall mean S&P Global Ratings, or any successor thereto.

"***Sale and Leaseback***" shall have the meaning set forth in Section 6.03.

"***Sale Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Sanctioned Country***" shall mean, at any time, a country or territory which is itself the subject or target of any Sanctions.

"***Sanctioned Person***" shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which Parent or any of its Subsidiaries operate, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person directly or indirectly owned, 50 percent or more, or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

"***Sanctions***" shall mean economic or financial sanctions or trade embargoes, as well as anti-terrorism laws (including the USA PATRIOT ACT) imposed, administered or enforced

from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which Parent or any of its Subsidiaries operate.

"***SEC***" shall mean the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"***Secured Parties***" shall have the meaning assigned to such term in the Guarantee Agreement.

"***Securities Act***" shall mean the United States Securities Act of 1933, as amended.

"***Security Documents***" shall mean the Security Trust Deed, each of the agreements and instruments listed on Part I of Schedule 4.01(d) hereto and, after execution and delivery thereof, Part I of Schedule 5.14 hereto and each of the security agreements, mortgages and other instruments and documents (including any Mortgages) executed and delivered pursuant to any of the foregoing or pursuant to Section 5.11 or the Agreed Security Principles.

"***Security Trust Deed***" shall mean the Security Trust Deed, substantially in the form of Exhibit E, executed by the Security Trustee, for the benefit of the Secured Parties.

"***Security Trustee***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Singapore Companies Act***" shall mean the Companies Act, Chapter 50 of Singapore.

"***Skadden***" shall mean Skadden, Arps, Slate, Meagher & Flom LLP, acting in their capacity as counsel to the Agents.

"***SPC***" shall have the meaning assigned to such term in Section 9.04(j).

"***Specified Jurisdiction***" shall mean the United States, Australia, Hong Kong, the United Kingdom, any member state of the European Economic Area and any Participating Member State.

"***Stated Maturity Date***" shall mean January [22], 2021.

"***Statutory Reserves***" shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by any Governmental Authority to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for any category of deposits or liabilities customarily used to fund loans or by reference to which interest rates applicable to Loans are determined. Such reserve, liquid asset or similar percentages shall include those imposed pursuant to Regulation D of the Board (and for purposes of Regulation D, Eurocurrency Loans denominated in dollars

shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board)). Loans shall be deemed to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any other applicable law, rule or regulation. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"***Subordinated Indebtedness***" shall mean Indebtedness of Loan Party that (i) is contractually subordinated in right of payment to the Obligations pursuant to subordination terms that are reasonably satisfactory to the Administrative Agent, (ii) matures after, and does not require any scheduled amortization or other scheduled payments of principal prior to, the date that is six months after the Stated Maturity Date, (iii) by its terms, or by the terms of any security into which it is convertible or exchangeable or otherwise, would not be required for any reason to be redeemed, repurchased or repaid on or prior to the date that is six months after the Stated Maturity Date (other than upon the occurrence of a "change of control" or upon the occurrence of an event of default or mandatory prepayment or redemption event, but only so long as any such requirement to be redeemed, repurchased or repaid upon the occurrence of such event is subject to the prior payment in full of all of the Obligations), (iv) is not convertible into or exchangeable for debt securities of Parent or any Subsidiary prior to the date that is six months after the Stated Maturity Date and (v) has terms and conditions (other than interest rate and redemption premiums), taken as a whole, that are not materially less favorable to any Loan Party than the terms and conditions customary at the time for high-yield subordinated debt securities issued in a public offering in the reasonable determination of the Administrative Agent.

"***Subordinated Indebtedness Documents***" shall mean each of the agreements, documents and instruments providing for or evidencing any Subordinated Indebtedness permitted to be issued or incurred under Section 6.01, as amended, supplemented or otherwise modified in accordance with Section 6.09(a).

"***subsidiary***" shall mean, with respect to any person (herein referred to as the "***parent***"), any corporation, partnership, limited liability company, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"***Subsidiary***" shall mean any subsidiary of Parent.

"***Subsidiary Guarantors***" shall mean each person listed on Schedule 1.01(d) and each other person that becomes party to the Guarantee Agreement as a Guarantor, and the permitted successors and assigns of each such person.

"***Superpriority Claim***" shall mean any administrative expense claim in the case of any Loan Party having priority over any and all administrative expenses, diminution claims and all other priority claims against the Debtors, subject only to the Carve-Out, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all

administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 365, 503(b), 506(c) (subject only to and effective upon entry of the Final Order), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code.

"***Syndication End Date***" shall mean the date not later than fifteen days after the Petition Date on which the initial syndication of the Loans and Commitments has been completed (or such earlier or later date as notified to the Administrative Agent by the Required IC Lenders).

"***Synthetic Lease***" shall mean a lease of property or assets (other than inventory) designed to permit the lessee (a) to claim depreciation on such property or assets under U.S. tax law and (b) to treat such lease as an operating lease or not to reflect the leased property or assets on the lessee's balance sheet or statement of financial position under GAAP.

"***Synthetic Lease Obligations***" shall mean, as to any person, an amount equal to the sum of (a) the obligations of such person to pay rent or other amounts under any Synthetic Lease which are attributable to principal or that would appear on a balance sheet or statement of financial position of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations and, without duplication, (b) the amount of any purchase price payment under any Synthetic Lease assuming the lessee exercises the option to purchase the leased property at the end of the lease term.

"***Tax Authority***" shall mean any revenue, customs, fiscal or governmental authority competent to impose or collect any taxation (or any interest, fine, surcharge or penalty relating thereto).

"***Tax Consolidated Group***" shall mean a Consolidated Group or a MEC Group as those terms are defined in the Australian Tax Act.

"***Tax Funding Agreement***" shall mean any agreement, deed or document which determines the funding and payment of Group Liabilities of the Head Company of a Tax Consolidated Group.

"***Tax Sharing Agreement***" shall mean an agreement between the members of a Tax Consolidated Group which takes effect as a tax sharing agreement under section 721-25 of the Australian Tax Act and which complies with the Australian Tax Act and any law, official directive, request, guidance or policy (whether or not having the effect of law) issued in connection with the Australian Tax Act.

"***Taxes***" shall mean all current or future taxes, duties, levies, imposts, deductions, charges, withholdings (including backup withholdings), assessments, fees or other charged imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Termination Date***" shall mean the earliest of (a) the Stated Maturity Date, (b) the effective date of any plan for the reorganization of the Borrower or any other Debtor under chapter 11 of the Bankruptcy Code, (c) the consummation of a sale or other disposition of all or substantially all of the assets of the Debtors under section 363 of the Bankruptcy Code, (d) the date of acceleration of the Loans and the termination of unused Commitments with respect to the

DIP Term Facility in accordance with the terms of this Agreement upon and during the continuance of an Event of Default and (e) the date that is thirty (30) days after the Petition Date (or such later date as may be agreed by the Required IC Lenders and the Required Lenders), unless the Final Order Entry Date has occurred on or prior to such date.

"***Test Period***" in effect at any time shall mean the most recent period of two consecutive fiscal half-year periods of Parent (or, in the case of monthly financial statements, the most recent period of three consecutive fiscal month periods) ended on or prior to such time in respect of which financial statements have been or are required to be delivered pursuant to Section 5.04(a) or 5.04(a), as applicable.

"***Threshold Amount***" shall mean $500,000. In connection with any reference to the Threshold Amount of any Indebtedness, the "principal amount" of the obligations of Parent or any Subsidiary in respect of any Hedging Agreement at any time shall be the Agreement Value of such Hedging Agreement at such time.

"***Transactions***" shall mean, collectively, the execution and delivery by the Loan Parties of the Loan Documents to which they are a party, the making (or deemed making) of the Borrowings hereunder on the Closing Date or the Delayed Draw Borrowing Date, the guaranteeing of the Obligations and the granting of the security interests and the provision of the Collateral pursuant to the terms of this Agreement, the Security Documents and the other Loan Documents.

"***Transferee***" shall mean any transferee or assignee, including a participation holder, of any Agent or any Lender.

"***Type***", when used in respect of any Loan or Borrowing, shall refer to the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term "***Rate***" shall include the Adjusted LIBO Rate and the Alternate Base Rate.

"***UCC***" shall mean the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"***UK Financial Institution***" shall mean any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"***UK Resolution Authority***" shall mean the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"***Undisclosed Administration***" shall mean, in relation to a Lender or its direct or indirect parent company, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or its direct or indirect parent company is

subject to home jurisdiction supervision if, and solely for so long as, applicable law requires that such appointment is not to be publicly disclosed.

"***Unrestricted Cash***" shall mean, at any time, the aggregate amount of cash, to the extent that the use of such cash for application to the payment of the Obligations is not prohibited by law or any contract or other agreement and such cash is free and clear of all Liens (other than Liens in favor of any of the Agents and other Liens permitted under Sections 6.02(b), **Error! Reference source not found.** and **Error! Reference source not found.**); *provided*, for the avoidance of doubt, that Unrestricted Cash shall include, at any time of determination, cash held in the Escrow Account.

"***U.S. Person***" shall mean any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"***U.S. Subsidiary***" shall mean a Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"***U.S. Tax Compliance Certificate***" shall have the meaning assigned to such term in Section 2.20(f)(ii)(B)(3).

"***USA PATRIOT Act***" shall mean The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"***wholly owned Subsidiary***" of any person shall mean a subsidiary of such person of which securities (except for directors' and foreign nationals' qualifying shares) or other ownership interests representing 100% of the outstanding Equity Interests are, at the time any determination is being made, owned, controlled or held by such person or one or more wholly owned subsidiaries of such person or by such person and one or more wholly owned subsidiaries of such person.

Unless the context otherwise requires, as used in this Agreement, "***wholly owned Subsidiary***" shall mean a wholly owned Subsidiary of Parent that is a Subsidiary.

"***Withdrawal Liability***" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"***Withholding Agent***" shall have the meaning assigned to such term in Section 2.20(g).

"***Write-Down and Conversion Powers***" shall mean, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to

provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02. ***Terms Generally***. The definitions in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall"; and the words "asset" and "property" shall be construed as having the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, (a) any reference in this Agreement to any Loan Document shall mean such Loan Document as amended, restated, supplemented or otherwise modified from time to time in each case, in accordance with the express terms of such Loan Document, (b) any reference in this Agreement to any law or regulation shall mean such law or regulation as amended, restated, supplemented or otherwise modified from time to time, and (c) all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided* that if Parent notifies the Administrative Agent that Parent wishes to amend any covenant in Article VI or any related definition to eliminate the effect of any change in GAAP occurring after the date of this Agreement on the operation of such covenant (or if the Administrative Agent notifies Parent that the Required Lenders wish to amend Article VI or any related definition for such purpose), then Parent's and its Subsidiaries' compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to Parent and the Required Lenders. Notwithstanding anything to the contrary herein, (i) all accounting and financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without giving effect to any election under U.S. Financial Accounting Standards Board ASC 825-10, or its equivalent under Australian Accounting Standards Board Accounting Standards (including under AASB No. 7, 132 and 139) to value any Indebtedness or other liabilities of any Loan Party or Subsidiary at "fair value", as defined therein and (ii) for purposes of determining the outstanding amount of any Indebtedness, any original issue discount with respect to such Indebtedness shall not be deducted in determining the outstanding amount of such Indebtedness.

SECTION 1.03. *LLC Division.* Any reference herein to a merger, consolidation, amalgamation, assignment, sale or transfer or disposition or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale or transfer or disposition, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, subsidiary, joint venture or any other like term shall also constitute such a Person or entity), and to the extent any covenant in any Loan Document is applicable to such limited

liability company immediately prior to such division, such covenant shall apply to any Person resulting from such division immediately after such division.

SECTION 1.04. ***Classification of Loans and Borrowings***. For purposes of this Agreement, Loans may be classified and referred to by Type (*e.g.*, a "Eurocurrency Loan"). Borrowings also may be classified and referred to by Type (*e.g.*, a "Eurocurrency Borrowing").

SECTION 1.05. ***Dutch Terms***. In this Agreement:

(a) "moratorium" includes surséance van betaling;

(b) an "administrator" includes a bewindvoerder;

(c) a "receiver" includes a curator;

(d) a "winding-up", "administration" or "dissolution" includes failliet verklaard and ontbonden;

(e) "inability to pay its debts" includes the giving of a notice to the Dutch tax authorities under Section 36(2) of the Dutch 1990 Tax Collection Act (Invorderingswet 1990); and

(f) "levy upon assets" includes an executory attachment (executoriaal beslag) and an interlocutory attachment (conservatoir beslag).

ARTICLE II

The Credits

SECTION 2.01. ***Commitments and Loans***. (a) Subject to the terms and conditions hereof and in the Orders and relying upon the representations and warranties herein set forth, each Lender agrees, severally and not jointly, to (i) following entry of the Interim Order and the satisfaction of the conditions to Borrowing set forth in Section 4.01, make a term loan to the Borrower in a single Borrowing on the Closing Date in a principal amount in Dollars not to exceed such Lender's Initial Commitment (the "***Initial Loan***") and (ii) following satisfaction of the conditions to Borrowing set forth in Section 4.02, make an additional delayed draw term loan to the Borrower in a single Borrowing on the Delayed Draw Borrowing Date (the "***Delayed Draw Loans***") in an aggregate principal amount not to exceed such Lender's Delayed Draw Commitment. Once funded, each Initial Loan and each Delayed Draw Loan shall be a "Loan" and a "New Money Loan" for all purposes under this Agreement and the other Loan Documents.

(b) Subject to the terms and conditions set forth herein and in consideration for providing the New Money Loans, (i) subject to entry of the Interim Order, on the Syndication End Date, Pre-Petition First Lien Loans held by Pre-Petition First Lien Lenders (after giving effect to, and assuming the settlement of, any pending assignments of such Pre-Petition First Lien Loans on the Syndication End Date) who are also Lenders or Affiliates of Lenders hereunder shall be automatically substituted and exchanged for (and prepaid on a cashless basis

by) loans hereunder (the "***Initial Roll-Up Loans***"), in a principal amount equal to 100% of the Initial Commitments on the Closing Date allocated pro rata among such Lenders in accordance with the respective principal amounts of their Initial Loans as of such date and (ii) subject to entry of the Final Order, on the Final Order Entry Date, Pre-Petition First Lien Loans held by Pre-Petition First Lien Lenders (after giving effect to, and assuming the settlement of, any pending assignments of such Pre-Petition First Lien Loans on the Final Order Entry Date) who are also Lenders or Affiliates of Lenders hereunder shall be automatically substituted and exchanged for (and prepaid on a cashless basis by) loans hereunder (the "***Additional Roll-Up Loans***" and, together with the Initial Roll-Up Loans, the "***Roll-Up Loans***"), in a principal amount equal to 100% of the Delayed Draw Commitments on the Closing Date allocated pro rata among such Lenders in accordance with the respective principal amounts of their Delayed Draw Commitments as of such date (without giving effect to any assignment of a Delayed Draw Commitment by such Lender to a fronting lender in connection with the provision of fronting services related to the funding of Delayed Draw Loans) (the Initial Roll-Up Loans shall constitute and be deemed Loans outstanding hereunder on the Syndication End Date and the Additional Roll-Up Loans shall constitute and be deemed Loans outstanding hereunder on the Final Order Entry Date and the Roll-Up Loans shall constitute a Class of Loans) (the foregoing substitution and exchange of Pre-Petition First Lien Loans into Roll-Up Loans shall be defined herein, generally, as the "***Roll-Up***" and, the date upon which a Roll-Up occurs shall be defined herein as a "***Roll-Up Date***"). The parties hereto hereby agree that prior to each of the Syndication End Date and the Final Order Entry Date, the Ad Hoc Lender Advisors shall deliver a schedule to the Administrative Agent (the "***Roll-Up Schedule***") that will include (i) in the case of the Syndication End Date, (x) the name of each Lender or Affiliate of a Lender whose Pre-Petition First Lien Loans will be substituted and exchanged for (and prepaid on a cashless basis by) Initial Roll-Up Loans on the Syndication End Date, (y) the amount of Initial Roll-Up Loans to be received by each Lender or Affiliate of a Lender on the Syndication End Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Initial Roll-Up Loans after giving effect to the Roll-Up and (ii) in the case of the Final Order Entry Date, (x) the name of each Lender or Affiliate of a Lender whose Pre-Petition First Lien Loans will be exchanged for (and prepaid on a cashless basis by) Additional Roll-Up Loans hereunder on the Final Order Entry Date, (y) the amount of Additional Roll-Up Loans to be received by each Lender or Affiliate of a Lender on the Final Order Entry Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Additional Roll-Up Loans after giving effect to the Roll-Up, which such schedule may be attached to this Agreement and modified from time to time without the consent of any Lender. Furthermore, the parties agree that each Affiliate of a Lender that will receive Roll-Up Loans hereunder and that is not already a Lender hereunder at the time thereof must become a Lender hereunder, by executing a joinder to this Agreement in form and substance reasonably satisfactory to the Administrative Agent, on or prior to the entry of the Syndication End Date (in the case of the Initial Roll-Up Loans) or the Final Order Entry Date (in the case of the Additional Roll-Up Loans), as applicable, in order to receive its portion of the Roll-Up. The Administrative Agent and the Pre-Petition First Lien Administrative Agent may each conclusively rely on the provisions of this Section 2.01(b) in adjusting the Register and the Register (as defined in the Pre-Petition First Lien Credit Agreement) to reflect (x) the substitution and exchange (and prepayment on a cashless basis) of an aggregate outstanding principal amount of the Pre-Petition First Lien Loans of each Lender participating in the Roll-Up equal to the amount set forth opposite such Lender's name on the

schedules provided pursuant to clauses (i) and (ii) above, (y) the Roll-Up Loans to be received by the Lenders on the Roll-Up Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Roll-Up Loans after giving effect to the applicable Roll-Up). Amounts borrowed, deemed borrowed or exchanged under this Section 2.01(b) and, following the Roll-Up, repaid or prepaid, may not be reborrowed.

SECTION 2.02. ***Loans***. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their applicable Commitments; *provided* that the failure of any Lender to make its Loan shall not in itself relieve any other Lender of its obligation to lend hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to make any Loan required to be made by such other Lender). Loans comprising any Borrowing shall be in an aggregate principal amount that is (i) an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or (ii) equal to the remaining available balance of the applicable Commitments.

(b) Subject to Sections 2.06, 2.08 and 2.15, (i) each Borrowing of New Money Loans made by the Borrower shall be comprised entirely of ABR Loans or Eurocurrency Loans as Parent may request pursuant to Section 2.03. Each Lender may at its option make its New Money Loan by causing any U.S. or non-U.S. branch or other Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) Each Lender shall make its New Money Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds to the Escrow Account not later than 11:00 a.m., New York City time.

(d) Unless the Administrative Agent shall have received notice from a Lender prior to the date of the Borrowing that such Lender will not make available to the Administrative Agent such Lender's portion of the Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of the Borrowing in accordance with Section 2.02(c) above and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, such Lender and the Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower to but excluding the date such amount is repaid to the Administrative Agent at (i) in the case of the Borrower, a rate per annum equal to the interest rate applicable at the time to the Loans comprising the Borrowing and (ii) in the case of such Lender, a rate determined by the Administrative Agent to represent its cost of overnight or short-term funds in the applicable currency (which determination shall be conclusive absent manifest error). If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of the Borrowing for purposes of this Agreement.

(e) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request any Interest Period with respect to any Eurocurrency Borrowing that would end after the Stated Maturity Date.

SECTION 2.03. ***Borrowing Procedure***. In order to request a Borrowing of New-Money Loans, Parent shall email, hand deliver or fax to the Administrative Agent a duly completed Borrowing Request (a) in the case of an ABR Borrowing, not later than 1:00 p.m., New York City time, one Business Day before the proposed Credit Date and (b) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the proposed Credit Date. Each Borrowing Request shall be irrevocable, shall be signed by Parent and shall specify the following information: (i) whether it is to be a Eurocurrency Borrowing or an ABR Borrowing; (ii) the date of such Borrowing (which shall be a Business Day); (iii) the number and location of the account to which funds are to be disbursed (which shall be the Escrow Account) and (iv) the amount of such Borrowing; *provided* that notwithstanding any contrary specification in any such Borrowing Request, the requested Borrowing shall comply with the requirements set forth in Section 2.02. If no election as to the Type of Borrowing is specified in the Borrowing Request, then the requested Borrowing shall be an ABR Borrowing. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.03 (and the contents thereof), of each Lender's portion of the requested Borrowing and the wire instructions for the Escrow Account to which Loans made in connection with the requested Borrowing are to be wired.

SECTION 2.04. ***Evidence of Debt; Repayment of Loans***.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent, for the account of each Lender, the principal amount of each Loan of such Lender as provided in Section **Error! Reference source not found.**.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(c) The Administrative Agent shall maintain accounts in which it will record (i) the amount of each Loan made hereunder, the Type thereof and, if applicable, the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower or any Guarantor and each Lender's share thereof.

(d) Subject to Section 9.04(d), the entries made in the accounts maintained pursuant to Sections 2.04(b) and 2.04(c) above shall be prima facie evidence of the existence and amounts of the obligations therein recorded; *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligations of the Borrower to repay the Loans made to the Borrower in accordance with their terms.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in substantially the form set forth in Exhibit H, or otherwise in a form and substance reasonably acceptable to the Administrative Agent and Parent.

SECTION 2.05. ***Fees.*** (a) The Borrower agrees to pay (or cause to be paid) to each Agent in dollars, for its own account, the agency fees from time to time agreed to in writing by the Borrower and such Agent (the "***Agent Fees***").

(b) The Borrower agrees to pay to each Lender, through the Administrative Agent, on the Closing Date, a commitment fee (the "***Commitment Fee***") equal to 2.00% of the Commitment of such Lender on such date (as in effect immediately prior to giving effect to the funding of any Loans on such date), which such fee shall be payable in the form of original issue discount (by reducing the amount of the Loan advanced by each Lender in the amount of such Lender's Commitment Fee).

(c) With respect to each repayment or prepayment of Loans under Section 2.13, any other repayment or prepayment of Loans upon maturity (scheduled or otherwise), any acceleration of the Loans and/or the other Obligations with respect thereto (regardless of whether before or after the occurrence of an Event of Default or the commencement of any bankruptcy or insolvency proceeding or any other proceeding under any Debtor Relief Law (including any deemed repayment or satisfaction in connection therewith)) and/or any mandatory assignment of the Loans of a non-consenting Lender pursuant to Section 2.22, in each case whether in full or in part, the Borrower shall be required to pay an amount equal to 5.00% of the amount of the Loans (including any Roll-Up Loans) repaid, prepaid, accelerated or assigned (the "***Exit Fee***"), in each case, concurrently with such repayment, prepayment, acceleration or assignment. For the avoidance of doubt, it is understood and agreed that, if the Loans are accelerated or otherwise become due prior to the Stated Maturity Date, in each case whether in full or in part (regardless of whether before or after the occurrence of an Event of Default or the commencement of any bankruptcy or insolvency proceeding or any other proceeding under any Debtor Relief Law), the Exit Fee will also automatically be due and payable as though the Loans were being repaid, prepaid or assigned and shall constitute part of the Obligations with respect to the Loans. For the avoidance of doubt, the Exit Fee shall also be due and payable (i) in the event the Loans (or any notes representing the Loans) are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by another means and/or (ii) upon the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any Obligations (and/or this Agreement or the notes evidencing any Obligations) in any insolvency proceeding or other proceeding pursuant to any Debtor Relief Laws, foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by other means or the making of a distribution of any kind in any insolvency proceeding or under any Debtor Relief Law to the Administrative Agent, for the account of the Lenders, in full or partial satisfaction of the Obligations.

(d) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment payment (a "***Delayed Draw Commitment Fee***") equal to 0.50% *per annum* of the average daily unused amount of each Delayed Draw Commitment of such Lender

during the period from and including the date hereof to but excluding the Delayed Draw Commitment Termination Date. Accrued Delayed Draw Commitment Fee shall be payable on the Delayed Draw Commitment Termination Date. The Delayed Draw Commitment Fee shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(e) All Fees shall be paid on the dates due, in immediately available funds in cash (to the extent provided above), to the Administrative Agent for distribution (other than the Agency Fees), if and as appropriate, among the Lenders. Once paid, none of the Fees shall be refundable under any circumstances, absent manifest error in the calculation of such Fees.

SECTION 2.06. ***Interest on Loans.*** (a) Subject to the provisions of Section 2.07, the New Money Loans comprising each ABR Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, and calculated from and including the date of such Borrowing to but excluding the date of repayment thereof) at a rate per annum equal to the sum of (i) the Alternate Base Rate and (ii) the Applicable Rate for such Loans in effect.

(b) Subject to the provisions of Section 2.07, the New Money Loans comprising each Eurocurrency Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days) at a rate per annum equal to the sum of (i) the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing and (ii) the Applicable Rate for such Loans in effect.

(c) The Roll-Up Loans shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, and calculated from and including the date of such Borrowing to but excluding the date of repayment thereof) at a rate per annum equal to the sum of (i) the Alternate Base Rate and (ii) the Applicable Rate for such Loans in effect, *provided* that a portion of the interest on Roll-Up Loans equal to a rate per annum equal to the sum of (i) the Alternative Base Rate and (ii) 0.75% shall be payable in kind as compounded interest and added to the aggregate principal amount of the Roll-Up Loans (such interest, "***PIK Interest***"); *provided*, *further*, that in no event shall the cash portion of the interest payable in respect of the Roll-Up Loans be less than 1.00% per annum of the outstanding aggregate principal amount of the Roll-Up Loans at any time.

(d) Interest on each Loan shall be payable (i) on the Interest Payment Dates applicable to such Loan except as otherwise provided in this Agreement and (ii) in dollars (other than PIK Interest, which shall be paid in kind on each Interest Payment Date). The applicable Alternate Base Rate or Adjusted LIBO Rate for each Interest Period or day within an Interest Period, as the case may be, shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.07. ***Default Interest.*** Upon the occurrence and during the continuance of an Event of Default, unless waived by the Required Lenders, the Borrower shall on demand from time to time pay interest, to the extent permitted by law, on all Obligations owing by it hereunder at a fluctuating interest rate *per annum* at all times (after as well as before judgment) (a) in the case of principal and interest, at the rate that would otherwise be applicable

thereto pursuant to Section 2.06 plus 2.00% *per annum* and (b) in the case of any other amount payable hereunder, at a rate *per annum* equal to the rate applicable to ABR Loans plus 2.00% *per annum*.

SECTION 2.08. ***Alternate Rate of Interest.*** In the event, and on each occasion, that on the day two Business Days prior to the commencement of any Interest Period for a Eurocurrency Borrowing, the Administrative Agent shall have determined that (i) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in the relevant market, (ii) the rates at which such deposits are being offered will not adequately and fairly reflect the cost to any Lender of making or maintaining its Eurocurrency Loan during such Interest Period, or (iii) reasonable means do not exist for ascertaining the Adjusted LIBO Rate, the Administrative Agent shall, as soon as practicable thereafter, give written (including by email) or fax notice explaining such determination or notification to Parent and the Lenders. In the event of any such determination by the Administrative Agent, until the Administrative Agent shall have advised Parent and the Lenders that the circumstances giving rise to such notice no longer exist, any request for a Eurocurrency Borrowing pursuant to Section 2.03 or 2.10 shall be deemed to be a request for an ABR Borrowing. Each determination by the Administrative Agent or a Lender hereunder shall be conclusive absent manifest error.

SECTION 2.09. Termination of Commitments. Following its making of the Initial Loan on the Closing Date, the Initial Commitment of each Lender shall terminate. The Delayed Draw Commitment of each Lender shall terminate on the Delayed Draw Commitment Termination Date and, to the extent applicable, after the making of any Delayed Draw Term Loan on such date.

SECTION 2.10. ***Conversion and Continuation of Borrowings.*** The Borrower shall have the right at any time upon prior irrevocable notice to the Administrative Agent (a) not later than 1:00 p.m., New York City time, one Business Day prior to conversion, to convert the full aggregate principal amount of a Eurocurrency Borrowing into an ABR Borrowing and (b) not later than 12:00 (noon), New York City time, three Business Days prior to conversion or continuation, to convert the full aggregate principal amount of an ABR Borrowing into a Eurocurrency Borrowing or to continue any Eurocurrency Borrowing as a Eurocurrency Borrowing for an additional Interest Period, subject in each case to the following:

(i) each conversion or continuation shall be made pro rata among the Lenders in accordance with the respective principal amounts of the Loans comprising the converted or continued Borrowing;

(ii) each conversion shall be effected by each Lender and the Administrative Agent by recording for the account of such Lender the new Loan of such Lender resulting from such conversion and reducing the Loan (or portion thereof) of such Lender being converted by an equivalent principal amount;

(iii) accrued interest on any Eurocurrency Loan (or portion thereof) being converted shall be paid by the Borrower at the time of conversion;

(iv) if any Eurocurrency Borrowing is converted at a time other than the end of the Interest Period applicable thereto, the Borrower shall pay, upon demand, any amounts due to the Lenders pursuant to Section 2.16;

(v) any portion of a Borrowing maturing or required to be repaid in less than 14 days may not be converted into or continued as a Eurocurrency Borrowing;

(vi) any portion of a Eurocurrency Borrowing that cannot be converted into or continued as a Eurocurrency Borrowing by reason of the immediately preceding clause shall be automatically converted at the end of the Interest Period in effect for such Borrowing into an ABR Borrowing;

(vii) no Interest Period may be selected for any Eurocurrency Borrowing that would end later than the Stated Maturity Date; and

(viii) upon notice to Parent from the Administrative Agent given at the request of the Required Lenders, after the occurrence and during the continuance of a Default or Event of Default, (A) no outstanding Borrowing may be converted into, or continued as, a Eurocurrency Borrowing and (B) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Each notice pursuant to this Section 2.10 shall be irrevocable and shall refer to this Agreement and specify (i) the identity and amount of the Borrowing that Parent requests be converted or continued, (ii) whether such Borrowing is to be converted to or continued as a Eurocurrency Borrowing or an ABR Borrowing and (iii) if such notice requests a conversion, the date of such conversion (which shall be a Business Day). For the avoidance of doubt, all Eurocurrency Borrowings shall have an Interest Period of one month. The Administrative Agent shall advise the Lenders of any notice given pursuant to this Section 2.10 and of each Lender's portion of any converted or continued Borrowing. If Parent shall not have given notice in accordance with this Section 2.10 to continue any Borrowing into a subsequent Interest Period (and shall not otherwise have given notice in accordance with this Section 2.10 to convert such Borrowing), such Borrowing shall, at the end of the Interest Period applicable thereto (unless repaid pursuant to the terms hereof), automatically be continued as an ABR Borrowing. Notwithstanding any contrary provisions herein, the currency of an outstanding Borrowing may not be changed in connection with any conversion or continuation of such Borrowing. Notwithstanding anything in this Agreement to the contrary, Roll-Up Loans shall not be converted into Eurocurrency Loans.

SECTION 2.11. ***Repayment of Borrowings***.

(a) To the extent not previously paid, all Loans (including the Roll-Up Loans) shall be due and payable on the Termination Date, together with accrued and unpaid interest on the principal amount to be paid to but excluding the date of payment and the Exit Fee.

(b) All repayments pursuant to this Section 2.11 shall be applied in accordance with Section 2.19(c) and subject to Section 2.05(c) and 2.16, but shall otherwise be without premium or penalty.

SECTION 2.12. ***Voluntary Prepayment.***

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, upon prior written notice (or telephone notice promptly confirmed by written notice) to the Administrative Agent given before 1:00 p.m. New York City Time, three Business Days before such prepayment; *provided* that each partial prepayment shall be in an amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum.

(b) Each notice of prepayment shall specify the prepayment date and the principal amount of each Borrowing (or portion thereof) to be prepaid, shall be irrevocable and shall commit the Borrower to prepay such Borrowing by the amount stated therein on the date stated therein.

(c) All prepayments under this Section 2.12 shall be applied in accordance with Section 2.19(c) and subject to Sections 2.05(c) and 2.16 in all respects but otherwise without premium or penalty. Notwithstanding anything to the contrary contained in this Section 2.12(c), a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by Parent (by written (including by email) or fax notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. All prepayments under this Section 2.12 shall be accompanied by accrued interest on the principal amount being prepaid to but excluding the date of payment and the Exit Fee.

SECTION 2.13. ***Mandatory Prepayments***.

(a) Not later than the second Business Day following the receipt of Net Cash Proceeds by Parent or any Subsidiary in respect of any Asset Sale, the Borrower shall apply 100% of the Net Cash Proceeds received with respect thereto to prepay outstanding Loans in an aggregate principal amount equal to 100% of such Net Cash Proceeds.

(b) Not later than the second Business Day following the receipt of Net Cash Proceeds by Parent or any Subsidiary in respect of Extraordinary Receipts in excess of $500,000 in the aggregate for all such Extraordinary Receipts during the term of this Agreement, the Borrower shall cause to be prepaid an aggregate principal amount of Loans in an amount equal to 100% of all such excess Net Cash Proceeds received therefrom.

(c) In the event that Parent or any Subsidiary shall receive Net Cash Proceeds from the issuance or incurrence of any Indebtedness by Parent or any Subsidiary (other than any cash proceeds from the issuance or incurrence of Indebtedness permitted pursuant to Section 6.01), then the Borrower shall, substantially simultaneously with the receipt of such Net Cash Proceeds by Parent or any Subsidiary, apply an amount equal to 100% of such Net Cash Proceeds to prepay outstanding Loans.

(d) Parent shall deliver to the Administrative Agent, at the time of each prepayment required under this Section 2.13, (i) a certificate signed by a Financial Officer of Parent setting forth in reasonable detail the calculation of the amount of such prepayment and (ii) to the extent practicable, at least three Business Days' prior written notice of such prepayment.

Each notice of prepayment shall specify the prepayment date, the Type of each Loan being prepaid and the principal amount of each Loan (or portion thereof) to be prepaid. All prepayments of Borrowings under this Section 2.13 shall be applied in accordance with Section 2.19(c) and subject to Sections 2.05(c) and 2.16, but shall otherwise be without premium or penalty. All prepayments of Borrowings under this Section 2.13 shall be accompanied by accrued and unpaid interest on the principal amount to be prepaid to but excluding the date of payment and the Exit Fee.

(e) [Reserved].

(f) Notwithstanding any of the other provisions of Section 2.13, each Lender may elect not to accept all (but not less than all) of its pro rata percentage of any mandatory prepayment (any such Lender, a "***Declining Lender***", and any such declined amounts, the "***Declined Amounts***") of Loans required to be made pursuant to clauses (a) and (b) of this Section 2.13 by providing written notice (each, a "***Rejection Notice***") to the Administrative Agent no later than 5:00 p.m., New York City time, on the Business Day of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Loans. Any Declined Amounts shall be offered to Lenders that are not Declining Lenders on a pro rata basis, and any Declined Amounts remaining thereafter shall be applied to prepay other Indebtedness to the extent required by the terms thereof and, after giving effect thereto, any remaining amounts may be retained by the Borrower.

SECTION 2.14. ***Reserve Requirements; Change in Circumstances.*** (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall change the basis of taxation of payments to any Agent or any Lender of the principal of or interest on any Eurocurrency Loan made by such Lender or any Fees or other amounts payable under any Loan Document (other than changes in respect of Indemnified Taxes, Taxes described in clauses (ii), (iii), (iv) and (v) of the definition of Excluded Taxes and Connection Income Taxes), or shall impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement against assets of, deposits with or for the account of or credit extended by any Lender (except any such reserve requirement which is reflected in the Adjusted LIBO Rate) or shall impose on such Lender or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or participation therein, and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan or purchasing or maintaining a participation therein or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise) by an amount deemed by such Lender to be material, then the Borrower will pay to such Lender, as the case may be, upon demand such additional amount or amounts as will compensate such Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender shall have determined that any Change in Law (including any regarding liquidity or capital adequacy) has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender pursuant hereto to a level

below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to liquidity or capital adequacy) by an amount deemed by such Lender to be material, then from time to time the Borrower shall pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as applicable, as specified in clause (a) or (b) above and setting forth in reasonable detail the basis for, and calculation of, such amount or amounts shall be delivered to Parent and shall be conclusive absent manifest error. Notwithstanding anything in this Section 2.14 to the contrary, no Lender shall be entitled to any additional amount or amounts under this Section 2.14 unless and only if such Lender is generally seeking similar compensation from similarly situated borrowers (which are parties to credit or loan documentation containing a provision similar to this Section 2.14), as determined by such Lender in its reasonable discretion. The Borrower shall pay such Lender the amount shown as due on any such certificate delivered by it within twenty (20) days after its receipt of the same.

(d) Failure or delay on the part of any Lender to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital shall not constitute a waiver of such Lender's right to demand such compensation. The protection of this Section shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, agreement, guideline or other change or condition that shall have occurred or been imposed.

SECTION 2.15. ***Change in Legality***. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall make it unlawful for any Lender to make or maintain any Eurocurrency Loan or to give effect to its obligations as contemplated hereby with respect to any Eurocurrency Loan, then, by written notice to Parent and to the Administrative Agent:

(i) such Lender may declare that Eurocurrency Loans will not thereafter (for the duration of such unlawfulness) be made by such Lender hereunder (or be continued for additional Interest Periods) and ABR Loans will not thereafter (for such duration) be converted into Eurocurrency Loans, whereupon any request for a Eurocurrency Borrowing (or to convert an ABR Borrowing to a Eurocurrency Borrowing or to continue a Eurocurrency Borrowing for an additional Interest Period) shall, as to such Lender only, be deemed a request for an ABR Loan (or a request to continue an ABR Loan as such for an additional Interest Period or to convert a Eurocurrency Loan into an ABR Loan, as the case may be), unless such declaration shall be subsequently withdrawn; and

(ii) such Lender may require that all outstanding Eurocurrency Loans made by it be converted to ABR Loans in which event all such Eurocurrency Loans shall be automatically converted to such ABR Loans as of the effective date of such notice as provided in clause (b) below.

(iii) In the event any Lender shall exercise its rights under (i) or (ii) above, all payments and prepayments of principal that would otherwise have been applied to repay

the Eurocurrency Loans that would have been made by such Lender or the converted Eurocurrency Loans of such Lender shall instead be applied to repay the ABR Loans made by such Lender in lieu of, or resulting from the conversion of, such Eurocurrency Loans.

(b) For purposes of this Section 2.15, a notice to Parent by any Lender shall be effective as to each Eurocurrency Loan made by such Lender, if lawful, on the last day of the Interest Period currently applicable to such Eurocurrency Loan; in all other cases such notice shall be effective on the date of receipt by Parent.

SECTION 2.16. ***Indemnity***. The Borrower shall indemnify each Lender against any loss or expense, including any break-funding cost that such Lender may sustain or incur as a consequence of (a) any event, other than a default by such Lender in the performance of its obligations hereunder, which results in (i) such Lender receiving or being deemed to receive any amount on account of the principal of any Eurocurrency Loan prior to the end of the Interest Period in effect therefor, (ii) the conversion of any (A) Eurocurrency Loan to an ABR Loan or (B) Interest Period with respect to any Eurocurrency Loan, in each case other than on the last day of the Interest Period in effect therefor, or (iii) any Eurocurrency Loan to be made by such Lender (including any Eurocurrency Loan to be made pursuant to a conversion or continuation under Section 2.10) not being made after notice of such Loan shall have been given by Parent hereunder (any of the events referred to in this clause (a) being called a "***Breakage Event***") or (b) any default in the making of any payment or prepayment required to be made hereunder. In the case of any Breakage Event, such loss shall include an amount equal to the excess, as reasonably determined by such Lender, of (i) its cost of obtaining funds for the Eurocurrency Loan that is the subject of such Breakage Event for the period from the date of such Breakage Event to the last day of the Interest Period in effect (or that would have been in effect) for such Loan over (ii) the amount of interest likely to be realized by such Lender in redeploying the funds released or not utilized by reason of such Breakage Event for such period. A certificate of any Lender setting forth any amount or amounts which such Lender is entitled to receive pursuant to this Section 2.16, together with a reasonably detailed calculation thereof, shall be delivered to Parent and shall be conclusive absent manifest error.

SECTION 2.17. ***Pro Rata Treatment***. Except as required under Section 2.15, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on a Borrowing and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type shall be allocated pro rata among the Lenders in accordance with their respective applicable Commitments (or, if such Commitments shall have expired or been terminated, in accordance with the respective principal amounts of their outstanding Loans). Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar.

SECTION 2.18. ***Sharing of Setoffs***. Each Lender agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against the Borrower or any other Loan Party, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, judicial management, insolvency, examinership or

other similar law or otherwise, or by any other means, obtain payment (voluntary or involuntary) in respect of any of its Loans as a result of which the unpaid principal portion of its Loans and accrued interest thereon shall be proportionately less than the unpaid portion of the Loans and accrued interest thereon of any other Lender, it shall be deemed simultaneously to have purchased from such other Lender at face value, and shall promptly pay to such other Lender the purchase price for, a participation in the Loans and interest thereon of such other Lender, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of the principal of and accrued interest on their respective Loans; *provided* that (a) if any such purchase or purchases or adjustments shall be made pursuant to this Section 2.18 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustment restored without interest, and (b) the provisions of this Section 2.18 shall not be construed to apply to any payment made by any Loan Party pursuant to and in accordance with the express terms of this Agreement (including any payment received pursuant to Section 2.15). The Borrower expressly consents to the foregoing arrangements and agrees that any Lender holding a participation in a Loan deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by the Borrower to such Lender by reason thereof as fully as if such Lender had made a Loan directly to the Borrower in the amount of such participation.

SECTION 2.19. ***Payments.*** (a) The Borrower shall make each payment hereunder and under any other Loan Document prior to 1:00 p.m., New York City time, on the date when due in immediately available funds, without setoff, defense or counterclaim. Each such payment shall be made to such account as shall from time to time be specified in a writing delivered to Parent and the Borrower by the Administrative Agent. All Loans hereunder shall be denominated and made, and all payments of principal and interest, Fees or otherwise hereunder or under any other Loan Document in respect thereof shall be made, in dollars. Unless otherwise agreed by Parent and each Lender to receive any such payment, all other amounts due hereunder or under any other Loan Document shall be payable in dollars.

(b) Whenever any payment (including principal of or interest on any Borrowing or any Fees or other amounts) hereunder or under any other Loan Document shall become due, or otherwise would occur, on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or Fees, if applicable.

(c) Any prepayment of a Loan shall be accompanied by all accrued and unpaid interest on the amount prepaid, the Exit Fee in accordance with Section 2.05(c) and, in the case of a prepayment of a Eurocurrency Loan only, any additional amounts required pursuant to Section 2.16. Subject to the Carve-Out, each prepayment of Loans pursuant to Sections 2.11, 2.12 and 2.13 shall be applied by Administrative Agent, in accordance with Section 7.02 unless otherwise specified in the Orders.

SECTION 2.20. ***Taxes.*** For purposes of this Section, (x) the term "Lender" shall include any Transferee of a Lender and (y) the term "Administrative Agent" shall include any Transferee of the Administrative Agent and, other than for purposes of clauses (e) and (f) below, each other Agent or any Transferee thereof.

(a) Any and all payments by or on behalf of any Loan Party hereunder and under any other Loan Document shall be made, in accordance with Section 2.19, free and clear of and without deduction for any Taxes imposed by any Governmental Authority, except as required by applicable law. If any Loan Party shall be required under applicable law to deduct any Taxes from or in respect of any sum payable hereunder or under any other Loan Document to the Administrative Agent or any Lender, (i) if such Taxes are Indemnified Taxes, the applicable Loan Party shall pay an additional amount (an "***additional amount***") as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.20) the Administrative Agent or any Lender shall receive an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) such Loan Party shall make such deductions and (iii) such Loan Party shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Each Loan Party will indemnify the Administrative Agent and each Lender for the full amount of Indemnified Taxes attributable to it (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Administrative Agent or such Lender, as the case may be, and any liability (including penalties, interest and expenses (including reasonable attorney's fees and expenses)) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability prepared by the Administrative Agent or a Lender, or the Administrative Agent on its behalf, absent manifest error, shall be final, conclusive and binding for all purposes. Such indemnification shall be made within twenty (20) days after the date the Administrative Agent or any Lender makes written demand therefor.

(d) Each Lender shall severally indemnify the Administrative Agent, within ten (10) Business Days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(f)(ii) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (d).

(e) As soon as practicable after the date of any payment of Indemnified Taxes or Other Taxes by the Borrower or any other Loan Party to the relevant Governmental Authority,

the Borrower or such other Loan Party will deliver to the Administrative Agent, at its address referred to in Section 9.01, the original or a certified copy of a receipt issued by such Governmental Authority evidencing payment thereof.

(f) (i) Each Lender that is entitled to an exemption from, or reduction of, withholding Tax with respect to payments by the Borrower under this Agreement and the other Loan Documents shall deliver to Parent (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by Parent (including, for the avoidance of doubt, applicable Australian law, which documentation shall include such Lender's Australian Business Number or Tax File Number or details of a relevant exemption) as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if reasonably requested by Parent or the Administrative Agent, shall deliver such other documentation prescribed by applicable law (including, for the avoidance of doubt, applicable Australian law) or reasonably requested by Parent or the Administrative Agent as will enable Parent or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Parent and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary in this Section 2.20(f), the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person holding a Loan or Commitment extended to the Borrower shall deliver to Parent and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Non-U.S. Lender holding a Loan or Commitment extended to the Borrower shall, to the extent it is legally entitled to do so, deliver to Parent and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to

the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-4 on behalf of each such direct and indirect partner; and

(C) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to Parent and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Parent or the Administrative Agent to determine the withholding or deduction required to be made.

(g) If a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the applicable Loan Party or Administrative Agent (such applicable party a "***Withholding Agent***"), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed

by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Nothing contained in this Section 2.20 or in Section 2.21 shall require any Lender or the Administrative Agent to make available any of its Tax returns (or any other information that it deems to be confidential or proprietary).

(i) Each party's obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) If any party determines, in its sole discretion exercised in good faith, that it has received a refund or a credit in respect of any Taxes as to which it has been indemnified pursuant to this Section 2.20 (including by the payment of additional amounts pursuant to such sections), it shall reduce the additional amount owed to such party pursuant to Section 2.20(a) by such credit or it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund or credit, as applicable), net of all out of pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund or credit, as applicable). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (j) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund or credit, as applicable, to such Governmental Authority. Notwithstanding anything to the contrary in this clause (j), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (j) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund or credit, as applicable, had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This clause (j) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

SECTION 2.21. [Reserved].

SECTION 2.22. ***Assignment of Loans Under Certain Circumstances; Duty to Mitigate***. (a) In the event (i) any Lender delivers a certificate requesting compensation pursuant to Section 2.14, (ii) any Lender delivers a notice described in Section 2.15, (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender pursuant to Section 2.20, (iv) any Lender becomes a Defaulting Lender or (v) any Lender refuses to consent to a proposed amendment, waiver, consent or other modification of

this Agreement or any other Loan Documents which has been approved by the Required Lenders, as applicable, and which additionally requires the consent of such Lender for approval pursuant to Section 9.08(b), Parent may, at its sole expense and effort (including with respect to the processing and recordation fee referred to in Section 9.04(b)), upon notice to such Lender and the Administrative Agent, require such Lender to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or Section 2.20) and obligations under this Agreement to an assignee (other than any Ineligible Assignee) that shall assume such assigned obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (A) such assignment shall not conflict with any law, rule or regulation or order of any court or other Governmental Authority having jurisdiction, (B) Parent shall have received the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld and (C) the Borrower or such assignee shall have paid to the affected Lender in immediately available funds an amount equal to the sum of the principal of and interest accrued to the date of such payment on the outstanding Loans of such Lender, plus all Fees and other amounts accrued for the account of such Lender hereunder (including any amounts under Sections 2.05, 2.14 and 2.16), in each case with respect to the Loans subject to such assignment; *provided, further,* that, if prior to any such transfer and assignment the circumstances or event that resulted in such Lender's claim for compensation under Section 2.14 or notice under Section 2.15 or the amounts paid pursuant to Section 2.20, as the case may be, cease to cause such Lender to suffer increased costs or reductions in amounts received or receivable or reduction in return on capital, or cease to have the consequences specified in Section 2.15, or cease to result in amounts being payable under Section 2.20, as the case may be (including as a result of any action taken by such Lender pursuant to clause (b) below), or if such Lender shall waive its right to claim further compensation under Section 2.14 in respect of such circumstances or event or shall withdraw its notice under Section 2.15 or shall waive its right to further payments under Section 2.20 in respect of such circumstances or event or shall consent to the proposed amendment, waiver, consent or other modification, as the case may be, then such Lender shall not thereafter be required to make any such transfer and assignment hereunder. Any such Lender shall be deemed to have consented to an assignment under this Section 2.22(a) if it does not execute and deliver an Assignment and Acceptance to the Administrative Agent within two Business Days after having received a request therefor.

(b) If (i) any Lender shall request compensation under Section 2.14, (ii) any Lender delivers a notice described in Section 2.15 or (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender, pursuant to Section 2.20, then such Lender shall use reasonable efforts (which shall not require such Lender to incur an unreimbursed loss or unreimbursed cost or expense or otherwise take any action inconsistent with its internal policies or legal or regulatory restrictions or suffer any disadvantage or burden deemed by it to be significant) (A) to file any certificate or document reasonably requested in writing by Parent or (B) to assign its rights and delegate and transfer its obligations hereunder to another of its offices, branches or Affiliates, if such filing or assignment would materially reduce its claims for compensation under Section 2.14 or enable it to withdraw its notice pursuant to Section 2.15 or would materially reduce amounts payable pursuant to Section 2.20, as the case may be, in the future. Parent hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such filing or assignment, delegation and transfer.

SECTION 2.23. [Reserved].

SECTION 2.24. ***Parent as Borrower Agent***.

(a) The Borrower hereby appoints Parent as its agent, attorney-in- fact and representative for purposes of (i) making any borrowing requests or other requests required under this Agreement and the other Loan Documents, including requests for disbursement from the Escrow Account, (ii) the giving and receipt of notices by and to the Borrower under this Agreement and the other Loan Documents, (iii) the delivery of any documents, agreements, instruments, requests, consents, approvals, certificates, reports, statements or written materials required to be delivered by the Borrower under this Agreement and the other Loan Documents, (iv) making any determination, selection, designation or judgment, including, without limitation, those requiring the satisfaction or the discretion of the Borrower, under this Agreement or the other Loan Documents and (v) all other purposes incidental to any of the foregoing.

(b) The Borrower agrees that any action taken by Parent as the agent, attorney-in-fact and representative of the Borrower shall be binding upon the Borrower to the same extent as if directly taken by the Borrower and that each Agent and each Lender shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, approval, report, statement, instrument, agreement, document or other writing believed by it to be genuine and to have been signed or sent by Parent.

(c) The Borrower and each party hereto agrees that, notwithstanding any implication to the contrary, payments of principal, interest, fees, charges and other amounts designated by this Agreement or the terms of any other Loan Document to be made by the Borrower may be paid to the recipient by Parent directly in each case.

SECTION 2.25. ***Disbursement of Funds from the Escrow Account***.

(a) Subject to Section 2.25(b) below and the terms of the Escrow Agreement, from and after the Closing Date, Parent shall have the right to request disbursement of the funds on deposit in the Escrow Account from time to time (but not more frequently than four times in any four week period) by delivering a written notice to the Administrative Agent in the form attached as Exhibit K hereto (each such notice, a "***Notice of Disbursement***") no later than the time required pursuant to Section 4.03(a). Each Notice of Disbursement shall be irrevocable and shall specify the following information (i) the amount of such Disbursement, (ii) the Disbursement Date (which shall be a Business Day complying with this Section 2.25 and Section 4.03), (iii) the intended use of proceeds of such Disbursement in reasonable detail, (iv) that as of the date of such Disbursement, the conditions set forth in the Escrow Agreement, this Section 2.25 and in Section 4.03 are satisfied and (v) the wiring instructions of the applicable Operating Account to which the proceeds of such Disbursement are to be disbursed. Following receipt of each Notice of Disbursement, the Administrative Agent shall submit a draw notice to the Escrow Account Deposit Bank in accordance with the terms of the Escrow Agreement, authorizing the release of the Disbursement from the Escrow Account into the applicable Operating Account identified in the Notice of Disbursement. If the Administrative Agent has received a written Disbursement Termination Instruction from the Required Lenders prior to 5:00 p.m., New York City time one Business Day prior to the proposed Disbursement Date (the "***Termination Cutoff***

Time") and such Disbursement Termination Instruction has not been withdrawn by the Required Lenders prior to Termination Cutoff Time, then the Administrative Agent shall use commercially reasonable efforts to rescind the draw notice previously delivered to the Escrow Account Deposit Bank in accordance with the terms of the Escrow Agreement. Promptly after receipt by the Administrative Agent of a Notice of Disbursement pursuant to this Section 2.25, the Administrative Agent will notify each Lender of the proposed Disbursement.

(b) On and after the date of receipt by the Administrative Agent of a written direction from the Required Lenders (which may be by email) instructing the Administrative Agent that it may no longer honor any instruction from Parent with respect to the Escrow Account due to any of the conditions set forth in this Section 2.25 or Section 4.03 being unsatisfied or incapable of satisfaction (a "***Disbursement Termination Instruction***"), Parent shall have no right to request any such withdrawal from the Escrow Account and the Administrative Agent shall not honor any such request from the Parent except as provided below and in the following sentence; *provided* that (a) for each proposed Disbursement, the Administrative Agent may honor any such request from the Parent for such Disbursement to the extent that a Disbursement Termination Instruction is received at or after the Termination Cutoff Time for such Disbursement, and (b) the Agents shall not be liable for (i) any action or failure to act under the Escrow Agreement or this Section 2.25 that arises directly or indirectly from following the direction or other instructions of the Required Lenders or (ii) any Disbursements, or any actions or inactions related thereto, to the extent that a Disbursement Termination Instruction was received by the Administrative Agent after the Termination Cutoff Time in respect of such Disbursement, including any electronic funds or wire transfers processed or initiated in connection with such proposed Disbursement (whether or not such transfer was processed or initiated prior to or after such Termination Cutoff Time). Any Disbursement Termination Instruction received by the Administrative Agent from the Required Lenders shall remain in effect until such time, if any, as the Administrative Agent shall have received a written termination of such Disbursement Termination Instruction from the Required Lenders.

(c) With respect to any Disbursement from the Escrow Account hereunder, the Administrative Agent shall be entitled to conclusively rely upon, and shall be fully protected in relying upon, (i) any Notice of Disbursement submitted by Parent as evidence that all conditions precedent to a Disbursement from the Escrow Account have been satisfied and (ii) any Disbursement Termination Instruction received by it. Notwithstanding anything herein to the contrary, the Administrative Agent shall have no obligation to direct the Escrow Account Deposit Bank to disburse any amount from the Escrow Account in excess of the amounts then held in the Escrow Account. The Agents shall have no duty to inquire or investigate whether any condition precedent to a withdrawal from the Escrow Account has been satisfied.

(d) For the avoidance of doubt, all proceeds of Loans held in the Escrow Account shall be Loans for all purposes hereunder and, notwithstanding that the proceeds of such Loans are held in the Escrow Account, shall bear interest in accordance with this Agreement and shall be subject to all other terms and provisions of this Agreement and the other Loan Documents to the same extent as all other Loans.

SECTION 2.26. ***Defaulting Lenders***. (a) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 7.01 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made at a time when the conditions set forth in Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the applicable Lenders on a *pro rata* basis. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.26(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(b) If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held *pro rata* by the Lenders in accordance with their applicable Commitments, whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees

accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender having been a Defaulting Lender.

SECTION 2.27. ***Payments to Administrative Agent for Fronting Exposure***. Notwithstanding anything in this Agreement or any other Loan Document to the contrary, but subject to the Orders, until the date that the Fronting Lender (as defined below) has been paid in full in cash for all accrued and unpaid interest and Fees in respect of the Commitments and Loans from time to time held by the Administrative Agent or any of its Affiliates, in its capacity as a Lender, in connection with facilitating the funding of any of the New Money Loans (the "***Fronting Lender***"; such accrued amounts, the "***Fronting Exposure***"), (i) at all times on and after the Closing Date, an amount equal to the Fronting Exposure at such time shall be maintained in the Escrow Account, which amount shall not be permitted to be disbursed for any purpose other than to pay such amount to the Fronting Lender (or the Administrative Agent on its behalf) in cash and (ii) at any time that an Event of Default shall have occurred and be continuing, the Administrative Agent is authorized, in its sole discretion, to withdraw an amount equal to the Fronting Exposure at such time from the Escrow Account without any further action by any Loan Party or any Lender; the Borrower is deemed to have delivered a Notice of Disbursement in furtherance of the foregoing; and each Lender hereby consents to such disbursement irrespective of whether a Disbursement Termination Instruction is then in effect or the conditions precedent to a Disbursement have been otherwise satisfied.

ARTICLE III

Representations and Warranties

Each of Parent and the Borrower represents and warrants to each Agent, the Collateral Agent and each of the Lenders that:

SECTION 3.01. ***Organization; Powers***. Except as set forth on Schedule 3.01, Parent and each of the Subsidiaries (including the Borrower) (a) is a corporation, partnership, limited liability company or other entity, duly incorporated or formed, as the case may be, validly existing and in good standing (other than with respect to any Subsidiary organized in a jurisdiction that does not have a concept of good standing) under the laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure to so qualify could not reasonably be expected to result in a Material Adverse Effect, and (d) subject to the entry of the Orders and the terms thereof, has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrower, to borrow hereunder. The Borrower is a wholly owned Subsidiary.

SECTION 3.02. ***Authorization***. Each of the Transactions will, at the time it occurs, (a) subject to the entry of the Orders and the terms thereof, have been duly authorized by all requisite corporate, limited liability company, limited partnership, other organizational action (including, if required, stockholders', members' or partners' action), as applicable, of each Loan Party and (b) not (i) violate (A) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, any provision of law, statute, rule or regulation in any material respect, (B) the Organization Documents of any Loan Party or Subsidiary or (C) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, any order of any Governmental Authority applicable to any Loan Party or Subsidiary, (ii) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, violate any provision of, be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any indenture, agreement or other instrument to which Parent or any Subsidiary is a party or by which any of them or any of their property is or may be bound, except, in the case of this clause (ii), where such violation, conflict, breach or default could not reasonably be expected to result in a Material Adverse Effect or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower, Parent or any Subsidiary Guarantor (other than any Lien created hereunder or under the Security Documents).

SECTION 3.03. ***Enforceability***. Subject to the Orders and the terms thereof, this Agreement has been duly executed and delivered by each Loan Party hereto and constitutes, and subject to the Orders and the terms thereof, each other Loan Document has either been duly executed and delivered by each Loan Party thereto and constitutes (or, when executed and delivered by each Loan Party thereto, will have been duly executed and delivered and constitute) a legal, valid and binding obligation of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, judicial management, insolvency, examinership, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law (in each case other than with respect to the Debtors).

SECTION 3.04. ***Governmental Approvals***. Subject to the Orders and the terms thereof, no material action, consent or approval of, registration or filing with or any other action by any Governmental Authority (other than the entry of the Orders) is or will be required in connection with the Transactions, except for (a) the filing of Uniform Commercial Code financing statements or PPSA financing statements, as applicable, (b) other approvals and filings in respect of any Collateral made or obtained in accordance with the Agreed Security Principles and that are in full force and effect (except to the extent not required to have been made or obtained or be in full force and effect at such time pursuant to the express terms of the Agreed Security Principles), (c) a notification to the Defense Security Service ("***DSS***") of the U.S. Department of Defense of the security being granted in respect of Equity Interests in and assets of UltiSat Inc. and the submission of a SF 328 Certificate Pertaining to Foreign Interests to the DSS in respect of this Agreement and the security being granted in respect of Equity Interests in and assets of UltiSat Inc. (the submission of such SF 328 Certificate to occur as promptly as reasonably practicable after the Closing Date), and (d) such as have been made or obtained and are in full force and effect.

SECTION 3.05. ***Financial Statements.***

(a) Parent has heretofore furnished to the Lenders its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows as of and [for the fiscal year ended December 31, 2018], audited by and accompanied by the opinion of PricewaterhouseCoopers LLP, independent public accountants and the unaudited half-year consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows for the fiscal half-year ended June 30, 2019 and the fiscal year ended December 31, 2019. Such financial statements present fairly in all material respects the financial condition and results of operations and cash flows of Parent and its consolidated Subsidiaries as of such dates and for such periods. Such statements of financial position and the notes thereto disclose all material liabilities, direct or contingent, of Parent and its consolidated Subsidiaries as of the dates thereof required to be reflected in accordance with GAAP. Such financial statements were prepared in accordance with GAAP applied on a consistent basis except as otherwise noted therein. As of the Closing Date, neither Parent nor any Subsidiary has any contingent liability or liability for Taxes, long-term lease or unusual forward or long-term commitment that is not reflected in such financial statements or the notes thereto and that, in any such case, is material in relation to the business, operations, assets or financial condition of Parent and the Subsidiaries, taken as a whole.

(b) The Initial DIP Budget, which was delivered to the Administrative Agent and the Lenders on or prior to the Closing Date, and each subsequent DIP Budget was prepared in good faith based upon assumptions Parent believed to be reasonable assumptions on the date of delivery of such DIP Budget. To the knowledge of Parent, no facts exist that (individually or in the aggregate) would result in any material change in the then-applicable Approved Budget. The Borrower shall deliver to the Administrative Agent updates to the DIP Budget in accordance with Section 5.04(j).

SECTION 3.06. ***No Material Adverse Change.*** Since the Petition Date, no event, change, circumstance or condition has occurred that, individually or in the aggregate, has had, or could reasonably be expected to have, a Material Adverse Effect.

SECTION 3.07. ***Title to Properties; Possession Under Leases.*** (a) Each of Parent and its Subsidiaries has good and marketable title to, or valid leasehold interests in, or valid license to use, all its material properties and assets (including all Mortgaged Property), except for defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes. All such material properties and assets are free and clear of Liens, other than Liens expressly permitted by Section 6.02.

(b) Each of Parent and its Subsidiaries has complied in all material respects with all obligations under all material leases and licenses to which it is a party and all such leases are in full force and effect. Each of Parent and its Subsidiaries enjoys peaceful and undisturbed possession under all such material leases and licenses.

(c) No Borrower has received any written notice of, nor has any knowledge of, any pending or contemplated condemnation proceeding affecting the Mortgaged Properties or any sale or disposition thereof in lieu of condemnation.

(d) Neither Parent nor any of its Subsidiaries is obligated under any right of first refusal, option or other contractual right to sell, assign or otherwise dispose of any Mortgaged Property or any interest therein, in any such case, except to the extent disclosed in writing to the Administrative Agent and permitted by Article VI.

SECTION 3.08. ***Subsidiaries***. Schedule 3.08 sets forth as of the Closing Date a list of all Subsidiaries and the percentage ownership interest of the applicable owner therein. The Equity Interests or other ownership interests so indicated on Schedule 3.08 are fully paid and non-assessable and are owned by Parent, directly or indirectly through its Subsidiaries (other than with respect to Equity Interests or other ownership interests that have been sold or otherwise disposed of in accordance with Section 6.05), free and clear of all Liens, except for (i) as of the Closing Date, Liens created under the Pre-Petition First Lien Security Documents and the Security Documents and (ii) after the Closing Date, Liens permitted by Section 6.02.

SECTION 3.09. ***Litigation; Compliance with Laws***. (a) Except for the Cases or as set forth on Schedule 3.09, there are not any actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of Parent or the Borrower, threatened against or affecting Parent or any of its Subsidiaries or any business, property or rights of any such person (i) that involve any Loan Document or the Transactions or (ii) as to which there is a reasonable probability of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. Since the Closing Date, there has been no change in the status of the matters disclosed on Schedule 3.09 that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

(b) Except as excused by the Bankruptcy Code, none of Parent or any of its Subsidiaries or any of their respective material properties or assets is in violation of, nor will the continued operation of their material properties and assets as currently conducted violate, any law, rule or regulation (including the USA PATRIOT Act, any zoning, building, Environmental Law, ordinance, code or approval or any building permits) or any restrictions of record or agreements affecting the Mortgaged Property, or is in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority, where such violation or default could reasonably be expected to result in a Material Adverse Effect.

(c) Certificates of occupancy and required permits are in effect for each Mortgaged Property as currently constructed, except where the failure to have the same could not reasonably be expected to result in a Material Adverse Effect.

(d) [Reserved].

SECTION 3.10. ***Agreements***. (a) Neither Parent nor any of its Subsidiaries is a party to any agreement or instrument or subject to any corporate restriction that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Except as set forth on Schedule 3.10(b), neither Parent nor any of its Subsidiaries is in default in any manner under any provision of any indenture or other agreement or instrument evidencing Indebtedness, or any other material agreement or instrument to which it is a party or by which it or any of its properties or assets are or may be bound, where such default could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. ***Federal Reserve Regulations.*** (a) Neither Parent nor any of its Subsidiaries is engaged, or will engage, principally, or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying Margin Stock. None of Parent or any of its Subsidiaries owns Margin Stock as of the Closing Date.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation T, U or X.

SECTION 3.12. ***Investment Company Act.*** Neither Parent nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.13. ***Use of Proceeds.*** The proceeds of the Loans will be used solely in accordance with the Orders and the Approved Budget, (a) to pay fees and expenses in connection with the Transactions, (b) for working capital and other general corporate purposes of the Debtors (and, to the extent permitted hereunder, by way of intercompany loans to the Subsidiaries of Parent that are not Debtors) following the commencement of the Cases, (c) to pay payments in respect of Adequate Protection (as defined in the Interim Order or Final Order, as applicable) as authorized by the Bankruptcy Court in the applicable Order, (d) to pay obligations arising from or related to the Carve-Out and (e) for other purposes upon the prior written consent of the Required IC Lenders, in each case, not in contravention of any applicable law and not in violation of this Agreement or the other Loan Documents; *provided* that in no event shall any part of the proceeds of Loans or Cash Collateral be used to prosecute, investigate or for proceedings to, contest the claims of the Agents, Lenders, Pre-Petition First Lien Agents or Pre-Petition First Lien Lenders or the liens in favor of the Secured Parties or the secured parties under the Pre-Petition First Lien Loan Documents that secure the Obligations or Pre-Petition First Lien Obligations, or prevent, hinder or delay any of the Agents' or the Pre-Petition First Lien Agents' enforcement or realization upon any of the Collateral or collateral securing the Pre-Petition First Lien Obligations, other than with respect to seeking a determination of whether an Event of Default has not occurred or is not continuing; *provided* that up to $50,000 in the aggregate of the proceeds of Loans, the Collateral, the collateral securing any Pre-Petition First Lien Obligations and the Carve-Out shall be made available to the Committee for investigation costs in respect of any pre-petition Indebtedness and liens in accordance with the Interim Order (or the Final Order, as applicable).

SECTION 3.14. ***Tax Returns.*** Each of Parent and its Subsidiaries has filed or caused to be filed all federal and material state, local and non-U.S. Tax returns required to have been filed by it and has paid or caused to be paid all Taxes shown as due on such Tax returns and

all assessments received by it (in each case giving effect to applicable extensions), except (i) Taxes that are being contested in good faith by appropriate proceedings diligently conducted and for which Parent or such Subsidiary, as applicable, shall have set aside on its books adequate reserves in accordance with GAAP or (ii) Taxes that need not be paid pursuant to an order of the Bankruptcy Court or pursuant to the Bankruptcy Code. There is no tax assessment proposed in writing against Parent or the Subsidiaries that would, if made, have a Material Adverse Effect. Neither Parent nor any Subsidiary is party to any tax sharing agreement or tax funding agreement except as contemplated in and in accordance with Section 3.25 and as otherwise reviewed and approved by the Administrative Agent in its reasonable discretion.

SECTION 3.15. ***No Material Misstatements.*** All information, reports, financial statements, exhibits and schedules (other than any forecast, projection or information of a general economic or industry specific nature), including any DIP Budget, furnished by or on behalf of any Loan Party in writing to any Agent or any Lender in connection with the negotiation of any Loan Document or included therein or delivered pursuant thereto (including and together with all information furnished by or on behalf of any Loan Party to any Agent or any Lender in writing after the Closing Date in connection with any Loan Document) is or will be, when furnished, complete and correct in all material respects when taken as a whole and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not materially misleading, in the light of the circumstances under which they were, are or will be made (after giving effect to all supplements and updates thereto); *provided* that to the extent any such information, report, financial statement, exhibit or schedule was based upon or constitutes a forecast or projection, Parent and the Borrower represent only that (i) it acted in good faith and upon assumptions believed by management of Parent and the Borrower to be reasonable at the time such assumption was made and at the time such information, report, financial statement, exhibit or schedule was so furnished and exercised due care in the preparation of such information, report, financial statement, exhibit or schedule and (ii) such forecast or projection was based upon accounting principles consistent with the historical audited financial statements of Parent and its consolidated Subsidiaries (it being recognized that actual results during the period or periods covered by such projections may differ from the projected results and that such differences may be material).

SECTION 3.16. ***Employee Benefit Plans.*** (a) Each of the Loan Parties and their respective ERISA Affiliates are in compliance in all material respects with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2019, exceed the fair market value of the assets of each Plan, and the present value of all benefit liabilities of all underfunded Plans (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2019, exceed the fair market value of the assets of all such underfunded Plans, in each case, by an amount that could reasonably be expected to result in a Material Adverse Effect.

(b) Each Non-U.S. Pension Plan is in compliance in all respects with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except for instances of non-compliance which could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, none of the Loan Parties, their respective Subsidiaries or any of their respective directors, officers, employees or agents have engaged in a transaction which would subject any Loan Party or any of its Subsidiaries, directly or indirectly, to a tax, assessment or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, reserves have been established in the financial statements furnished to Lenders in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Non-U.S. Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Non-U.S. Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Non-U.S. Pension Plans (based on those assumptions used to fund each such Non-U.S. Pension Plan) did not, as of December 31, 2019, exceed the fair market value of the assets of all such Non-U.S. Pension Plans, by an amount that could reasonably be expected to result in a Material Adverse Effect. There are no actions, suits or claims (other than routine claims for benefits) pending or threatened against any Loan Party or any of its Subsidiaries with respect to any Non-U.S. Pension Plan which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 3.17. ***Environmental Matters***. Except as set forth in Schedule 3.17:

(a) the properties owned, leased or operated by each of Parent and its Subsidiaries (the "***Properties***") do not contain any Hazardous Materials in amounts or concentrations which (i) constitute, or constituted a violation of, (ii) require Remedial Action under, or (iii) could give rise to liability under, Environmental Laws, which violations, Remedial Actions and liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(b) the Properties and all operations of each of Parent and its Subsidiaries are in compliance in all respects, and in the last five years have been in compliance, with all Environmental Laws, and all necessary Environmental Permits have been obtained and are in effect, except to the extent that such non-compliance or failure to obtain any necessary permits, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect;

(c) there have been no Releases or threatened Releases at, from, under or proximate to the Properties or otherwise in connection with the current or former operations of Parent or its Subsidiaries, which Releases or threatened Releases, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(d) neither Parent nor any of its Subsidiaries has received any notice of an Environmental Claim in connection with the Properties or the current or former operations of Parent or such Subsidiaries or with regard to any person whose liabilities for environmental matters Parent or such Subsidiaries has retained or assumed, in whole or in part, contractually, by

operation of law or otherwise, which, in the aggregate, could reasonably be expected to result in a Material Adverse Effect, nor do Parent or its Subsidiaries have reason to believe that any such notice will be received or is being threatened; and

(e) Hazardous Materials have not been transported from the Properties, nor have Hazardous Materials been generated, treated, stored or disposed of at, on or under any of the Properties in a manner that could give rise to liability under any Environmental Law, nor have Parent or its Subsidiaries retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of Hazardous Materials, which liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.18. ***Insurance***. Schedule 3.18 sets forth a true, complete and correct description of all material insurance maintained by Parent or any of its Subsidiaries as of the Closing Date. As of the Closing Date, such insurance is in full force and effect and all premiums that were due and payable have been duly paid. Each of Parent and its Subsidiaries has insurance in such amounts and covering such risks and liabilities as are in accordance with normal industry practice.

SECTION 3.19. ***Security Documents***. Subject to the entry of the Orders and the terms thereof, each Security Document, (a) upon execution and delivery thereof by the parties thereto and (b) the satisfaction of those additional requirements, as set forth on Schedule 3.19, imposed by the jurisdiction under the laws of which such Security Document is governed, will create in favor of the Collateral Agent or the Security Trustee, as the case may be, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral (as defined in such Security Document) and the proceeds thereof.

SECTION 3.20. ***Location of Material Owned Real Property***. Except set forth on Schedule 3.20, as of the Closing Date, none of the Loan Parties own any Material Owned Real Property.

SECTION 3.21. ***Labor Matters***. Except as set forth on Schedule 3.21, as of the Closing Date, there are no strikes, lockouts or slowdowns against Parent or any of its Subsidiaries pending or, to the knowledge of Parent or the Borrower, threatened. Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the hours worked by and payments made to employees of Parent and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or non-U.S. law dealing with such matters and (ii) all payments due from Parent or any of its Subsidiaries, or for which any claim may be made against Parent or any such Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of Parent or such Subsidiary. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Parent or any of its Subsidiaries is bound.

SECTION 3.22. [Reserved].

SECTION 3.23. ***Sanctions, Anti-Terrorism and Anti-Bribery Laws***.

(a) None of Parent, any of its Subsidiaries or any of their respective directors or officers nor, to the knowledge of Parent or any of its Subsidiaries, any agent, employee or Affiliate of any of the foregoing is a Sanctioned Person. Each of Parent and its Subsidiaries, and each of their respective directors and officers and, to the knowledge of Parent and its Subsidiaries, their respective employees, agents, and Affiliates, are in compliance with applicable Sanctions. The Borrower will not directly or, to its knowledge, indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any person, for the purpose of financing the activities of any person, in any country, region or territory, that is subject to any country-, region- or territory-wide Sanctions or for any other purpose or in any other manner that will result in a violation of Sanctions by any person (including any person participating in the Loans, whether as underwriter, advisor, investor or otherwise).

(b) Parent, its Subsidiaries and their respective directors, officers and employees and, to the knowledge of Parent or any of its Subsidiaries, the agents of Parent and its Subsidiaries, are in compliance with the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "***FCPA***") and any other applicable anti-corruption or anti-bribery law, rules and regulations of any jurisdiction (collectively, "***Anti-Bribery Laws***") in all material respects. The Borrower will not directly or, to its knowledge, indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any person for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or any other person, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any applicable Anti-Bribery Laws.

(c) Each of Parent and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by Parent and its Subsidiaries, and each of their respective directors, officers, agents, employees and Affiliates, with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 3.24. ***Senior Indebtedness***. To the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to the DIP Intercreditor Agreement, the Pre-Petition First Lien Obligations) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto.

SECTION 3.25. ***Australian Tax Consolidation***. Each Loan Party is either not a member of a Tax Consolidated Group or a member of a Tax Consolidated Group for which the Head Company is Parent and all members of the Tax Consolidated Group are at all times parties to:

(a) A Tax Sharing Agreement, which is in full force and effect and at all times covers all Group Liabilities of such Tax Consolidated Group from the date that the Tax Sharing Agreement is signed.

(b) A Tax Funding Agreement which includes:

(i) reasonably appropriate arrangements for the funding of tax payments by the Head Company having regard to the position of each member of such Tax Consolidated Group;

(ii) an undertaking from the Head Company of such Tax Consolidated Group to compensate each other member adequately for loss of tax attributes (including tax losses and tax offsets) as a result of being a member of such Tax Consolidated Group; and

(iii) reasonably appropriate arrangements to ensure payments by members of such Tax Consolidated Group to the Head Company under the Tax Funding Agreement are used to discharge relevant Group Liabilities of such Tax Consolidated Group.

SECTION 3.26. ***Trustee; Benefit; Financial Assistance; Etc.***

(a) No Loan Party is the trustee of any trust or settlement, other than disclosed to the Administrative Agent prior to the date on which it became a Loan Party.

(b) Each Loan Party will receive reasonable commercial benefits from entering into the Loan Documents to which it is a party, in each case to the extent relevant in the jurisdiction in which such Loan Party is domiciled.

(c) No Loan Party has contravened or will contravene Chapter 2E or 2J of the Australian Corporations Act (or any equivalent legislation under the law of any jurisdiction other than the Commonwealth of Australia) by entering into any Loan Document or participating in any transaction in connection with any Loan Document.

(d) No Loan Party is subject to regulation under any other federal, provincial or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

SECTION 3.27. ***Beneficial Ownership***. As of the Closing Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

SECTION 3.28. ***Cases; Orders***.

(a) The Cases were commenced on the Petition Date in accordance with applicable Laws and proper notice thereof was given for (i) the motion seeking approval of the Loan Documents and the Interim Order and, when applicable, Final Order, (ii) the hearing for the entry of the Interim Order, and (iii) the hearing for the entry of the Final Order (*provided* that notice of the final hearing will be given as soon as reasonably practicable after such hearing has been scheduled).

(b) After the entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed

administrative expense claims in the Cases having priority over all administrative expense claims and unsecured claims against the Debtors now existing or hereafter arising, of any kind whatsoever, including all administrative expense claims of the kind specified in sections 105, 326, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under section 364(c)(l) of the Bankruptcy Code, subject to (i) the Carve-Out and (ii) the priorities set forth in the Interim Order or Final Order, as applicable.

(c) After the entry of the Interim Order and pursuant to and to the extent provided in the Interim Order, the Final Order and the DIP Intercreditor Agreement, the Obligations will be secured by a valid and perfected Lien on all of the Collateral and with the priority set forth in the Interim Order or the Final Order and the DIP Intercreditor Agreement.

(d) The Interim Order (with respect to the period on and after entry of the Interim Order and prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), vacated, or, without the Administrative Agent's, the Required IC Lenders' and Required Lenders' consent, modified or amended. The Loan Parties are in compliance in all material respects with the Interim Order (with respect to the period on and after entry of the Interim Order and prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order).

(e) Notwithstanding the provisions of section 362 of the Bankruptcy Code, and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Termination Date (whether by acceleration or otherwise) of any of the Obligations, the Administrative Agent, the Collateral Agent, the Security Trustee and Lenders shall be entitled to immediate payment of such Obligations and, subject to Section 7.01, to enforce the remedies provided for hereunder or under applicable Laws, without further notice, motion or application to, hearing before, or order from, the Bankruptcy Court.

ARTICLE IV

Conditions

SECTION 4.01. ***Credit Event.*** The effectiveness of this Agreement and the obligation of each Lender to make Initial Loans hereunder on the Closing Date are subject to the satisfaction of the following conditions:

(a) The Administrative Agent shall have received duly executed counterparts of (i) this Agreement that, when taken together, bear the signatures of Parent, the Borrower and each Lender, (ii) the Guarantee Agreement that, when taken together, bear the signatures of Parent and each of its Subsidiaries identified on Schedule 1.01(d), (iii) the DIP Intercreditor Agreement that, when taken together, bear the signatures of the Collateral Agent, the Security Trustee, the Pre-Petition First Lien Security Agents, the Borrower and Parent and each of its Subsidiaries identified on Schedule 1.01(d), (iv) the Fee Letter that, when taken together, bear the signatures of the Borrower and (iv) the Intercompany Note.

(b) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by a Responsible Officer of Parent, in form and substance satisfactory to the Administrative Agent, (i) confirming that (A) the representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the date of Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date and (B) at the time of and immediately after the Closing Date and the making of the Initial Loans hereunder, no Event of Default or Default shall have occurred and be continuing and (ii) certifying as to such other matters as may be reasonably requested by the Administrative Agent.

(c) The Borrower shall have paid (or caused to have been paid), when and as due (or, in the case of amounts due on the Closing Date, shall substantially contemporaneously with the making of the Initial Loans to be made on the Closing Date, pay), all fees that under the terms hereof or of the Fee Letter are due and payable on or prior to such date, as well as all out-of-pocket expenses (including the fees, disbursements and other charges of the Ad Hoc Lender Advisors, Skadden, each other counsel to each Agent, the advisors to the Pre-Petition First Lien Agents and the advisors to the ad hoc group of Pre-Petition First Lien Lenders) in connection with the Transactions required to be reimbursed or paid by the Borrower under the terms hereof or of the Fee Letter (to the extent that reasonably detailed statements therefor have been delivered to Parent at least one (1) Business Day in advance of the Closing Date).

(d) The Security Documents set forth in Part I of Schedule 4.01(d) shall have been duly executed by each Loan Party that is to be a party thereto and shall be in full force and effect, and (other than any such filings set out in Schedule 5.14) all filings and recordations with respect thereto required pursuant to the Agreed Security Principles shall have been made and be in full force and effect (or arrangements reasonably satisfactory to the Agents to make such filings and recordations shall have been made). The Collateral Agent or the Security Trustee, as the case may be, on behalf of the Secured Parties, shall (subject to such perfection actions set out in Schedule 5.14) have a perfected security interest in the Collateral of the type and the priority described in each such Security Document. To the extent not delivered to the Pre-Petition First Lien Administrative Agent prior to the Closing Date, the Collateral Agent or the Security Trustee, as the case may be, shall have received all possessory Collateral required to be delivered to such Agent on the Closing Date pursuant to the Agreed Security Principles and the Security Documents, together with duly executed undated blank stock powers, or other equivalent instruments of transfer reasonably acceptable to such Agent. With respect to any Subsidiary Guarantor incorporated or registered in Singapore, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(e) The Administrative Agent shall have received the results of a search of the Uniform Commercial Code filings (or equivalent filings), judgment filings and tax filings made with respect to the Loan Parties in the states (or other jurisdictions) of formation of such persons

and in which the chief executive office of each such person is located (including the PPSR in respect of each Loan Party incorporated in Australia), in each case as indicated on Part II of Schedule 4.01(d), and in such other jurisdictions as may be reasonably required by the Agents, together with copies of the financing statements (or similar documents) disclosed by such search, and the results of such other Lien searches listed on Part II of Schedule 4.01(d), and accompanied by evidence satisfactory to the Administrative Agent that the Liens indicated in any such financing statement (or similar document or such other search results) are permitted under Section 6.02 or have been or will be contemporaneously released or terminated pursuant to arrangements reasonably satisfactory to the Agents.

(f) The Administrative Agent shall have received, subject to Section 5.14, a copy of, or a certificate as to coverage under, the insurance policies required by Section 5.02 and the applicable provisions of the Agreed Security Principles and the Security Documents, together with such endorsements, loss payee provisions or similar amendments required by the applicable provisions of the Agreed Security Principles and the Security Documents, all in form and substance reasonably satisfactory to the Administrative Agent.

(g) The Administrative Agent shall have received (i) a certificate as to the good standing of each Loan Party (except for CapRock UK Limited, HCT Acquisition, LLC and Cosmos Holdings Acquisition Corp.) as of a recent date, from the Secretary of State of the State (or comparably entity) of the state (or comparable jurisdiction) of its organization (or, if such jurisdiction does not issue such certificates, a comparable document or the results of searches of official registries demonstrating good standing or lack of insolvency proceedings against such Loan Party, as available) (or, in the case of a Loan Party that is incorporated in France, an electronic version of its Kbis extract, an electronic version of its non-bankruptcy certificate (*certificat négatif de recherche en matière de procédures collectives*)) and an electronic version of its *état des inscriptions et des privilèges* in relation to such Loan Party incorporated in France, each dated no earlier than fifteen (15) calendar days before the Closing Date); (ii) a certificate of the Secretary, Assistant Secretary, President, Director or other Responsible Officer, as applicable, of each Loan Party dated the Closing Date and certifying (A) that attached thereto are true and complete copies of the Organization Documents, including all amendments thereto, certified as of a recent date by such Secretary of State (or comparable entity) (or, if no such certification is available, comparable certification or an extract of such documents filed with any official registry, as available), in each case, of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in clause (B) below, (B) that attached thereto is a true and complete copy of resolutions (or in the case of a Loan Party that is incorporated in Australia, extracts of resolutions) duly adopted by the Board of Directors (or comparable governing body, and including any applicable shareholder resolutions) of such Loan Party authorizing the execution, delivery and performance of the Loan Documents to which such Loan Party is a party and, in the case of the Borrower, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect, and (C) as to the incumbency and specimen signature of each officer or other authorized signatory executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party; (iii) a certificate of another officer or authorized signatory as to the incumbency and specimen signature of the Secretary, Assistant Secretary or director executing the certificate pursuant to clause (ii) above; (iv) a certificate signed by a director or secretary of each Loan Party that is an Australian incorporated company, certifying that (A) before entering

into any Loan Document to which it is a party, has, in connection with the execution, delivery and performance of each such Loan Document, complied with chapter 2E of the Australian Corporations Act, and (B) it is in compliance with section 260A of the Australian Corporations Act; and (v) each of the other deliverables listed on Part III of Schedule 4.01(d) and such other documents as the Administrative Agent may reasonably request.

(h) The Administrative Agent shall have received, on behalf of the Agents and the Lenders, a favorable written opinion of each counsel listed on Part IV of Schedule 4.01(d), in each case, in form and substance reasonably satisfactory to the Required Lenders and the Administrative Agent and (A) dated the Closing Date, (B) addressed to the Agents and the Lenders (where permissible under local law) and (C) covering such matters as the Administrative Agent shall reasonably request, and the Loan Parties hereby request such counsel to deliver such opinions.

(i) The Lenders and the Administrative Agent shall have received, at least five Business Days prior to the Closing Date, to the extent reasonably requested in advance, all documentation and other information required by regulatory authorities under the Beneficial Ownership Regulation and applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(j) Immediately after giving effect to the Transactions and the other transactions contemplated hereby, Parent and the Subsidiaries shall have no outstanding Indebtedness for borrowed money or preferred stock other than (i) Indebtedness outstanding under this Agreement, (ii) Indebtedness incurred and outstanding under the Pre-Petition First Lien Loan Documents and (iii) Indebtedness described on Schedule 4.01(j).

(k) The Administrative Agent shall have received the financial statements and opinion referred to in Section 3.05.

(l) All requisite Governmental Authorities and third parties shall have approved or consented to the Transactions and the other transactions contemplated hereby to the extent required, all applicable appeal periods shall have expired and except for the Cases, there shall not be any pending or threatened litigation, governmental, administrative or judicial action that could reasonably be expected to restrain, prevent or impose burdensome conditions on the Transactions or the other transactions contemplated hereby.

(m) The Petition Date shall have occurred, and the Borrower, Parent and each other Guarantor (other than the Government Business Subsidiaries and each other Subsidiary as agreed to by the Required Lenders and the Required IC Lenders) shall be a debtor and a debtor-in-possession in the Cases.

(n) The Administrative Agent and the Lenders shall have received a copy of the DIP Budget in form and substance satisfactory to the Required IC Lenders and the Required Lenders (the "***Initial DIP Budget***").

(o) (x) The Escrow Account shall have been opened, (y) the Escrow Agreement (in form and substance satisfactory to the Administrative Agent, the Required IC Lenders and the Required Lenders) shall have been entered into and be effective and (z) the

proceeds of the Initial Loans funded on the Closing Date (net of the fees described in Section 2.05) shall be deposited into the Escrow Account concurrently with the making of such Initial Loans.

(p) The Administrative Agent shall have received a duly executed Borrowing Request.

(q) The representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date.

(r) At the time of and immediately after giving effect to the Closing Date and the making of the Initial Loans hereunder, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

(s) The Cases of any of the Debtors shall not have been dismissed or converted into cases under chapter 7 of the Bankruptcy Code.

(t) A motion, in form and substance satisfactory to the Lenders (and with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent), seeking approval of the DIP Term Facility, shall have been filed in each of the Cases within one (1) day of the Petition Date.

(u) All "first day" orders and all related pleadings intended to be entered on or prior to the Interim Order Entry Date shall have been entered by the Bankruptcy Court and shall be in form and substance acceptable to the Required IC Lenders, the Required Lenders, the Administrative Agent and the Pre-Petition First Lien Administrative Agent, it being understood that drafts approved by Ad Hoc Lender Advisors, the Administrative Agent and the Pre-Petition First Lien Administrative Agent prior to the Petition Date are acceptable.

(v) None of the Borrowers (as defined in the Pre-Petition First Lien Credit Agreement) shall have made any payments after the Petition Date on account of any Indebtedness arising prior to the Petition Date unless such payment is expressly authorized by the "first day" orders or the Orders and is made with the consent of the Required IC Lenders and the Required Lenders in their sole discretion.

(w) No trustee under chapter 7 or chapter 11 of the Bankruptcy Code or examiner with expanded powers shall have been appointed in any of the Cases.

(x) The Interim Order Entry Date shall have occurred not later than five (5) calendar days following the Petition Date, and the Interim Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC

Lender, the Required Lenders and the Administrative Agent, and the Administrative Agent shall have received a certified copy of the Interim Order entered by the Bankruptcy Court.

(y) Each Intelsat Agreement shall be in full force and effect (and shall not have been rejected or terminated by Intelsat in any insolvency proceeding).

(z) The release of all claims and causes of action against the Lenders, the Agents, the agents and issuing banks under the Pre-Petition First Lien Credit Agreement and the Pre-Petition First Lien Lenders, in each case in form and substance satisfactory to the Required IC Lenders, the Administrative Agent and the Pre-Petition First Lien Administrative Agent.

(aa) None of the Pre-Petition First Lien Lenders shall have exercised any remedies under the Pre-Petition First Lien Loan Documents against any Non-Debtor Subsidiary.

By delivering the Borrowing Request required pursuant to Section 4.01(p), on the Closing Date, the Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (q), (r) and (y) above have been satisfied.

SECTION 4.02. ***Delayed Draw Borrowing***. The obligations of the Lenders to make the Delayed Draw Loan hereunder shall not become effective until the date on which each of the following conditions is satisfied:

(a) The Closing Date shall have occurred.

(b) Parent shall have paid (or caused to have been paid), when and as due (or, in the case of amounts due on the Delayed Draw Borrowing Date, shall substantially contemporaneously with the making of the Delayed Draw Loans to be made on the Delayed Draw Borrowing Date, pay), all fees that under the terms hereof or of the Fee Letter are due and payable on or prior to such date, as well as all out-of-pocket expenses (including the fees, disbursements and other charges of the Ad Hoc Lender Advisors, Skadden, each other counsel to each Agent, the advisors to the Pre-Petition First Lien Agents, and the advisors to the ad hoc group of Pre-Petition First Lien Lenders) in connection with the Transactions required to be reimbursed or paid by the Borrower under the terms hereof or of the Fee Letter (to the extent that reasonably detailed statements therefor have been delivered to Parent at least one (1) Business Day in advance of the Delayed Draw Borrowing Date); *provided* that, in the case of each Lender, such Lender's accrued and unpaid Delayed Draw Commitment Fee may be offset against the proceeds of the Delayed Draw Loans.

(c) The Administrative Agent shall have received a duly executed Borrowing Request.

(d) The representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the Delayed Draw Borrowing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by

materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date.

(e) At the time of and immediately after giving effect to the making of the Delayed Draw Loans, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

(f) At any time prior to the Delayed Draw Borrowing Date, the Interim Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC Lenders, the Required Lenders and Administrative Agent.

(g) The Final Order Entry Date shall have occurred and the Final Order shall be in full force and effect, shall not have been vacated or reversed, and shall not be subject to any stay (*provided* that, for the avoidance of doubt, no Lender holding Delayed Draw Commitments shall be required to fund any Delayed Draw Loans to the extent that the Final Order does not approve the Roll-Up that is to be consummated on the Delayed Draw Borrowing Date pursuant to Section 2.01(b)).

(h) Each Intelsat Agreement shall be in full force and effect (and shall not have been rejected or terminated by Intelsat in any insolvency proceeding).

(i) Parent shall have delivered an updated DIP Budget in accordance with Section 5.04(j) and such updated DIP Budget shall have become an Approved Budget in accordance therewith.

(j) An additional Milestone that is acceptable to the Required Lenders and the Required IC Lenders shall have been added and shall be effective in accordance with the terms of Section 5.16 setting forth the deadline by which an Approved Restructuring must be consummated (including, as applicable, the effective date of an Acceptable Plan and/or the closing of an Acceptable Sale Transaction), which milestone shall be no sooner than fourteen days after the entry of the order confirming an Acceptable Plan or the order approving an Acceptable Sale Transaction.

By delivering the Borrowing Request required pursuant to Section 4.02(c), on the Delayed Draw Borrowing Date, the Borrower shall be deemed to have represented and warranted that the conditions specified in Sections paragraphs (e), (f), (g) and (h) above have been satisfied.

SECTION 4.03. ***Disbursements***. The obligation of the Administrative Agent to authorize the release of funds from the Escrow Account in connection with a Disbursement is subject solely to the prior or concurrent satisfaction or waiver of the following conditions:

(a) The Administrative Agent shall have received by not later than 10:00 a.m., New York City time, (i) in the case of any Disbursement made on the Closing Date, on the date that is one (1) Business Days prior to such Disbursement Date and (ii) in the case of any other Disbursement, on the date that is five (5) Business Days prior to such Disbursement Date, a duly executed Notice of Disbursement signed by a Responsible Officer of Parent.

(b) The Administrative Agent shall have received a certificate, dated the Disbursement Date and signed by a Responsible Officer of Parent, in form and substance satisfactory to the Administrative Agent, confirming that (i) the representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of such Disbursement Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date, (ii) at the time of and immediately after the Disbursement Date, no Event of Default or Default shall have occurred and be continuing and (iii) if the requested Disbursement Date shall occur on or prior to the date that is thirty days after the Closing Date, the requirements in clause (d) below are satisfied after giving effect to the applicable Disbursement.

(c) The Administrative Agent shall have received written confirmation from Greenhill (which may take direction from the Required Lenders) that such Disbursement is consistent with the Approved Budget in all respects and does not exceed an amount equal to the lesser of (x) the aggregate disbursements projected to be made in the Approved Budget within the immediately succeeding seven days and (y) an amount equal to $15,000,000 less the amount of Liquidity as of such Disbursement Date after giving effect to such disbursement.

(d) (i) Parent shall, concurrently with the applicable Disbursement Notice, provide a liquidity forecast, in a form substantially consistent with the Approved Budget, certified by the chief financial officer of Parent, demonstrating, to the satisfaction of the Required Lenders or their advisors, that the Debtors' lowest projected Liquidity over the two-week period after such withdrawal (after giving effect thereto) will not exceed $15,000,000.

(e) As of each Disbursement Date, the Interim Order or, following the Final Order Entry Date, the Final Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC Lenders, the Required Lenders and Administrative Agent.

Each Lender, by becoming a party to this Agreement, hereby authorizes and directs the Administrative Agent to (i) conclusively rely, without further action or verification, on each Notice of Disbursement and each certificate and written confirmation received by it in connection with this Section 4.03 or that purports to be delivered pursuant to this Section 4.03, and (ii) release funds from the Escrow Account on each Disbursement Date.

ARTICLE V

Affirmative Covenants

Parent and the Borrower each covenants and agrees with each Lender that so long as this Agreement shall remain in effect and until the Commitments have been terminated and the

principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document shall have been paid in full in cash (other than contingent indemnification obligations not then due and payable), it will, and will cause each of its Subsidiaries to:

SECTION 5.01. ***Existence; Businesses and Properties***. (a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except as otherwise expressly permitted under Section 6.05.

(b) Do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises, authorizations, patents, copyrights, trademarks and trade names (and all other intellectual property) material to the conduct of its business; maintain and operate such business in substantially the manner in which it is presently conducted and operated or in an otherwise prudent manner; except as otherwise excused by the Bankruptcy Code, comply in all material respects with all applicable laws, rules, regulations (including any zoning, building, Environmental Law, ordinance, code or approval or any building permits or any restrictions of record or agreements affecting the Mortgaged Properties, ERISA, Sanctions, the FCPA, other Anti-Bribery Laws, the USA PATRIOT Act and other Anti-Terrorism Laws) and decrees and orders of any Governmental Authority, whether now in effect or hereafter enacted unless failure to comply could not reasonably be expected to result in a Material Adverse Effect; and at all times maintain and preserve all property material to the conduct of such business and keep such property in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be conducted at all times in a commercially reasonable manner.

(c) (i) Maintain in effect and enforce policies and procedures reasonably designed to ensure compliance by Parent, its subsidiaries, and each of their respective directors, officers, employees, agents and Affiliates, with applicable Sanctions, and (ii) conduct its business in compliance with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 5.02. ***Insurance***. (a) Keep its insurable properties adequately insured at all times by financially sound and reputable insurers; maintain such other insurance (including self-insurance), to such extent and against such risks, including fire and other risks insured against by extended coverage, as is customary with companies in the same or similar businesses operating in the same or similar locations and of same or similar size, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it; and maintain such other insurance as may be required by law.

(b) If at any time the area in which any of the Mortgaged Property is located is designated (i) a "flood hazard area" in any Flood Insurance Rate Map published by the United States Federal Emergency Management Agency (or any successor agency), obtain flood insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require, and otherwise comply with the National Flood Insurance Program as set forth in the United States Flood Disaster Protection Act of 1973, as it may be

amended from time to time, and other applicable flood laws, or (ii) a "Zone 1" area, obtain earthquake insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require.

(c) Notify the Agents immediately whenever any separate insurance is taken out by any Loan Party concurrent in form or contributing in the event of loss with that required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles; and promptly deliver to the Agents a duplicate original copy of such policy or policies (including, for the avoidance of doubt, any required flood or earthquake policy or policies).

(d) In connection with the covenants set forth in this Section 5.02 and any covenants with respect to insurance set forth in the Agreed Security Principles, it is understood and agreed that:

(i) none of the Agents, the Lenders or their respective agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles, it being understood that (A) the Borrower and the other Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Agents, the Lenders or their agents or employees. If, however, the insurance policies do not provide waiver of subrogation rights against such parties, as required above, then Parent and the Borrower each hereby agrees, to the extent permitted by law, to waive its right of recovery, if any, against the Agents, the Lenders and their agents and employees; and

(ii) the designation of any form, type or amount of insurance coverage by any Agent or the Required Lenders under this Section 5.02 or the Agreed Security Principles shall in no event be deemed a representation, warranty or advice by any Agent or the Lenders that such insurance is adequate for the purposes of the business of Parent and its Subsidiaries or the protection of their properties and the Agents and the Required Lenders shall have the right from time to time to require the Borrower and the other Loan Parties to keep other insurance in such form and amount as any Agent or the Required Lenders may reasonably request; *provided* that such insurance shall be obtainable on commercially reasonable terms.

SECTION 5.03. ***Obligations and Taxes.*** In accordance with the Bankruptcy Code and subject to any required approval by the Bankruptcy Court in the case of the Debtors (it being understood that no Debtor shall be obligated to make any payments hereunder that may, in its reasonable judgment, result in a violation of any applicable law, including the Bankruptcy Code, without an order of the Bankruptcy Court authorizing such payments), pay its Indebtedness and other obligations promptly and in accordance with their terms and pay and discharge promptly when due all material Taxes (in the case of any Debtor, solely to the extent arising after the Petition Date) imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, could reasonably be expected to give rise to a Lien upon such properties or any part thereof; *provided* that such payment and discharge

shall not be required with respect to any such obligation or Taxes so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings diligently conducted and Parent or Subsidiary shall have set aside on its books adequate reserves with respect thereto in accordance with GAAP and such contest operates to suspend collection of the contested obligation or Taxes and enforcement of a Lien and, in the case of a Mortgaged Property, there is no risk of forfeiture of such property.

SECTION 5.04. ***Financial Statements, Reports, etc***. In the case of Parent, furnish to the Administrative Agent (for distribution by the Administrative Agent to each Lender) and the Ad Hoc Lender Advisors, in each case as provided below:

(a) within ninety days after the end of the first fiscal half-year period of each fiscal year, its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal half-year period and the results of its operations and the operations of such Subsidiaries during such fiscal half-year period and the then elapsed portion of the fiscal year, and comparative figures for the same periods in the immediately preceding fiscal year, accompanied by a narrative report, all certified by the chief financial officer and chief restructuring officer as fairly presenting in all material respects the financial condition and results of operations of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), subject to normal year-end audit adjustments;

(b) within thirty days after the end of each fiscal month of Parent and its consolidated Subsidiaries (or, in the case of the fiscal month of Parent and its consolidated Subsidiaries ended March 31, 2020, within forty-five days after the end of such fiscal month) its unaudited consolidated monthly financial statements as of the close of such fiscal month, which shall include its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows, all certified by the chief financial officer and chief restructuring officer as fairly presenting in all material respects the financial condition and results of operation of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), subject to normal year-end adjustments;

(c) concurrently with any delivery of financial statements under Section 5.04(a) and (b) above, a Compliance Certificate, certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by Parent or any Subsidiary with the SEC, the Australian Securities and Investments Commission, ASX or any other securities exchange, or distributed to its shareholders (or any class of them) or its creditors generally (or any class of them), as the case may be;

(e) promptly after the request by any Agent or by any Lender (acting through the Administrative Agent), all documentation and other information that such Agent or Lender

reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation;

(f) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of Parent or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request;

(g) promptly, notice of any change in (i) authorized signatories of Parent or the Borrower, which notice shall be certified by a Responsible Officer of Parent or the Borrower, as applicable, and accompanied by specimen signatures of any new authorized signatories or (ii) the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of the Beneficial Ownership Certification;

(h) not less than five Business Days prior to the holding thereof, in the case of semi-annual earnings conference calls, and promptly after notice to shareholders with respect to any other conference call, notice of each conference call to be held by Parent for its shareholders (or any class of them);

(i) not later than five Business Days following the end of each fiscal month (beginning with the fiscal month ending April 30, 2020), a Liquidity Certificate;

(j) on or prior to the Closing Date, the Initial DIP Budget. The Initial DIP Budget may be updated from time to time upon the request of the Required IC Lenders, the Required Lenders or Parent; *provided* that (i) in the case of a request by Parent, the Lenders have received not less than three Business Days' prior written notice of the delivery of such updated DIP Budget, (ii) in the case of a request by the Required IC Lenders or the Required Lenders, such updated DIP Budget shall be delivered to the Administrative Agent and the Lenders not later than three Business Days following the date of such request, (iii) any such updated DIP Budget must be approved by the Required IC Lenders and the Required Lenders in their sole discretion and (iv) to the extent any such updated DIP Budget is approved by the Required IC Lenders and the Required Lenders, the line item amounts set forth therein shall only be used to calculate the projected line items commencing with the week in which such updated DIP Budget is so approved and for subsequent weeks set forth therein, and any prior weeks tested as part of any then applicable Test Period shall be calculated using the projected line items set forth in the applicable previously Approved Budget; *provided*, *further*, that not later than ten Business Days prior to the Delayed Draw Borrowing Date, Parent shall deliver to the Administrative Agent and the Lenders an updated DIP Budget with refined and updated estimates and assumptions, which such updated DIP Budget shall be approved by the Required IC Lenders and the Required Lenders in their sole discretion. Upon delivery on the Closing Date, in the case of the Initial DIP Budget, and upon such approval by the Required IC Lenders and the Required Lenders pursuant to this Section 5.04(j) with respect to a DIP Budget required to be approved pursuant to this Section 5.04(j), such DIP Budget shall constitute, together with the Initial DIP Budget, the "***Approved Budget***";

(k) not later than by the end of Monday of every week (or, to the extent such Monday is not a Business Day, the next Business Day thereafter), a Budget Variance Report. Each such report shall be certified by the chief financial officer and chief restructuring officer of Parent as being prepared in good faith and fairly presenting in all material respects the information set forth therein;

(l) not later than by the end of Monday of every week (or to the extent such Monday is not a Business Day, the next Business Day thereafter), a report, in a form reasonably acceptable to Greenhill, specifying (A) the aggregate bank and book cash balances of Parent and its consolidated Subsidiaries (the "***Consolidated Cash Balances***") and (B) the book Consolidated Cash Balance, net of all (I) restricted cash, (II) cash subject to a Lien other than Liens securing the Obligations, Liens pursuant to the Pre-Petition First Lien Loan Documents and customary Liens in favor of depository banks permitted under this Agreement, (III) cash segregated or set aside as a deposit, for the purpose of being held in escrow or for any other purpose in connection with the payment or support of obligations to third parties and (IV) all "Government/Proxy Cash" (as such term is used in the presentation made by the Loan Parties to certain lenders under the Pre-Petition First Lien Credit Agreement on March 23, 2020) (the "***Consolidated Available Cash Balance***"), in each case as of the close of business on each Business Day during the week ended on Friday of the prior week;

(m) promptly after the receipt or delivery thereof (but in no event later than one Business Day of a Responsible Officer of Parent or the Borrower being made aware of the receipt or delivery thereof), the Loan Parties shall deliver to Greenhill and the Administrative Agent copies of all material communications received by or delivered to any of the Loan Parties' or any other Subsidiaries' customers, vendors or suppliers (including, for the avoidance of doubt, communications received from or delivered to Intelsat, Inmarsat plc, Telesat, European Organisation of Telecommunications by Satellite S.A., SES S.A. and any affiliates or representatives of the foregoing (collectively, the "***Key Suppliers***"));

(n) upon the request of any Ad Hoc Lender Advisor, the Loan Parties shall use reasonable best efforts to cause direct contact (including through the arrangement of virtual or telephonic conferences) with (i) members of senior management of each of the Key Suppliers and (ii) internal personnel and outside consultants and advisors working on, or engaged with respect to, Parent's transformation plan, in each case at reasonable times and locations (if applicable) to be mutually agreed; *provided* that Parent's and the Borrower's advisors and members of senior management of Parent and the Borrower shall be entitled to participate in or otherwise receive any communications in connection with the foregoing;

(o) not later than by the end of Monday of every week (or to the extent such Monday is not a Business Day, the next Business Day thereafter), a written statement setting forth the amount of cash and Investments made pursuant and the current amount outstanding in respect of the Intercompany Note;

(p) not later than the Monday of every other week (or to the extent such Monday is not a Business Day, the next Business Day thereafter) commencing with the first Monday following the Petition Date, a rolling 13-week cash flow forecast commencing with the

week in which the immediately preceding Monday occurs (with such supporting detail as the Ad Hoc Lender Advisors may request);

(q) promptly upon request by the Administrative Agent and otherwise on the first Business Day of each calendar month, with respect to each Australian Employee Benefit Account, details of the relevant financial institution with which such account is held, the account details and details of the amount standing to the credit of each such account; and

(r) promptly upon request by the Administrative Agent or any Lender, any Weekly Statement (as defined in the Orders) delivered the Debtors pursuant to the terms of the Orders.

SECTION 5.05. ***Litigation and Other Notices.*** Furnish to the Administrative Agent and each Lender, promptly after obtaining knowledge thereof, written notice of the following:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the filing or commencement of, or any threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, against Parent or any Affiliate thereof that could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence or reasonable expectation of an occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, or is reasonably expected to occur, could reasonably be expected to result in (i) the imposition of a Lien on Parent or any Subsidiary that is not permitted by Section 6.02 or (ii) a Material Adverse Effect, in any such case, together with a statement of a Financial Officer of Parent setting forth details as to such ERISA Event and the action, if any, that Parent and/or any relevant Subsidiary proposes to take with respect thereto;

(d) any development with respect to Parent or any Subsidiary that has resulted in, or could reasonably be expected to result in, a Material Adverse Effect;

(e) Parent being removed from the official list of the ASX, or any class of securities in Parent being suspended from trading on the ASX for a continuous period of ten (10) Business Days or longer (for reasons other than there being an imminent announcement of a major acquisition or merger transaction); and

(f) within fifteen days after the end of each fiscal month of Parent and its consolidated Subsidiaries, unaudited summary consolidated income statement and balances of key working capital accounts.

SECTION 5.06. ***Employee Benefits.*** Comply in all material respects with the applicable provisions of ERISA and the Code and the laws applicable to any Non-U.S. Pension Plan and (b) furnish to the Administrative Agent, promptly upon request of the Administrative

Agent or a Lender, deliver to the Administrative Agent copies of the most recent Annual Report (Form 5500 Series), including all Schedules thereto, with respect to each Plan.

SECTION 5.07. ***Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings***. (a) Keep proper books of record and account in which full, true and correct entries in conformity in all material respects with GAAP and all requirements of law are made of all dealings and transactions in relation to its business and activities. Each Loan Party will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender to visit and inspect the financial records and the properties of Parent or any Subsidiary at reasonable times and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances and condition of Parent or any Subsidiary with the officers thereof and (provided that a representative of Parent is given the opportunity to be present) independent accountants therefor; *provided* that, so long as no Event of Default has occurred and is continuing, any such visit and inspection by the Administrative Agent in excess of one per calendar year shall be at the expense of the Administrative Agent and any such visit and inspection by a Lender shall be at the expense of such Lender (unless the Administrative Agent is not conducting a visit and/or inspection during such year and the Borrower has not reimbursed (and is not obligated to reimburse) another Lender for any such visit and/or inspection during such year).

(b) In the case of the Borrower, use commercially reasonable best efforts to cause the New Money Loans and the Roll-Up Loans provided for hereunder, from and after the date that is forty-five days after the Petition Date, to be continuously publicly rated (but no specific rating) by S&P and Moody's.

SECTION 5.08. ***Use of Proceeds***. Use the proceeds of the Loans only for the purposes described in Section 3.13, and ensure that no proceeds of the Loans will be used, advanced or otherwise made available, directly or indirectly, by Parent, the Borrower or any Subsidiary (i) to any person conducting activities that would constitute a violation of Sanctions, (ii) for the purposes of funding any activity, business, or transaction with a Sanctioned Person or in a Sanctioned Country, (iii) that would result in the violation of any applicable Sanctions or (iv) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of the FCPA or any other applicable Anti-Bribery Law.

SECTION 5.09. ***Compliance with Environmental Laws***. Comply, and cause all lessees and other persons occupying its Properties to comply, in all material respects with all Environmental Laws and Environmental Permits applicable to its operations and Properties; obtain and renew all material Environmental Permits necessary for its operations and Properties; and conduct any Remedial Action required by Environmental Law in accordance with Environmental Laws in all material respects; *provided* that no Borrower nor any of the Subsidiaries shall be required to undertake any Remedial Action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

SECTION 5.10. ***Preparation of Environmental Reports***. If an Event of Default caused by reason of a breach of Section 3.17 or 5.09 shall have occurred and be continuing, at the request of the Required Lenders through the Administrative Agent, provide to the Lenders within 45 days after such request, at the expense of the Loan Parties, an environmental site assessment report or environmental compliance report (as the case may be) regarding the matters which are the subject of such default, prepared by an environmental consulting firm reasonably acceptable to the Administrative Agent and identifying, to the extent relevant to the subject of such default, the likely presence or absence of a Release of Hazardous Materials and the likely extent of such Release, or the nature and details regarding the non- compliance with applicable Environmental Law, and the estimated cost of any Remedial Action or any other activity required to bring the Properties into compliance with Environmental Laws in connection with such default.

SECTION 5.11. ***Guarantors; Further Assurances; Etc.***

(a) Take, or cause to be taken, all actions necessary or reasonably requested by any Agent to ensure that the Guarantee requirements set forth below are satisfied when required to be satisfied, subject to any applicable limitations set forth in the Agreed Security Principles and Section 5.14 and Section 6.18 in all respects:

(i) Notwithstanding anything to the contrary in Section 5.11(a)(ii), (x) Parent and each "Subsidiary Borrower" and each "Guarantor" under and as defined in the Pre-Petition First Lien Credit Agreement shall at all times be required to be Guarantors and (y) in no event shall any Subsidiary become a guarantor under the Pre-Petition First Lien Loan Documents or any other Indebtedness in excess of the Threshold Amount unless such Subsidiary shall have become an additional Subsidiary Guarantor in accordance with this Section 5.11.

(ii) Parent will ensure that, on an after the Closing Date, each Subsidiary of Parent (other than an Excluded Subsidiary) is a Subsidiary Guarantor.

(iii) Failure to satisfy the requirements of Section 5.11(a)(i) or (ii) will not constitute a Default or Event of Default if, as promptly as practicable (but in any event within twenty (20) days after the date on which any Subsidiary is required to become a Subsidiary Guarantor (or such later date as the Administrative Agent shall approve in its sole discretion)), any such Subsidiary shall have become additional Subsidiary Guarantors by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement. Additional Subsidiary Guarantors pursuant to this clause (iii) may include, to the extent in consultation with and reasonably acceptable to the Administrative Agent, Subsidiaries incorporated, organized or formed under the laws of a jurisdiction in which none of the existing Guarantors are incorporated, organized or formed. In the event any additional Subsidiary Guarantors are required to be joined pursuant to this clause (iii), Parent shall use commercially reasonable efforts to identify the proposed additional Subsidiary Guarantor(s) in the Compliance Certificate for the relevant Test Period.

(iv) In addition to complying with the requirements of Section 5.02(a)(i) and (ii) and any joinder requirements set forth in clause (iii) above, each wholly owned U.S. Subsidiary and each wholly owned Subsidiary that is incorporated, organized or formed under the laws of Australia, to the extent not already a Subsidiary Guarantor, shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, in any such case, within twenty (20) days after the date on which such person became a wholly owned Subsidiary (or such later date as the Administrative Agent shall approve in its sole discretion).

(v) In the event any Subsidiary that is not a Guarantor directly or indirectly owns any Equity Interests in any Subsidiary Guarantor (or other person that is required to become a Subsidiary Guarantor pursuant to this Section 5.11(a) or the Agreed Security Principles), such Subsidiary shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, as promptly as practicable (but in any event no later than the date applicable to the relevant Subsidiary Guarantor (or other relevant person) whose Equity Interests are directly or indirectly owned by such Subsidiary, or such later date as the Administrative Agent shall approve in its sole discretion).

(vi) [Reserved].

(vii) In connection with any joinder or supplement to the Guarantee Agreement or other additional Guarantee pursuant to this Section, each Subsidiary that becomes a Subsidiary Guarantor after the Closing Date shall have delivered to the Administrative Agent such corporate documentation (including all applicable "know your customer" documentation and information required to comply with the Beneficial Ownership Regulation), charter documents, by-laws, resolutions and legal opinions, in each case, consistent with those provided or required to be provided by the Loan Parties under Section 4.01 on the Closing Date, modified as appropriate for the jurisdiction of incorporation or organization of such Subsidiary or otherwise as may be agreed to by the Administrative Agent.

(b) Take, or cause to be taken, all actions (limited to commercially reasonable actions, where so stated in the Agreed Security Principles and in the Security Documents) necessary or reasonably requested by any Agent to ensure that the requirements set forth in the Agreed Security Principles are satisfied when required to be satisfied. Subject to any applicable limitations set forth in the Agreed Security Principles, execute any and all further documents, financing statements, agreements and instruments, and take all further action (including filing Uniform Commercial Code, PPSR and other financing statements, mortgages and deeds of trust) that may be required under the Agreed Security Principles, under Schedule 5.14 or under applicable law, or that the Required Lenders or any Agent may reasonably request, in order to effectuate the transactions contemplated by the Loan Documents and in order to grant, preserve, protect and perfect the validity and first priority of the security interests created or intended to be created by the Security Documents. In addition, from time to time, Parent and the other Loan Parties will, at their cost and expense, promptly secure the Obligations by pledging or creating, or causing to be pledged or created, perfected security interests with respect to such of their assets and properties acquired after the Closing Date as would constitute Collateral under any

Security Document or is required to constitute Collateral pursuant to the Agreed Security Principles (it being understood that it is the intent of the parties that the Obligations shall be secured by, among other things, substantially all the assets of the Loan Parties (including assets acquired subsequent to the Closing Date but excluding (i) any assets as to which the Administrative Agent shall determine in its reasonable discretion, in consultation with Parent, that the costs of obtaining a security interest in the same are excessive in relation to the benefit to the Lenders of the security intended to be afforded thereby, and (ii) any assets of a type specifically excluded as Collateral in accordance with the Agreed Security Principles). All such after-acquired assets shall automatically constitute fully perfected first priority Liens on, and security interest in, all right, title and interest of the Loan Parties, pursuant to and as described in Section 5.20 and the Interim Order or the Final Order, as applicable. Such security interests and Liens will be created under and as required by the Security Documents and other security agreements, mortgages, deeds of trust and other instruments and documents in form and substance reasonably satisfactory to the Collateral Agent or the Security Trustee, as the context may require, and Parent shall deliver or cause to be delivered to the Lenders all such instruments and documents (including legal opinions, flood hazard determination forms, evidence of any insurance required by Section 5.02 or pursuant to the Agreed Security Principles (including flood or earthquake insurance), surveys, title insurance policies (including any endorsements thereto) and lien searches (including, applicable, UCC and PPSR searches)) as any Agent shall reasonably request to evidence compliance with this Section. In furtherance of the foregoing, Parent will give prior written notice to the Administrative Agent of (A) the acquisition by it or any other Loan Party of any Material Owned Real Property, and (B) any Subsidiary that is not a Loan Party being required to become a Guarantor pursuant to the Agreed Security Principles. With respect to any Subsidiary incorporated or registered in Singapore that becomes a Subsidiary Guarantor after the Closing Date, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(c) Unless Parent has given the Agents at least ten days' prior written notice, neither Parent nor any other Loan Party will change (i) its legal name, (ii) its jurisdiction of organization, (iii) its chief executive office, (iv) its corporate or legal structure or (v) its Federal Taxpayer Identification Number. Parent and each other Loan Party agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code, PPSA or otherwise that are required in order for the Collateral Agent and/or the Security Trustee to continue at all times following such change to have a valid, legal and perfected first priority security interest in all the Collateral. Parent and each other Loan Party agrees promptly to notify the Agents if any material portion of the Collateral owned or held by such Loan Party is damaged or destroyed.

SECTION 5.12. ***Senior Indebtedness.*** Provide that to the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to the DIP Intercreditor Agreement, the Pre-Petition First Lien Obligations) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto [and the Liens securing the Obligations benefit from the

lien subordination and other related provisions running to the benefit of the Secured Parties under the relevant Intercreditor Agreement].

SECTION 5.13. ***Compliance with Tax Sharing Agreement and Tax Funding Agreement.*** In relation to any Tax Consolidated Group of which it is or becomes a member:

(a) take all action available to it to ensure that each member of the Tax Consolidated Group:

(i) becomes a party to a Tax Sharing Agreement which covers all Group Liabilities of such Tax Consolidated Group and a Tax Funding Agreement for such Tax Consolidated Group at the time it becomes a member of such Tax Consolidated Group; and

(ii) fully complies with the Tax Sharing Agreement and the Tax Funding Agreement;

(b) take all action available to it to ensure that the Tax Sharing Agreement and the Tax Funding Agreement remain valid, binding and enforceable;

(c) ensure that it gives the Australian Taxation Office a copy of the Tax Sharing Agreement within the period required by section 721-25(3)(b) of the Australian Tax Act if the Australian Taxation Office gives a notice requiring it to do so;

(d) enforce all of its material rights under the Tax Sharing Agreement and the Tax Funding Agreement in a manner consistent to that which a reasonable prudent person in its position would act as if the other parties to those agreements were independent persons with whom it had dealt with at arm's length;

(e) notify the Administrative Agent of any material breach of a term of the Tax Sharing Agreement or the Tax Funding Agreement to the extent that the breach impacts the Lenders (or any of them) promptly after its occurrence; and

(f) seek the consent of the Administrative Agent before making any amendment or other modification to the Tax Sharing Agreement or Tax Funding Agreement, in any such case, other than with respect to such amendments or modifications that are not materially adverse to the interests of the Lenders (in their capacities as such).

SECTION 5.14. ***Post-Closing Matters.*** Satisfy the requirements set forth in Schedule 5.14 on or before the date specified for such requirements, in each case as such date may be extended at the sole discretion of the Administrative Agent so long as the relevant Loan Parties are working diligently to complete, or cause the applicable Subsidiary to complete, the applicable requirement, as determined by the Administrative Agent in its sole discretion.

SECTION 5.15. ***Federal Reserve Regulations.*** If at any time a Loan Party or any of its Subsidiaries owns any Margin Stock, promptly notify the Administrative Agent and, if requested by the Administrative Agent, each Loan Party will furnish to the Administrative Agent

and each Lender a statement in conformity with the requirements of FR Form G 3 or FR Form U 1, as applicable, referred to in Regulation U.

SECTION 5.16. ***Milestones***. The Loan Parties shall ensure the satisfaction of the following milestones (collectively, the "***Milestones***" and each a "***Milestone***"), unless waived or extended with the consent of either the Required IC Lenders or the Required Lenders (in each case, in their sole discretion) (which may be by email)):

(a) by no later than the date that is five days following the Petition Date, entry by the Bankruptcy Court of the Interim Order;

(b) by no later than the date that is forty days following the Petition Date, entry by the Bankruptcy Court of the Final Order;

(c) by no later than the date that is seven days following the Petition Date, the Loan Parties shall have delivered to the Secured Parties and the Ad Hoc Lender Group an initial analysis in respect of the tax and regulatory consequences and requirements in connection with both an Acceptable Plan and an Acceptable Sale Transaction, in each case that are reasonably acceptable to the Required IC Lenders, and:

(i) unless a Plan Election has occurred, then:

(A) by no later than the date that is fourteen days following the date on which the Loan Parties have determined the structure and material terms of the Approved Restructuring pursuant to Section 5.16(c) above, the filing with the Bankruptcy Court of a motion to approve bid procedures in respect of such Acceptable Sale Transaction (the "***Bid Procedures Motion***");

(B) by no later than the date that is twenty-four days following the filing of the Bid Procedures Motion, the entry by the Bankruptcy Court of an order approving such Bid Procedures Motion (the "***Bid Procedures Order***");

(C) by no later than the date that is thirty-five days following the entry by the Bankruptcy Court of the Bid Procedures Order, the commencement of an auction in connection with such Acceptable Sale (the "***Auction***"), unless, in accordance with the Bid Procedures Order, no Auction is required; and

(D) by no later than the date that is five days following earlier of (1) the date of conclusion of the Auction and (2) the date on which it is determined, pursuant to the terms of the Bid Procedures Order, that no auction is required to be held, the entry by the Bankruptcy Court of an order approving such Acceptable Sale Transaction, if applicable (the "***Sale Order***");

(ii) following the occurrence of a Plan Election:

(A) by no later than the date that is fourteen days following the date of such Plan Election, the filing with the Bankruptcy Court of such Acceptable Plan, along with a disclosure statement in connection with such Acceptable Plan, a

motion seeking approval to solicit votes in respect of such Acceptable Plan and solicitation materials in connection therewith (collectively, the "***Disclosure and Solicitation Documents***");

(B) by no later than the date that is seventeen days following the filing with the Bankruptcy Court of the Disclosure and Solicitation Documents, entry by the Bankruptcy Court of an order (which order may be a conditional order) approving the disclosure statement and solicitation of votes in respect of such Acceptable Plan (the "***Disclosure Statement Order***"); and

(C) by no later than the date that is fifty-five days following the entry by the Bankruptcy Court of the Disclosure Statement Order, entry by the Bankruptcy Court of an order approving such Acceptable Plan (the "***Confirmation Order***"); and

provided that, for the avoidance of doubt (x) the Approved Restructuring and all terms, conditions and documentation in respect thereof, including, without limitation, any Acceptable Plan, Disclosure and Solicitation Documents, Disclosure Statement Order, Confirmation Order, Bid Procedures Order, Sale Order and/or other documentation in connection with an Acceptable Plan or Acceptable Sale Transaction shall be subject to the consent requirements set forth in the definition of "Approved Restructuring", (y) the Bid Procedures Motion and Procedures Order shall be consistent with the definition of "Acceptable Sale Transaction" and (z) notwithstanding the foregoing, the deadlines set forth in this Section 5.16(c) may be extended by the Required IC Lenders or the Required Lenders (in each case, in their sole discretion), in accordance with the initial paragraph of Section 5.16 and (z) the Bid Procedures Motion;

(d) by no later than May 8, 2020, the Administrative Agent and the Ad Hoc Lender Advisors shall have received a phase two report from the Independent Network Review, which such phase two report shall be in scope as is set forth in that certain engagement letter, dated as of April 20, 2020, between Parent and Northern Sky Research, and such other scope of analysis as is acceptable to Greenhill (which may seek direction from the Required IC Lenders) to the Required IC Lenders (including the delivery of such other information related to Parent's and its Subsidiaries' customers and suppliers following delivery of such phase two report as is reasonably requested by the Required IC Lender);

(e) by no later than May 15, 2020, the Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors, a draft long-term business plan in form and scope as required by clause (g) below;

(f) by no later than May 15, 2020, Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors a separation analysis for the Government Businesses Subsidiaries in a form satisfactory to the Required IC Lenders (in their sole discretion); and

(g) by no later than May 29, 2020, the Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors, in each case in a form that has been approved by the board of directors (or similar governing body) of the Parent and in form and

substance satisfactory to the Required IC Lenders (in their sole discretion), an updated long-term business plan (which shall cover, among other things, cost reductions, bandwidth capacity and teleport consolidation) that includes pro forma balance sheets and statements of profit (and loss) and cash flows for the Parent and its Subsidiaries on a consolidated basis for the fiscal years ending December 31, 2020, December 31, 2021, December 31, 2022 and December 31, 2023, which such consolidated pro forma financial statements shall be prepared on a month-by-month basis for the fiscal years ending December 31, 2020 and December 31, 2021 and on a quarterly basis thereafter.

SECTION 5.17. ***Lender Conference Calls***. Host a conference call with representatives of the Administrative Agent (which, for the avoidance of doubt, shall not be obligated to join such call) and the Lenders (including the Ad Hoc Lender Advisors) not more than once per week upon reasonable prior notice to be held at such time as reasonably designated by Parent (in consultation with the Administrative Agent and the Ad Hoc Lender Advisors), at which conference call Parent shall make available the executive management team (including the chief restructuring officer) and their advisors and there shall be discussed the DIP Budget and the Budget Variance Reports for the prior week related thereto, the Loan Parties' financial condition, business operations, liquidity, business plan and projections.

SECTION 5.18. ***Chief Restructuring Officer***. Parent will at all times from and after the Closing Date engage Michael Healy or another Person acceptable to the Required IC Lenders as chief restructuring officer, which officer shall have such powers and authority as is reasonably acceptable to the Required IC Lenders.

SECTION 5.19. ***Priority of Liens***. Each Loan Party that is a Debtor hereby covenants, represents and warrants that, upon entry of the Interim Order (and when applicable, the Final Order), its Obligations hereunder and under the other Loan Documents:

(a) pursuant to section 364(c)(1) of the Bankruptcy Code, shall at all times constitute an allowed Superpriority Claim against each of the Loan Parties that are Debtors on a joint and several basis, which will be payable from and have recourse to all pre- and post-petition property of the Loan Parties and all proceeds thereof (excluding Avoidance Actions but including, subject to entry of a Final Order, Avoidance Proceeds), subject only to the Carve-Out to the extent provided in the Interim Order or the Final Order, as applicable and any payments or proceeds on account of such Superpriority Claim shall be distributed in accordance with Section 7.02;

(b) pursuant to section 364(c)(2) of the Bankruptcy Code and subject to the Carve-Out to the extent provided in the Interim Order or Final Order, as applicable, shall be secured by a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest and Lien on all of the assets of the Loan Parties that are Debtors, whether currently existing or thereafter acquired, of the same nature, scope and type as the Collateral that are not subject to (x) valid, perfected and non-avoidable liens as of the Petition Date or (y) valid Liens in existence as of the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, excluding Avoidance Actions but including, subject to entry of the Final Order, Avoidance Proceeds;

(c) pursuant to section 364(d)(1) of the Bankruptcy Code and subject only to the Carve-Out to the extent provided in the applicable Order, shall at all times be secured by (i) a valid, binding, continuing, enforceable, fully-perfected first priority priming security interest in and Lien upon the property of the Loan Parties that are Debtors of the same nature, scope and type as the Collateral to the extent that such Collateral is subject to existing Liens that secure the Pre-Petition First Lien Obligations and (ii) such priming liens shall be senior in all respects to any [Adequate Protection Liens] (as defined in the Orders);

(d) pursuant to section 364(c)(3) of the Bankruptcy Code, subject only to the Carve-Out to the extent provided in the applicable Order and except as provided in clause (c) above, shall be secured by a valid, binding, continuing, enforceable, fully-perfected junior security interest in and Lien on the Collateral, which is subject to (A) valid, perfected and non-avoidable senior Liens in existence at the time of the commencement of the Cases (other than Liens securing the Pre-Petition First Lien Obligations) and (B) valid senior Liens (other than Liens securing the obligations under the Pre-Petition First Lien Credit Agreement) in existence at the time of such commencement that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, with the priority of the Liens in respect of the DIP Term Facility as set forth in the Orders;

(e) shall not be subject or subordinate to (i) any Lien or security interest that is avoided and preserved for the benefit of the Loan Parties that are Debtors and their estates under section 551 of the Bankruptcy Code or (ii) unless otherwise provided for in the Loan Documents, any Liens arising after the Petition Date including, without limitation, any Liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the Loan Parties that are Debtors;

(f) each Loan Party hereby confirms and acknowledges that, pursuant to the Interim Order (and, when entered, the Final Order), the Liens in favor of the Collateral Agent or Security Trustee on behalf of and for the benefit of the Secured Parties in all of the assets of the Loan Parties shall be created and perfected without the recordation or filing in any land records or filing offices of any Mortgage, assignment or similar instrument (in each case (other than with respect to Debtors that are U.S. Loan Parties) to the extent the Interim Order (and, when entered, the Final Order) is effective to create and perfect under local law);

(g) each Loan Party further agrees that, upon the request of the Administrative Agent, in the exercise of the Required Lenders' reasonable business judgment and subject to the Agreed Security Principles, such Loan Party shall execute and deliver to the Administrative Agent, as soon as reasonably practicable following such request but in any event within thirty days following such request (as may be extended by the Administrative Agent, acting on the prior written instruction of the Required Lenders), Mortgages in recordable form with respect to any real property constituting Material Owned Real Property and identified by the Administrative Agent (acting at the direction of the Required Lenders) on terms reasonably satisfactory to the Administrative Agent and the Required Lenders, including any ancillary deliverables described in the Agreed Security Principles;

(h) for the avoidance of doubt, the Collateral shall exclude Avoidance Actions, but shall, subject to entry of the Final Order, include Avoidance Proceeds;

(i) Subject to and effective only upon entry of the Final Order, except to the extent of the Carve-Out, no costs or expenses of administration of the Cases or any future proceeding that may result therefrom, including a case under chapter 7 of the Bankruptcy Code, shall be charged against or recovered from the Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, the enhancement of collateral provisions of section 552 of the Bankruptcy Code, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) or any similar principle of Law, without the prior written consent of Administrative Agent and the Required Lenders, as the case may be with respect to their respective interests, and no consent shall be implied from any action, inaction or acquiescence by Administrative Agent or the Lenders. In no event shall any Agent or the Lenders be subject to (i) the "equities of the case" exception contained in section 552(b) of the Bankruptcy Code (subject only to and effective upon entry of the Final Order), or (ii) the equitable doctrine of "marshaling" or any other similar doctrine with respect to the Collateral; and

(j) Except for the Carve-Out, the Superpriority Claims shall at all times be senior to the rights of any Loan Party, any chapter 11 trustee and, subject to section 726 of the Bankruptcy Code, any chapter 7 trustee, or any other creditor (including, without limitation, Post-Petition counterparties and other Post-Petition creditors) in the Cases or any subsequent proceedings under the Bankruptcy Code, including, without limitation, any chapter 7 cases (if any of the Cases are converted to cases under chapter 7 of the Bankruptcy Code).

SECTION 5.20. ***Bankruptcy Related Matters***. Parent shall, and shall cause each of its Subsidiaries to:

(a) cause all proposed (i) "first day" orders, (ii) "second day" orders, (iii) orders related to or affecting the Loans, the Loan Documents and the Pre-Petition First Lien Loan Documents, any other financing or use of Cash Collateral, any sale or other disposition of Collateral outside the ordinary course, cash management, adequate protection, any plan of reorganization and/or any disclosure statement related thereto, (iv) orders concerning the financial condition of Parent or any of its Subsidiaries or other Indebtedness of the Loan Parties or seeking relief under section 363, 365, 1113 or 1114 of the Bankruptcy Code or section 9019 of the Federal Rules of Bankruptcy Procedure, (v) orders authorizing additional payments to critical vendors and (vi) orders establishing procedures for administration of the Cases or approving significant transactions submitted to the Bankruptcy Court, in each case, proposed by the Debtors to be in accordance with and permitted by the terms of this Agreement and acceptable to the Required IC Lenders in their sole discretion (and (x) with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent and (y) with respect to any orders described in clause (v) above, acceptable to the Required IC Lenders in their sole discretion) in all respects, it being understood and agreed that the forms of orders approved by the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent) prior to the Petition Date are in accordance with and permitted by the terms of this Agreement and are acceptable in all respects;

(b) comply in all material respects with each order entered by the Bankruptcy Court in connection with the Cases;

(c) comply in a timely manner with their obligations and responsibilities as debtors-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the Interim Order and the Final Order, as applicable, and any other order of the Bankruptcy Court;

(d) promptly upon the Administrative Agent's written request (acting at the direction of the Required IC Lenders or the Required Lenders), each Loan Party shall provide the Administrative Agent with copies of any informational packages provided to potential bidders, draft agency agreements, purchase agreements, status reports, and updated information related to the sale or any other transaction and copies of any such bids and any updates, modifications or supplements to such information and materials; *provided* that any Lender that is a potential bidder shall not receive such information and materials;

(e) provide the Administrative Agent and the Lenders with reasonable access to non-privileged information (including historical information) and relevant personnel regarding strategic planning, cash and liquidity management, operational and restructuring activities, in each case subject to customary confidentiality restrictions;

(f) deliver to counsel to the Ad Hoc Lender Advisors and to counsel to the Administrative Agent (to the extent practicable) promptly as soon as available but no later than two Business Days prior to filing, copies of all proposed non-ministerial or administrative pleadings, motions, applications, orders, financial information and other documents to be filed by or on behalf of the Loan Parties with the Bankruptcy Court in the Cases, or distributed by or on behalf of the Loan Parties to any official or unofficial committee appointed or appearing in the Cases or any other party in interest, and shall consult in good faith with the Required Lenders' advisors regarding the form and substance of any such document;

(g) if not otherwise filed on the Bankruptcy Court's electronic docketing system, as soon as available, deliver to the Administrative Agent (for distribution to the Lenders), the Ad Hoc Lender Advisors and to counsel to the Administrative Agent promptly as soon as available, copies of all final pleadings, motions, applications, orders, financial information and other documents filed by or on behalf of the Loan Parties with the Bankruptcy Court in the Cases, or distributed by or on behalf of the Loan Parties to any official or unofficial committee appointed or appearing in the Cases, in each case subject to any confidentiality provisions; and

(h) Parent shall provide at least seven Business Days' (or such shorter notice acceptable to the Required IC Lenders in their sole discretion) prior written notice to the Required Lenders prior to any assumption or rejection of any Loan Party's or any other Subsidiary's material contracts or material non-residential real property leases pursuant to section 365 of the Bankruptcy Code, and no such contract or lease shall be assumed or rejected without the consent if the Required IC Lenders inform the Borrower in writing within three (3) Business Days of receipt of the notice from the Borrower referenced above that it objects to such assumption or rejection, as applicable.

ARTICLE VI

Negative Covenants

Each of Parent and the Borrower covenants and agrees with each Lender that, so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document have been paid in full in cash (other than contingent indemnification obligations not then due and payable), unless the Required Lenders shall otherwise consent in writing, Parent will not, and will not cause or permit any of the Subsidiaries to:

SECTION 6.01. ***Indebtedness.*** Incur, create, assume or permit to exist any Indebtedness, except that Parent and any Subsidiary may incur, create, assume or permit to exist:

(a) Indebtedness existing on the Closing Date; provided that Indebtedness pursuant to this subclause in an aggregate outstanding amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.01;

(b) Indebtedness pursuant to those certain Hedging Agreements (as in effect on the Closing Date) with ING Bank N.V. and Credit Agricole CIB; *provided* the notional value of such Hedging Agreements shall not, in the aggregate, exceed the aggregate notional value as of the date hereof;

(c) (x) Indebtedness created under this Agreement and the other Loan Documents and (y) Indebtedness outstanding on the Closing Date under the Pre-Petition First Lien Credit Agreement and the other Pre-Petition First Lien Loan Documents as in effect on the Closing Date, *plus* accrued and unpaid interest thereunder;

(d) [Reserved];

(e) Indebtedness under transactional banking facilities or local lines of credit provided by any bank or financial institution that are used as part of the ordinary operation of the business of Parent or any Restricted Subsidiary; *provided* that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not exceed $1,000,000 at any time and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(f) intercompany Indebtedness of Parent and the Subsidiaries to the extent permitted by Section 6.04(b) or 6.04(c); *provided* that any such Indebtedness of a Loan Party or any other Debtor shall be unsecured and subordinated in right of payment to the Obligations and evidenced by the Intercompany Note;

(g) Indebtedness (i) arising in connection with endorsement of instruments for deposit and (ii) consisting of the financing of insurance premiums, in each case in the ordinary course of business;

(h) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to any Agent mortgagee title insurance policies;

(i) Indebtedness of Parent or any Subsidiary that may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments, earn-outs and similar obligations in connection with acquisitions or sales of assets and/or businesses permitted by this Agreement;

(j) Indebtedness with respect to performance bonds, bid bonds, appeal bonds, surety bonds, commercial guarantees (tender, advance payment, performance, completion and warranty period guarantees) and similar obligations (other than in respect of other Indebtedness) or with respect to workers' compensation, unemployment insurance and other social security legislation, in each case (i) consistent with the Approved Budget and (ii) incurred in the ordinary course of business and reimbursement obligations in respect of any of the foregoing;

(k) Indebtedness consisting of Purchase Money Indebtedness or Capital Lease Obligations; *provided* that (i) the incurrence of any such Indebtedness pursuant to this clause shall be consistent with the Approved Budget and (ii) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed $750,000;

(l) [Reserved];

(m) [Reserved];

(n) Indebtedness (other than Indebtedness for borrowed money) of Parent or any Subsidiary; *provided* that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed $300,000 and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(o) [Reserved];

(p) [Reserved];

(q) [Reserved];

(r) Indebtedness of Parent or any Subsidiary arising under any cash pooling, netting or set-off arrangement entered into by Parent or any Subsidiary in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Parent and its Subsidiaries.

(s) Indebtedness arising under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Subsidiary is a party or is subject to; *provided* that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13;

(t) [Reserved];

(u) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued pursuant to arrangements other than under this Agreement on behalf of or to support obligations of Parent or any Restricted Subsidiary that are not prohibited under this Agreement; provided that the aggregate amount of all Indebtedness incurred following the

Closing Date outstanding pursuant to this clause (including contingent reimbursement obligations) shall not at any time exceed $1,600,000;

(v) any Indebtedness arising by operation of law as a result of the existence of a fiscal unity (*fiscale eenheid*) of which any Subsidiary incorporated or organized under the laws of The Netherlands is a member;

(w) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within ten Business Days of incurrence and (ii) with respect to credit cards, credit card processing services, debit cards, stored value cards and purchase cards incurred in the ordinary course of business;

(x) [Reserved];

(y) [Reserved]; and

(z) any guarantee entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision).

SECTION 6.02. ***Liens.*** Create, incur, assume or permit to exist any Lien on any property or assets (including Equity Interests or other securities of any person, including any Subsidiary) now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except:

(a) Liens on property or assets of Parent and its Subsidiaries existing on the Closing Date; *provided* that (i) Liens pursuant to this clause securing obligations in an aggregate outstanding amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.02 and (ii) such Liens shall secure only those obligations which they secure on the Closing Date and extensions, renewals and replacements thereof permitted hereunder; *provided* that clauses (i) and (ii) shall not apply to Liens securing Indebtedness permitted under Section 6.01(b) and (c)(y);

(b) (x) any Lien created under the Loan Documents and (y) any Lien created under the Pre-Petition First Lien Loan Documents;

(c) [Reserved];

(d) Liens for Taxes arising Post-Petition not yet due or which are being contested in compliance with Section 5.03;

(e) carriers', warehousemen's, mechanics', materialmen's, workmen's; repairmen's, landlord's, suppliers' or other like Liens and other Liens (not securing Indebtedness) arising by operation of law, in any such case, arising in the ordinary course of business and securing obligations that are not due and payable or which are being contested in compliance with Section 5.03;

(f) subject to the Orders and the terms thereof, pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(g) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), payment of premiums to insurance carriers, leases (other than Capital Lease Obligations), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) zoning restrictions, easements, rights-of-way, restrictions on use of real property and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of Parent or any of its Subsidiaries;

(i) Liens on the Collateral granted to provide adequate protection pursuant to the Interim Order (and, when entered, the Final Order);

(j) Liens in favor of, or customary deposits on reserve held by, a credit card or debit card processor or service provider arising in the ordinary course of business pursuant to the standard terms and conditions of such processor or service provider and relating solely to the amounts paid or payable thereunder;

(k) purchase money security interests and other Liens securing Indebtedness permitted pursuant to Section **Error! Reference source not found.**; *provided* that (i) any such Lien shall encumber only the asset acquired, constructed, improved or repaired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section **Error! Reference source not found.** provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its Affiliates), (ii) any such Liens are incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair, (iii) the Indebtedness secured thereby does not exceed 100% of the lesser of the cost or the fair market value of such assets at the time of such acquisition or the completion of such construction, improvement or repair and, as applicable, such additional amounts permitted pursuant to Section **Error! Reference source not found.**;

(l) judgment Liens securing judgments after the Petition Date not constituting an Event of Default under Section 7.01;

(m) Liens in favor of any Loan Party (other than Liens on any Collateral);

(n) Liens provided for by one of the following transactions if the transaction does not, in substance, secure payment or performance of an obligation: (i) a transfer of an account or chattel paper, (ii) a commercial consignment or (iii) a PPS lease (each as defined in the PPSA);

(o) Liens arising from precautionary UCC filing statements regarding operating leases or consignments filed prior to the Petition Date;

(p) (i) contractual or statutory Liens of landlords, to the extent relating to the property and assets relating to any lease agreements with such landlord (so long as the rent payable under any such lease agreement is not more than 30 days past due, unless being contested in good faith and for which adequate reserves have been established in accordance with GAAP), and (ii) contractual Liens of suppliers (including sellers of goods) and customers in the ordinary course of business to the extent limited to property or assets relating to such contract;

(q) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor under any lease or license permitted by this Agreement and consistent with the Approved Budget;

(r) leases of the tangible properties of Parent or any Subsidiary, entered into in the ordinary course of business of Parent or such Subsidiary, so long as such leases do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of Parent or such Subsidiary or (ii) materially impair the use (for its intended purposes) or the value of the property subject thereto;

(s) licenses of the Intellectual Property of Parent or any Subsidiary granted in the ordinary course of business so long as such licenses do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of Parent or such Subsidiary, or (ii) materially impair the value of the Intellectual Property subject thereto;

(t) Liens on deposits, bank accounts and/or receivables forming part of an arrangement permitted pursuant to Section 6.01(r), to the extent securing claims arising in the context of such arrangement in the ordinary course of business;

(u) Liens arising under conditional sale, hire purchase or other title retention arrangement or arrangements having similar effect in respect of the sale of goods in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by Parent or any of its Subsidiaries;

(v) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties arising Post-Petition in connection with the importation of goods in the ordinary course of business and (ii) Liens on specific items of inventory or other goods and proceeds thereof of Parent or any Subsidiary securing Parent's or such Subsidiary's obligations in respect of bankers' acceptances or documentary letters of credit permitted by this Agreement and issued or created after the Petition Date for the account of Parent or such Subsidiary to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business; and

(w) (i) Liens arising after the Petition Date that are contractual rights of set-off or netting (A) relating to the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness and (B) in respect of credits or similar arrangements pursuant to agreements entered into in the ordinary course of business; provided that no Loan Party has deposited any cash or Permitted Investments with the counterparty to such agreement to secure such right of set-off, (ii) Liens arising after the Petition Date

encumbering reasonable customary initial deposits and margin deposits, and similar Liens attaching to commodity trading accounts or other brokerage accounts and (iii) customary Liens arising after the Petition Date on deposit accounts, custody accounts, other bank accounts or other clearing bank facilities held with any bank or other financial institution under the standard terms and conditions of such bank or other financial institution.

SECTION 6.03. ***Sale and Lease-Back Transactions***. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property which it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "***Sale and Leaseback***").

SECTION 6.04. ***Investments, Loans and Advances***. Purchase, hold or acquire any Equity Interests, evidences of indebtedness or other securities of, make or permit to exist any loans or advances to, or make or permit to exist any other investment or any other interest in, any other person (it being understood and agreed that "investment" shall include any purchase, lease or other acquisition (in one transaction or a series of transactions) of all or substantially all of the assets of any other person or any line of business, unit or division of any other person), except:

(a) investments by Parent and its Subsidiaries existing on the Closing Date; *provided* that, other than with respect to investments in the Equity Interests of the Subsidiaries, investments pursuant to this clause in an aggregate amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.04;

(b) (i) investments made after the Closing Date among Loan Parties and (ii) investments made after the Closing Date by any Subsidiary that is not a Loan Party in any Loan Party or other Subsidiary; *provided* that (x) any loans or advances made to a Loan Party pursuant to this clause shall be unsecured and subordinated in right of payment to the Obligations and evidenced by the Intercompany Note and pledged to the Collateral Agent and/or the Security Trustee, for the benefit of the Secured Parties pursuant to the applicable Security Documents;

(c) investments made after the Closing Date by any Loan Party in any Subsidiary that is not a Loan Party (including any Guarantees by any Loan Party of any Indebtedness or other obligations of any Subsidiary that is not a Loan Party and any loans and advances made by any Loan Party to any Subsidiary that is not a Loan Party); *provided* that (i) at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom, (ii) the aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) of all investments outstanding pursuant to this clause shall not exceed $500,000 and shall be consistent with the Approved Budget in all respects and (iii) any loans or advances made pursuant to this clause shall be evidenced by the Intercompany Note and pledged to the Collateral Agent and/or the Security Trustee, for the benefit of the Secured Parties pursuant to the applicable Security Documents;

(d) [Reserved];

(e) [Reserved];

(f) Permitted Investments;

(g) Parent and the Subsidiaries may make loans and advances to their respective employees, officers and directors for payroll, moving, entertainment, travel and other similar expenses in the ordinary course of business in an amount not to exceed $500,000 at any time outstanding;

(h) [Reserved];

(i) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(j) [Reserved];

(k) promissory notes or other investments received as consideration, or retained, in connection with sales or other dispositions of assets, including any Asset Sale permitted pursuant to Section 6.05;

(l) investments by Parent and the Subsidiaries consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business and payable or dischargeable in accordance with customary trade terms and, in each case, consistent with the Approved Budget;

(m) Guarantees constituting Indebtedness permitted by Section 6.01 (other than Guarantees by any Loan Party of any obligations of any person that is not a Loan Party);

(n) [Reserved];

(o) [Reserved];

(p) Hedging Agreements to the extent permitted by Section 6.01(b);

(q) investments resulting from pledges or deposits described in Sections 6.02(f) and 6.02(g);

(r) any Guarantee (i) entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision), (ii) under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Subsidiary is a party or is subject to; provided that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13, and/or (iii) given in order to comply with obligations under workers' compensation, unemployment insurance and other social security legislation, in each case incurred in the ordinary course of business; and

(s) any declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in section 2:403 of the Dutch Civil Code.

SECTION 6.05. ***Mergers, Consolidations and Sales of Assets***. (a) Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of Parent and the Subsidiaries (whether now owned or hereafter acquired) or less than all the Equity Interests of any Subsidiary (in each case including by LLC Division), except that:

(i) Parent and any Subsidiary may purchase and sell inventory in the ordinary course of business; and

(ii) if at the time thereof and immediately after giving effect thereto no Event of Default or Default shall have occurred and be continuing and consistent with the Approved Budget, (A) any Subsidiary may merge into the Borrower in a transaction in which the Borrower is the surviving corporation and the Borrower's jurisdiction of incorporation shall remain the same as immediately prior to such merger and (B) any Subsidiary may sell, transfer, lease or otherwise dispose of all or substantially all of its assets (including upon a voluntary liquidation or dissolution of such Subsidiary) to the Borrower.

(b) Engage in any Asset Sale (including any LLC Division) not otherwise prohibited by Section 6.05(a), except for any dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of Parent or any Subsidiary.

SECTION 6.06. ***Dividends and Distributions; Restrictions on Ability of Subsidiaries to Pay Dividends***.

(a) Declare or pay, directly or indirectly, any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any Equity Interests of Parent or any Subsidiary or directly or indirectly make any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of (or permit any Subsidiary to purchase or acquire) any Equity Interests of Parent or any Subsidiary or set aside any amount for any such purpose or incur any obligation (contingent or otherwise) to do so (any of the foregoing, a "***Restricted Payment***"); *provided* that any Subsidiary may declare and pay dividends or make other distributions ratably to its equity holders.

(b) Enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (i) the ability of any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure any Obligation, or (ii) the ability of any Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to Parent or any other Subsidiary or to Guarantee any Obligation of Parent or any other Subsidiary; *provided* that (A) the foregoing shall not apply to restrictions and conditions imposed by law, the Orders or by any Loan Document, (B) the foregoing shall not apply to restrictions and conditions in any Pre-Petition First Lien Loan Document as in effect on the date hereof, (C) the foregoing shall not apply to

restrictions and conditions imposed on any Subsidiary that is not a Loan Party by the terms of any Indebtedness of such Subsidiary permitted to be incurred hereunder, (D) clause (i) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (E) clause (i) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (F) the foregoing shall not apply to customary restrictions on cash or other deposits or net worth required by customers under contracts entered into in the ordinary course of business and consistent with the Approved Budget if such provisions apply only to the Person (and the equity interests in such Person) that is the subject thereof and (G) the foregoing shall not apply to customary restrictions and conditions contained in any agreement relating to any Asset Sale (or other disposition of assets) permitted under this Agreement pending the consummation of such Asset Sale (or other disposition of assets).

SECTION 6.07. ***Transactions with Affiliates***. Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates other than (a) transactions on terms and conditions (taken as a whole) not materially less favorable to Parent or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties; provided that such restriction shall not apply to any transaction between or among Loan Parties, and (b) to the extent constituting transactions with Affiliates that would otherwise be prohibited under this Section 6.07: (i) transactions between or among Subsidiaries that are not Loan Parties, to the extent otherwise permitted under Section 6.04 and not involving another Affiliate, (ii) loans or advances to employees, officers and directors permitted under Section 6.04(g), (iii) the payment of reasonable fees to directors of Parent or any Subsidiary who are not employees of Parent or any Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of Parent or the Subsidiaries in the ordinary course of business and consistent with the Approved Budget, (iv) Parent may issue and sell Qualified Capital Stock to its Affiliates (other than the Borrower and the Subsidiaries), (v) transactions permitted under Sections 6.01 and 6.06 and (vi) Parent and the Subsidiaries may perform their respective obligations under the arrangements existing on the Closing Date and specified in Schedule 6.07.

SECTION 6.08. ***Business of Parent and Subsidiaries***. Engage at any time in any business or business activity other than the Related Business.

SECTION 6.09. ***Other Indebtedness and Agreements***. (a) Permit any (i) waiver, supplement, modification, amendment, termination or release of any indenture, instrument or agreement pursuant to which any Indebtedness of Parent or any Subsidiary is outstanding if the effect of such waiver, supplement, modification, amendment, termination or release would materially increase the obligations of the obligor or confer additional material rights on the holder of such Indebtedness in a manner adverse to Parent, any Subsidiary, any Agent or the Lenders (it being understood that any amendment to the Pre-Petition First Lien Credit Agreement or any other loan document in respect thereof shall be deemed to be adverse to Parent, any Subsidiary, any Agent or any Lender for purposes of this clause (a)(i) unless such amendments are permitted under the terms of the DIP Intercreditor Agreement or any Order); *provided* that nothing herein shall prohibit any supplement, modification or amendment of any indenture, instrument or agreement solely in relation to, or solely for the purpose of, issuing or

otherwise incurring new Indebtedness that is not prohibited under Section 6.01, (ii) waiver, supplement, modification, amendment, termination or release of any Subordinated Loan Document that (x) results in the Subordinated Indebtedness provided or evidenced thereby no longer complying with the definition of "Subordinated Indebtedness", or (y) would materially increase the obligations of the obligor or obligors thereunder or confer additional material rights on the holder or holders of such Subordinated Indebtedness in a manner materially adverse to Parent, any of the Subsidiaries or the Lenders, (iii) amendment or modification of any Pre-Petition First Lien Loan Document in contravention of the DIP Intercreditor Agreement, (iv) waiver, supplement, modification or amendment of Organization Documents, to the extent any such waiver, supplement, modification or amendment under this clause (iv) would be adverse to the Lenders in any material respect (as determined in good faith by Parent and reasonably acceptable to the Administrative Agent), (v) waiver, supplement, modification or amendment to any Intelsat Agreement without the consent of the Required IC Lenders (in their sole discretion), (vi) without the consent of Greenhill (who (A) shall have been provided not less than two Business Days' prior written notice (it being understood that Greenhill shall have no obligation to consent to any such request and any failure to respond shall not be deemed to be a consent thereof), (B) shall have been kept reasonably apprised by the Borrower's financial advisors of the material events and circumstances leading up to such request and (C) may solicit direction in connection therewith from the Required IC Lenders), enter into any payment plans and/or settlements (including the extension of any time periods for payment) with respect to past due amounts owed to any suppliers or owing from customers, or any other restructuring of any supplier or customer relationship (including any amendment, waiver or modification of any supplier or customer contract), in each case, outside the ordinary course of business; *provided* that the foregoing clause (vi) shall apply only with respect to agreements or transactions involving (I) the top twenty customers based on total revenues during the trailing twelve month period ending as of the most recently ended fiscal month, (II) payment plans and/or settlements that shall create a variance in receipts in excess of $500,000 for the forecast period ending December 31, 2020 or December 31, 2021, (III) the top ten (10) bandwidth and service providers during the trailing twelve month period ending as of the most recently ended fiscal month and (IV) vendors with outstanding amounts greater than $750,000 for Parent and its Subsidiaries taken as a whole, (vii) modify any obligations owed by any Loan Party or any Subsidiary to any supplier, service provider or other vendor in a manner that causes such obligations to constitute Indebtedness that would be pari passu with or senior to (including with respect to lien, payment and structural priority) the Obligations or the Pre-Petition First Lien Obligations, except as expressly consented to in writing (including by email) by the Required Lenders and the Required IC Lenders or (viii) make, enter into or implement any amendment, waiver, supplement or other modification to any employment agreement or employee compensation plan, in each case solely to the extent such agreement or compensation plan relates to a Key Employee or Director, or the payment of any amount contemplated by such agreements or plans before the date on which such amount becomes due and payable pursuant to the terms of the such agreements or plans, as applicable, or the payment of any bonus, incentive, retention, severance, change of control or termination payments pursuant to the terms of such agreements or plans, as applicable, or the entry into any new employment agreement or employee compensation plan with any such Key Employee or Director.

(b) Make any distribution, whether in cash, property, securities or a combination thereof, in respect of, or pay, or commit to pay, or directly or indirectly redeem,

repurchase, retire or otherwise acquire for consideration, or set apart any sum for the aforesaid purposes, any Indebtedness that is unsecured or that is secured by Liens on any Collateral that are junior to the Liens securing the other Obligations or any Subordinated Indebtedness.

(c) Make any voluntary or optional payment or prepayment of any Indebtedness under the Pre-Petition First Lien Loan Documents.

(d) Permit any waiver, supplement, modification, amendment, termination or release of any agreement with any material customer or vendor.

SECTION 6.10. [Reserved]

SECTION 6.11. ***Fiscal Year***. Permit the fiscal year of any Loan Party to end on a day other than December 31.

SECTION 6.12. [Reserved].

SECTION 6.13. ***Certain Issuances of Equity Interests***. Issue any Equity Interest, except that (a) Parent may issue Equity Interests, to the extent not otherwise prohibited by or in violation of this Agreement; (b) with respect to any Subsidiary (and subject to any applicable requirements in Section 5.11 and the Agreed Security Principles), such Subsidiary may issue Equity Interests for stock splits, stock dividends and additional issuances of Equity Interests which do not decrease the percentage ownership in any class of Equity Interests of such issuing Subsidiary owned by any Loan Party or any other Subsidiary that owns Equity Interests in such issuing Subsidiary; provided that this clause (b) shall permit any such decrease in such percentage ownership in any class of Equity Interests of such issuing Subsidiary solely to the extent that such decrease is accompanied by a corresponding increase in the percentage ownership in such class of Equity Interests of such issuing Subsidiary owned by a Loan Party, which Equity Interests are pledged to secure the Obligations; (c) [reserved]; and (d) with respect to any Subsidiary that is not a Loan Party and none of the Equity Interests in which are owned by a Loan Party, such Subsidiary may issue Equity Interests to Parent or any other wholly owned Subsidiary.

SECTION 6.14. ***Sanctions-Compliant Repayment of Obligations***. Use, directly or indirectly, any funds or assets derived from or used in any activity, business, or transaction with a Sanctioned Person, in a Sanctioned Country, or that otherwise violates Sanctions, to repay or discharge any Obligations or any portion thereof, except to the extent that such activity, business, or transaction and such use of funds or assets would be lawful for a person required to comply with Sanctions.

SECTION 6.15. ***Budget Variance***. Parent will not permit with respect to each Budget Test Period as of the last day thereof, in each case as depicted in the Approved Budget (i) the negative variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual cash receipts received by the Loan Parties and the other Subsidiaries that corresponds to the line items in the Approved Budget under the headings "Customer receipts" (excluding dividends from the Government Business and "Total Receipts," in each case, to exceed 10%, (ii) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other

Subsidiaries that correspond to the line items in the Approved Budget under the heading "Bandwidth payments" to exceed 10%, (iii) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Total Disbursements" (excluding "Bandwidth Payments" and "Capex") to exceed 10%, (iv) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Capex" to exceed 10% and (v) solely for the Cumulative Budget Test Period, the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Professional Fees" to exceed 10%.

SECTION 6.16. ***Liquidity***. Commencing with the fiscal month ending April 30, 2020, permit Liquidity to be less than $10,000,000 (a) as of the last day of each fiscal month of Parent or (b) for a period of 3 consecutive days or more in any fiscal month.

SECTION 6.17. ***Subsidiaries***. Parent shall not and will not permit any of its Subsidiaries to form, create or acquire any Subsidiary without the prior written consent of the Required Lenders.

SECTION 6.18. ***Additional Bankruptcy Matters***. Parent shall not, and will not permit any of its Subsidiaries to:

(a) assert or prosecute any claim or cause of action against any of the Secured Parties (in their capacities as such), unless such claim or cause of action is in connection with the enforcement of the Loan Documents against the Administrative Agent or the Lenders;

(b) subject to the terms of the Interim Order or the Final Order, as applicable, object to, contest, delay, prevent or interfere with in any material manner the exercise of rights and remedies by the Administrative Agent, the Collateral Agent, the Security Trustee or the Lenders with respect to the Collateral following the occurrence of an Event of Default (provided that any Loan Party may contest or dispute whether an Event of Default has occurred); or

(c) make any payment or distribution on account of any Pre-Petition First Lien Obligations or any other Indebtedness or obligation arising prior to the Petition Date except (x) as (i) expressly provided or permitted hereunder (including to the extent pursuant to any "first day" or "second day" orders complying with the terms of this Agreement) or (ii) provided pursuant to any other order of the Bankruptcy Court acceptable to the Required IC Lenders and the Required Lenders and (y) in each case with the prior consent of the Required IC Lenders and the Required Lenders in their sole discretion following delivery of a report covering such payments in form and scope reasonably satisfactory to the Required IC Lenders.

ARTICLE VII

Events of Default

SECTION 7.01. ***Events of Default.*** In case of the happening of any of the following events ("***Events of Default***"):

(a) any representation or warranty made or deemed made in or in connection with any Loan Document or the borrowings, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished in connection with or pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(b) default shall be made in the payment of any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on (or premium with respect to) any Loan or any other amount (other than an amount referred to in (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of two (2) Business Days;

(d) default shall be made in the due observance or performance by Parent or any Subsidiary of any covenant, condition or agreement contained in Section 2.25, 5.01(a), 5.04(i), 5.04(j), 5.04(k), 5.04(l), 5.04(m), 5.05, 5.08, 5.12, 5.14, 5.16 or 5.19 or in Article VI;

(e) default shall be made in the due observance or performance by Parent or any Subsidiary of any covenant, condition or agreement contained in any Loan Document (other than those specified in (b), (c) or (d) above) and such default shall continue unremedied for a period of fifteen days (or, in the case of Sections 5.04(a) and **Error! Reference source not found.**, five days) after the earlier of (i) notice thereof from the Administrative Agent or the Required Lenders to Parent and (ii) any Loan Party becoming aware of such default;

(f) the Borrower, Parent or any Subsidiary shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness in a principal amount in excess of the Threshold Amount, when and as the same shall become due and payable (other than the Obligations and any Indebtedness of any Debtor that was incurred prior to the Petition Date that is (A) required to be paid under the Bankruptcy Code or pursuant to an Order of the Bankruptcy Court and (B) subject to the automatic stay applicable under section 362 of the Bankruptcy Code) or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness or any other event or condition occurs, in any such case of this clause (ii), if the effect thereof is to cause, or to enable or permit the holder or holders of such Indebtedness or a trustee or other agent or representative on its or their behalf (with or without the giving of notice, the lapse of time or both) to cause, such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity; *provided* that subclause (ii) above shall not apply to secured Indebtedness that becomes due as a result of the

voluntary sale or transfer of the property or assets securing such Indebtedness in a transaction expressly permitted by the Loan Documents;

(g) other than the Cases, an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of Parent or any Subsidiary, or of a substantial part of the property or assets of Parent or a Subsidiary, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management or similar law (including under the laws of Australia), (ii) the appointment of a receiver, judicial manager, trustee, examiner, administrator, custodian, sequestrator, conservator, liquidator, manager or similar official for Parent or any Subsidiary or for a substantial part of the property or assets of Parent or any Subsidiary, (iii) the winding-up, dissolution or liquidation of Parent or any Subsidiary; and such proceeding or petition shall continue undismissed for sixty days or an order or decree approving or ordering any of the foregoing shall be entered, or (iv) a composition, assignment or arrangement with any creditor of any member of the Group;

(h) other than the Cases, Parent or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management, scheme of arrangement or similar law (including under the laws of Australia), (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in (g) above, (iii) apply for or consent to the appointment of a receiver, judicial manager, administrator, examiner, trustee, custodian, sequestrator, conservator, liquidator, manager or similar official for Parent or any Subsidiary or for a substantial part of the property or assets of Parent or any Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due or (vi) take any action for the purpose of effecting any of the foregoing;

(i) other than as a result of the commencement of the Cases, Parent or any Subsidiary incorporated or organized under the laws of Australia (x) is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due; or (y) suspends making payments on any of its debts (other than any debts in respect of the Indebtedness of any Debtor that was incurred prior to the Petition Date and subject to the automatic stay applicable under section 362 of the Bankruptcy Code);

(j) one or more judgments arising after the Petition Date for the payment of money the aggregate amount is in excess of the Threshold Amount (to the extent not covered by insurance provided by an insurer that is not an Affiliate of Parent, with respect to which coverage has been acknowledged by such insurer) shall be rendered against Parent, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of forty-five consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of Parent or any Subsidiary to enforce any such judgment;

(k) a moratorium shall have taken effect by operation of law or shall have been declared in respect of any Indebtedness of any Loan Party incorporated or registered in Singapore;

(l) any Loan Party shall have been declared by the Minister of Finance of Singapore to be a company to which Part IX of the Singapore Companies Act applies;

(m) an ERISA Event shall have occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, has had or could reasonably be expected to result in a Material Adverse Effect;

(n) (i) any Loan Document or any Guarantee under any of the Loan Documents for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall deny in writing that it has any further liability under any Loan Document to which it is a party (other than as a result of the discharge of such Guarantor in accordance with the terms of the Loan Documents) or (ii) any Loan Party shall fail to comply with the terms of any Intercreditor Agreement in any material respect or any such document for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall so assert;

(o) any security interest purported to be created by any Security Document shall cease to be, or shall be asserted by the Borrower or any other Loan Party not to be, a valid, perfected, first priority (except as otherwise expressly provided in this Agreement or such Security Document or the Orders) security interest in the securities, assets or properties covered thereby with a fair market value in excess of $500,000, except as a result of the release of a Loan Party or the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents;

(p) there shall have occurred a Change of Control;

(q) any subordinated Indebtedness of Parent or any Subsidiary (including any Subordinated Indebtedness) shall cease (or any Loan Party or an Affiliate of any Loan Party shall so assert), for any reason, to be validly subordinated to the Obligations as required pursuant to the Loan Documents and as provided, to the extent applicable, in the Subordinated Indebtedness Documents related thereto or other definitive documents evidencing such subordinated Indebtedness;

(r) any of the following shall occur:

(i) any of the Cases of the Loan Parties shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code;

(ii) (A) a trustee, responsible officer or an examiner having expanded powers (beyond those set forth under sections 1106(a)(3) and (4) of the Bankruptcy Code) (other than a fee examiner) is appointed or elected in the any of the Cases, (B) any Loan Party applies for, consents to, supports, acquiesces in or fails to promptly oppose, any such appointment or (C) the Bankruptcy Court shall have entered an order providing for such appointment;

(iii) an order of the Bankruptcy Court shall be entered denying or terminating use of Cash Collateral by the Loan Parties and the Loan Parties shall have not obtained use of Cash Collateral pursuant to an order consented to by, and in form and substance acceptable to, the Required IC Lenders and the Required Lenders;

(iv) any Pre-Petition First Lien Lender shall have exercised any remedy under the Pre-Petition First Lien Loan Documents;

(v) any Loan Party, or any person on behalf of any Loan Party, shall file a motion or other pleading seeking, or otherwise consenting to, any of the matters set forth in clauses (i) through (iii) above or the granting of any other relief that if granted would give rise to an Event of Default;

(vi) any Loan Party or any of its Subsidiaries, or any person claiming by or through any Loan Party or any of its Subsidiaries shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding against (A) the Administrative Agent or any of the Lenders relating to the DIP Term Facility, or (B) the Pre-Petition First Lien Agents or any Pre-Petition First Lien Lender, in each case other than, with respect to a Loan Party, in the case of a Person that has obtained an order from the Bankruptcy Court, over the objection of the Loan parties, granting such Person derivative standing to commence, join in, assist or otherwise participate as an adverse party;

(s) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court authorizing (i) any claims or charges, other than in respect of the DIP Term Facility and the Carve-Out or as otherwise permitted under the applicable Loan Documents or the Orders, entitled to superpriority administrative expense claim status in any chapter 11 case pursuant to section 364(c)(1) of the Bankruptcy Code that are pari passu with or senior to the claims of the Administrative Agent and the Lenders under the DIP Term Facility, or there shall arise or be granted by the Bankruptcy Court any claim having priority over any or all administrative expenses of the kind specified in clause (b) of section 503 or clause (b) of section 507 of the Bankruptcy Code (other than the Carve-Out), or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Loan Documents or in the Order then in effect (but only in the event specifically consented to by the Administrative Agent and the Required IC Lenders), whichever is in effect;

(t) the Bankruptcy Court shall enter an order or orders granting relief from any stay of proceeding (including, the automatic stay applicable under section 362 of the Bankruptcy Code to the holder or holders of any security interest) to (i) permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of any of the Loan Parties or (ii) permit other actions that would have a Material Adverse Effect on the Loan Parties or their estates (taken as a whole);

(u) an order of the Bankruptcy Court shall be entered reversing, amending, supplementing, staying, vacating or otherwise amending, supplementing or modifying the Interim Order or the Final Order, or a Loan Party files an application, motion or other pleading

seeking such entry of such an order or supports or fails to promptly oppose such an order, in each case without the prior written consent of the Required IC Lenders or the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent);

(v) the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date) shall cease to create a valid and perfected Lien on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment (and subject to Section 9.08), without prior written consent of the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent);

(w) an order shall have been entered by the Bankruptcy Court avoiding or requiring disgorgement by any of the Agents or any of the Lenders of any amounts received in respect of the Obligations;

(x) an order shall have been entered by the Bankruptcy Court terminating or modifying the exclusive right of any Loan Party to file a chapter 11 plan pursuant to section 1121 of the Bankruptcy Code, without the prior written consent of the Required IC Lenders and the Required Lenders;

(y) any of the Loan Parties shall fail to comply with a material provision of the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date);

(z) an order in the Cases shall be entered charging any of the Collateral (as defined herein and in the Pre-Petition First Lien Credit Agreement) under section 506(c) of the Bankruptcy Code against the Lenders or the Pre-Petition First Lien Lenders, or the commencement of other actions in any of the Cases that are (x) materially adverse to Agents or the Lenders or inconsistent with any of the Loan Documents or (y) materially adverse to Pre-Petition Agents or Pre-Petition First Lien Lenders or inconsistent with any of the Pre-Petition First Lien Loan Documents;

(aa) any order shall be entered which dismisses any of the Cases of the Loan Parties and which order does not provide for payment in full in cash of the Obligations under the Loan Documents (other than contingent indemnification obligations not yet due and payable), or any of the Loan Parties and their Subsidiaries shall seek, support or fail to contest in good faith the entry of any such order;

(bb) failure to satisfy any of the Milestones in accordance with the terms relating to such Milestone (unless waived or extended with the consent of the Required IC Lenders);

(cc) any Loan Party or any Subsidiary thereof shall take any action in support of any matter set forth in this Section 7.01 or any other Person shall do so and such action is not contested in good faith by the Loan Parties and the relief requested is granted in an order that is not stayed pending appeal;

(dd) any Loan Party or any Subsidiary thereof shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding seeking, or otherwise consenting to (i) the invalidation, subordination or other challenging of the Superpriority Claims and Liens granted to secure the Obligations or any other rights granted to the Agents and the Lenders in the Orders or this Agreement or (ii) any relief under section 506(c) of the Bankruptcy Code with respect to any Collateral;

(ee) any Loan Party shall challenge, support or encourage a challenge of any payments made to any Agent or any Lender with respect to the Obligations or any Pre-Petition First Lien Agent or any Pre-Petition First Lien Lender with respect to the Pre-Petition First Lien Obligations, other than to challenge the occurrence of a Default or Event of Default;

(ff) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the filing of any motion by the Loan Parties seeking approval of (or the entry of an order by the Bankruptcy Court approving) adequate protection to any pre-petition agent, trustee or lender that is inconsistent with the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date);

(gg) without Administrative Agent's, the Required IC Lenders' and the Required Lenders' consent, the entry of any order by the Bankruptcy Court granting, or the filing by any Loan Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court (in each case, other than the Orders and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's, the Required IC Lenders' and the Required Lenders' consent or to obtain any financing under section 364 of the Bankruptcy Code other than the facility hereunder unless such motion or order contemplates payment in full in cash of the Obligations immediately upon consummation of the transactions contemplated thereby;

(hh) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the filing of any motion by the Loan Parties or any person on behalf of any Loan Party seeking authority to consummate a sale of assets of the Loan Parties or the Collateral outside the ordinary course of business and not otherwise permitted hereunder;

(ii) if any Loan Party or any of its Subsidiaries is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any part of the business affairs of the Loan Parties and their Subsidiaries, taken as a whole, which could reasonably be expected to have a Material Adverse Effect; *provided* that the Loan Parties shall have two Business Days after the entry of such an order to obtain a court order vacating, staying or otherwise obtaining relief from the Bankruptcy Court or another court to address any such court order;

(jj) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the making by any Loan Party of any payment (whether by way of adequate protection or otherwise) of principal or interest or otherwise on account of any pre-petition Indebtedness or payables other than payments permitted under this Agreement to the extent authorized by one or more "first day" orders, the Interim Order or the Final Order,

consistent with the Approved Budget and approved by the Required IC Lenders in their sole discretion;

(kk) if, unless otherwise approved by the Administrative Agent, the Required IC Lenders and the Required Lenders, an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Cases and such order shall not be reversed or vacated within ten days;

(ll) without the Required IC Lenders' and the Required Lenders' consent, any Loan Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court seeking (i) to grant or impose, under section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior, equal or subordinate to the Agents' liens and security interests; (ii) to use, or seek to use, Cash Collateral; or (iii) to modify or affect any of the rights of the Agents, or the Lenders under the Orders or the Loan Documents, by any order entered in the Cases;

(mm) without the Required IC Lenders' and the Required Lenders' consent, any Loan Party shall file a motion seeking or take any action supporting a motion seeking, or the Bankruptcy Court shall enter an order in any of the Cases authorizing the sale of all or substantially all of the Loan Parties' assets (unless such order contemplates payment in full in cash of the Obligations upon the closing of such financing or consummation of such sale, whether pursuant to a plan of reorganization or otherwise);

(nn) the Borrower or other debtor in a chapter 11 case proposes or otherwise supports any plan of reorganization or sale process that is not permitted by the Approved Restructuring, without the Required IC Lenders' and the Required Lenders' consent; or

(oo) Any termination or rejection in any insolvency proceeding of any Intelsat Agreement without the consent of the Required IC Lenders;

then, and in every such event, and at any time thereafter during the continuance of such event, the Administrative Agent, with the consent of the Required Lenders may, and at the request of the Required Lenders shall, by notice to Parent, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower and the other Loan Parties accrued hereunder and under any other Loan Document, shall become forthwith due and payable and (iii) exercise on behalf of itself and the other Secured Parties all rights and remedies available to it and the Secured Parties under the Loan Documents, in each case, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by Parent and the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding.

Notwithstanding anything to the contrary herein, subject to the provisions of the Interim Order (and, when entered, the Final Order), (x) with respect to enforcement of Liens or remedies with respect to Collateral, the Administrative Agent shall provide the Borrower [five] Business Days'

notice prior to taking such action (in any hearing after the giving of such notice, the only issue that may be raised by any party in opposition thereto being whether, in fact, an Event of Default has occurred and is continuing (the "***Remedies Notice Period***")), and (y) after expiration of the Remedies Notice Period, the Administrative Agent shall, at the direction of the Required Lenders, (x) terminate the consensual use of Cash Collateral and (y) exercise all other rights and remedies provided for in this Agreement, the Security Documents, the Orders and under applicable law; *provided* that no such notice shall be required for any exercise of rights or remedies (A) to block or limit withdrawals from any bank accounts that are a part of the Collateral (including, without limitation, by sending any control activation notices to depositary banks pursuant to any control agreement or the equivalent action in any foreign jurisdiction) and (B) in the event of Obligations that have not been paid in full in cash (other than contingent indemnification obligations for which no claim has yet been made) on the applicable termination of the Loan Documents. During the Remedies Notice Period, the Debtors may continue to use Cash Collateral solely to fund (A) payroll and other expenses critical to keeping the business of the Loan Parties operating in accordance with the Approved Budget and (B) the Carve-Out. During the Remedies Notice Period, any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court, for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing and cash collateral may be used for this purpose during the Remedies Notice Period.

SECTION 7.02. ***Application of Proceeds***. Subject to the DIP Intercreditor Agreement and the Orders, the Agents shall apply (a) the proceeds of any collection, sale, foreclosure or other realization upon any Collateral, including any Collateral consisting of cash, (b) any amounts received in respect of the Obligations following the termination of the Commitments and any of the Loans becoming due and payable pursuant to Section 7.01 and (c) subject to the Carve-Outs, each prepayment of Loans pursuant to Sections 2.11, 2.12 and 2.13, in each case as follows:

FIRST, to the payment of all costs and expenses incurred by the Agents (in their respective capacities as such hereunder or under any other Loan Document) in connection with any collection, sale, foreclosure or realization or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by any Agent hereunder or under any other Loan Document on behalf of any Loan Party, any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document, any amounts for which any Agent (including for this purpose, the Pre-Petition First Lien Agents as provided in Section 8.01 and Section 9.05(b)) is entitled to indemnification, fees (including Agent Fees), or reimbursement of costs or expenses under the terms of any Loan Document, and any other Obligations owed to any of the Agents, in their respective capacities as such hereunder or under any other Loan Document;

SECOND, to the payment in full of all Obligations consisting of accrued and unpaid fees, indemnities and other amounts (other than principal and interest) payable to the Lenders;

THIRD, to the payment in full of all Obligations consisting of accrued and unpaid interest on the Loans (other than the Roll-Up Loans) ratably among the Lenders (other than Defaulting Lenders);

FOURTH, to the payment in full of all Obligations consisting of unpaid principal amount of the Loans (other than the Roll-Up Loans) and any premium thereon or breakage or termination fees, costs or expenses related thereto ratably among the Lenders (other than Defaulting Lenders);

FIFTH, to the payment in full of all Obligations consisting of accrued and unpaid interest on the Roll-Up Loans ratably among the Lenders (other than Defaulting Lenders);

SIXTH, to the payment in full of all Obligations consisting of unpaid principal amount of the Roll-Up Loans and any premium thereon or breakage or termination fees, costs or expenses related thereto ratably among the Lenders (other than Defaulting Lenders);

SEVENTH, ratably to the payment in full of all Obligations owing to the Defaulting Lenders;

EIGHTH, to the payment in full of all other Obligations;

NINTH, ratably to payment of any superpriority adequate protection claims of the Pre-Petition First Lien Agents;

TENTH, to the payment of the Pre-Petition First Lien Obligations in accordance with the terms of the Pre-Petition First Lien Loan Documents; and

ELEVENTH, to the Borrower, its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Agents shall have absolute discretion as to the time of application of any such proceeds, moneys, balances or amounts in accordance with this Agreement and the other Loan Documents. Upon any sale of Collateral by any Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of any Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to any Agent or such officer or be answerable in any way for the misapplication thereof.

ARTICLE VIII

The Agents, Etc.; Certain ERISA Matters

SECTION 8.01. ***The Administrative Agent, the Collateral Agent and the Security Trustee, Etc.***

In order to expedite the transactions contemplated by this Agreement, Credit Suisse AG, Cayman Islands Branch, is hereby irrevocably appointed to act as Administrative Agent, Collateral Agent and Security Trustee on behalf of each of the Lenders (for purposes of this Article VIII, the Administrative Agent, the Collateral Agent and the Security Trustee are referred to collectively as the "***Agents***"). Each of the Lenders and each assignee of any such Lender hereby irrevocably authorizes each of the Agents to take such actions on behalf of such Lender or assignee and to exercise such powers as are delegated to such Agent by the terms and provisions hereof and of the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including to negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement will be binding upon each Lender. Without limiting the generality of the foregoing, the Agents are hereby expressly authorized to (i) execute any and all documents (including releases) with respect to the Collateral, the Guarantees of the Obligations and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Security Documents, and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement will be binding upon each Lender.

It is understood and agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent, Collateral Agent or Security Trustee is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

None of the Agents shall have any duties or obligations except those expressly set forth in the Loan Documents, and each Agent's duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, (a) none of the Agents shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) none of the Agents shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08) and in the absence of such direction or consent, may refrain from taking any such discretionary actions or exercising such discretionary power; provided that none of the Agents shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law, and (c) except as expressly set forth in the Loan Documents, none of the Agents shall have any duty to disclose, nor shall it be liable for the failure to disclose, any information relating to Parent or any of the Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent, Collateral Agent and/or Security Trustee or any of its Affiliates in any capacity. None of the Agents shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary

under the circumstances as provided in Section 9.08) or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment. None of the Agents shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by Parent or a Lender. No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent. Each party to this Agreement acknowledges and agrees that the Agents may from time to time use one or more outside service providers for the tracking of all UCC or PPSA financing statements (and/or other collateral related filings and registrations from time to time) required to be filed or recorded pursuant to the Loan Documents and the notification to the Agents, of, among other things, the upcoming lapse or expiration thereof or (vi) any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of any Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith. No Agent shall be responsible or liable to the Secured Parties for any failure to monitor or maintain any portion of the Collateral. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless each Agent shall have received written notice to the contrary from such Lender prior to the making of such Loan.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper person. Each Agent may also rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Security Trustee's liability under this Agreement and the other Loan Documents is limited in the manner set out in the Security Trust Deed.

Each Agent may perform any and all its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by it. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. None of the Agents shall be responsible for the negligence or misconduct of any sub-agents, or any Related Parties of any sub-agents, except to the extent that a court of competent

jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Subject to the elapsing of the 30-day period for the appointment and acceptance of a successor Agent as provided below, any Agent may resign at any time by notifying the Lenders and Parent. Upon any such resignation, the Required IC Lenders and the Required Lenders shall have the right to appoint a successor, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval). If no successor shall have been so appointed by the Required IC Lenders and the Required Lenders as provided above and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the other Secured Parties, and with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), appoint a successor Agent. If no successor Agent has been appointed pursuant to the immediately preceding sentence by the 30th day after the date such notice of resignation was given by such Agent, such Agent's resignation shall become effective and the Required IC Lenders and the Required Lenders shall thereafter perform all the duties of such Agent hereunder and/or under any other Loan Document until such time, if any, as the Required IC Lenders and the Required Lenders appoint, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), a successor Administrative Agent, Collateral Agent and/or Security Trustee, as the case may be. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; *provided* that if no successor agent has been appointed pursuant to this paragraph by the 30th day after the date of such notice of resignation was given by such Agent, such resignation shall nonetheless become effective in accordance with such resignation notice, and the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by such Agent on behalf of the Secured Parties under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After an Agent's resignation hereunder, the provisions of this Article and Section 9.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while acting as Agent. Furthermore, notwithstanding anything to the contrary herein, (i) each successor Agent appointed pursuant to this paragraph shall be a nationally recognized commercial bank with an office in New York, New York and (ii) the consent of the Required Lenders under this paragraph shall require the consent of two or more unaffiliated Lenders if at any time there are three or more Lenders.

With respect to the Loans, each institution serving as an Agent hereunder (in its individual capacity and not as Agent) shall have the same rights and powers as any other Lender, and may exercise the same as though it were not an Agent, and the Agents and their Affiliates may accept deposits from, lend money to, act as financial advisor or in any other advisory capacity for, and generally engage in any kind of business with Parent or any Subsidiary or other Affiliate thereof as if it were not an Agent. The term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the person serving as an Agent hereunder in its individual capacity.

Each Lender agrees (a) to reimburse the Agents, on demand, in the amount of its pro rata share (based on its share of the sum of the outstanding Loans and unused Commitments at the time (in each case, determined as if no Lender were a Defaulting Lender)) of any costs and expenses incurred by the Agents in connection with the Loan Documents, the Escrow Agreement and the transactions contemplated by each of the foregoing, including reasonable counsel fees and compensation of agents and employees paid for services rendered on behalf of the Lenders, that shall not have been reimbursed by any Loan Party (and without limiting any such Loan Party's obligation to do so) and (b) to indemnify and hold harmless each Agent, each Pre-Petition First Lien Agent and any of their respective Related Parties, on demand, in the amount of such pro rata share thereof, from and against any and all liabilities, taxes, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by or asserted against it in its capacity as Agent or as Pre-Petition First Lien Agent or any of them in any way relating to or arising out of the Escrow Agreement, this Agreement or any other Loan Document or any action taken or omitted by it or any of them under the Escrow Agreement, this Agreement or any other Loan Document, to the extent the same shall not have been reimbursed by the Borrower or any other Loan Party (and without limiting the Borrower's or any such Loan Party's obligation to do so) (including the syndication of the credit facilities provided for herein and including, with respect to each Pre-Petition First Lien Agent, entry into, and actions taken in connection with, the Roll-Up, any Order, the DIP Documents, the DIP Intercreditor Agreement, and actions taken (or not taken) at the direction of Pre-Petition First Lien Lenders constituting at least the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement in connection with any of the foregoing); *provided* that no Lender shall be liable to an Agent or any such other indemnified person for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent or any of its directors, officers, employees or agents.

Each Lender acknowledges that it has, independently and without reliance upon the Agents or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement or any other Loan Document, any related agreement or any document furnished hereunder or thereunder.

Without limiting the foregoing, no Secured Party (other than the Agents) shall (i) have any right individually to realize upon or commence any remedial procedures with respect to any of the Collateral or to enforce any Guarantee of the Obligations or (ii) take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help) or with respect to any property of any Loan Party, unless expressly provided for herein or in any other Loan Document, without the prior written consent of the Administrative Agent; it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Agents on behalf of the Secured Parties in accordance with the terms thereof.

The Secured Parties hereby irrevocably authorize each Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) any Agent (whether by judicial action or otherwise) in accordance with any applicable law; *provided* that the Obligations of any regulated Lender may not be credit bid if such regulated Lender cannot comply with such applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase); *provided* that none of the Secured Parties shall be allowed to credit bid any of the Obligations independently and all such credit bids shall have to be submitted through, and administered by, an Agent (at the direction of the Required Lenders), as set forth herein. In connection with any such bid (i) each Agent shall be authorized to (x) form one or more acquisition vehicles to make a bid and (y) adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by any Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.08 of this Agreement) and (ii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relating to the Loan Documents relative to any Loan Party, each of the Agents (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on any Loan Party) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise: (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agents and their respective agents and counsel and all other amounts due the Lenders and the Agents under Sections 2.05 and 9.05) allowed in such judicial proceeding; and (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same. Any custodian, receiver, judicial manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, the Security Trustee and the Collateral Agent to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Security Trustee and the Collateral Agent, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.05 and 9.05. Nothing contained herein shall be deemed to authorize any Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize any Agent to vote in respect of the claim of any Lender in any such proceeding.

Each Agent is authorized and directed by each Lender to enter into each Intercreditor Agreement and any intercreditor, subordination, collateral trust or similar agreement (including any Intercreditor Agreement) contemplated hereby with respect to any Indebtedness (a) that is (i) required or permitted to be subordinated hereunder or (ii) secured by Liens pari passu with or junior to the Liens securing the Obligations and (b) which contemplates an intercreditor, subordination or collateral trust agreement (any such other intercreditor agreement, an "Additional Agreement"), and the Secured Parties party hereto acknowledge that any Intercreditor Agreement and any Additional Agreement is binding upon them. Each Secured Party hereto hereby (a) agrees that they will be bound by, and will not take any action contrary to, the provisions of any Intercreditor Agreement or any Additional Agreement and (b) authorizes and instructs each Agent to enter into any Intercreditor Agreement and any other Additional Agreement and to subject the Liens on the Collateral securing the Obligations and, as applicable, Guarantees of the Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrower, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Intercreditor Agreement and any other Additional Agreement.

Without limiting the general application of any other provision of this Section 8.01, upon the execution of the Security Trust Deed by the Security Trustee, each Secured Party, by its acceptance of any of the benefits of the Security Trust Deed and any Transaction Security Interest (as defined in the Security Trust Deed): (i) appoints the Security Trustee under the terms

of the Security Trust Deed to act as its agent and/or trustee under and in relation to any Transaction Security Interest (as defined in the Security Trust Deed) and to hold the assets subject to the security thereby created as agent and/or trustee for the Secured Parties on trust and on the terms contained in the Security Trust Deed and other applicable Loan Documents, (ii) authorizes the Security Trustee under the terms of the Security Trust Deed to exercise such rights, remedies, powers and discretions as are specifically delegated to Security Trustee by the terms of the Security Trust Deed and other applicable Loan Documents, together with all such rights, remedies, powers and discretions as are incidental thereto, and the Security Trustee hereby accepts that appointment, (iii) acknowledges that it has received a copy of, and is aware of and consents to the terms of, the Security Trust Deed, (iv) agrees to comply with and be bound by the Security Trust Deed as a Beneficiary (as defined in the Security Trust Deed), (v) acknowledges and agrees as specified in clause 3.12 (Independent investigation of credit) of the Security Trust Deed, and (vi) for consideration received, irrevocably appoints as its attorney each person who under the terms of the Security Trust Deed is appointed an attorney of a Beneficiary (as defined in the Security Trust Deed) on the same terms and for the same purposes as contained in the Security Trust Deed. This paragraph is executed as a deed poll in favor of Security Trustee and each Beneficiary (as defined in the Security Trust Deed) from time to time.

Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the foregoing provisions.

The provisions of this Section 8.01 are for the sole benefit of the Agents and their Related Parties and the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party (subject to any consent right of Parent expressly set forth in this Section 8.01 in connection with the resignation of any Agent with respect to the selection of any successor Agent).

SECTION 8.02. ***Certain ERISA Matters***.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans or the Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers),

is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless Section 8.02(a)(i) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in 8.02(a)(iv), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that:

(i) none of the Agents or any of its respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by any Agent under this Agreement, any Loan Document or any documents related to hereto or thereto);

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21, as amended from time to time) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least $50,000,000, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E);

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the obligations);

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder; and

(v) no fee or other compensation is being paid directly to the Administrative Agent or any of its respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Commitments or this Agreement.

(c) Each Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, arrangement fees, commitment fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE IX

Miscellaneous

SECTION 9.01. ***Notices***. Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or email, as follows:

(a) if to Parent or the Borrower, both:

(i) SpeedCast International Limited
2401 & 08-11 Dorset House, Taikoo Place
979 King's Road, Quarry Bay
Hong Kong
Attention: General Counsel
Email: Dominic.gyngell@speedcast.com
Fax: +852 3919 6880

(ii) SpeedCast International Limited
Unit 4F Level 1
12 Lord Street, Botany
NSW 2019, Sydney
Australia

Attention: Chief Financial Officer
Email: peter.myers@speedcast.com

(iii) Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: David N. Griffiths; Heather A. Viets
Email: david.griffiths@weil.com; heather.viets@weil.com

(b) if to the Administrative Agent, the Collateral Agent or the Security Trustee, to

Credit Suisse AG, Cayman Islands Branch
One Madison Avenue
New York, NY, 10010
Attention: Didier Siffer, Lawrence Park and Alexis D'Aversa
Email: Didier.Siffer@credit-suisse.com; lawrence.park@credit-suisse.com; alexis.daversa@credit-suisse.com); and

Skadden, Arps, Slate, Meagher & Flom LLP
One Manhattan West
New York, NY 10001
Attention: Steven Messina and George Howard
Email: Steven.Messina@skadden.com; George.Howard@skadden.com
Fax No.: +1 917 777 3509; +1 917 777 2367; and

(c) if to a Lender to it at its address (or email or fax number) set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender shall have become a party hereto.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if such day is a Business Day, otherwise on the first Business Day after receipt) if delivered by hand or overnight courier service or sent by fax or email or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01. As agreed to among Parent, the Administrative Agent and the applicable Lenders from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person for such purpose.

Parent and the Borrower hereby agree, unless directed otherwise by the Administrative Agent or unless the electronic mail address referred to below has not been provided by the Administrative Agent to Parent, that it will, or will cause the Subsidiaries to, provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Loan Documents or to the Lenders under

Article V including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (a) is or relates to a Borrowing Request, a Notice of Disbursement or a notice pursuant to Section 2.10, (b) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (c) provides notice of any Default or Event of Default under this Agreement or any other Loan Document or (d) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Borrowing or other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as "***Communications***"), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Administrative Agent to an electronic mail address as directed by the Administrative Agent. In addition, Parent and the Borrower agree, and agree to cause their Subsidiaries, to continue to provide the Communications to the Administrative Agent, the Collateral Agent, the Security Trustee or the Lenders, as the case may be, in the manner specified in the Loan Documents but only to the extent requested by the Administrative Agent.

The Borrower and Parent each hereby acknowledges that (a) the Administrative Agent and the other Agents will make available to the Lenders (or potential lenders) materials and/or information provided by or on behalf of the Borrower and Parent hereunder (collectively, the "***Borrower Materials***") by posting the Borrower Materials on SyndTrak, Intralinks or another similar electronic system (the "***Platform***") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to Parent, any of its subsidiaries or their respective securities) (each, a "***Public Lender***"). The Borrower and Parent each hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (ii) by marking Borrower Materials "PUBLIC," the Borrower and Parent shall be deemed to have authorized the Agents and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Parent, its subsidiaries or their respective securities for purposes of foreign, United States federal and state securities laws (*provided* that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.17); (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor"; and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor". Notwithstanding the foregoing, the following Borrower Materials shall be marked "PUBLIC" (or deemed to be marked "PUBLIC"), unless Parent notifies the Administrative Agent reasonably in advance of the intended distribution that any such document contains material non-public information: (A) the Loan Documents, (B) notification of changes in the terms of the credit facilities provided for herein and (C) all financial statements, reports and certificates delivered pursuant to Sections **Error! Reference source not found.**(a), (a), and **Error! Reference source not found.** (it being understood that such financial statements, reports and certificates shall nevertheless constitute "Information").

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate,

in accordance with such Public Lender's compliance procedures and applicable law, including foreign, United States federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to Parent, its subsidiaries, or their respective securities for purposes of foreign, United States federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND, IN ANY CASE, SUBJECT TO SECTION 9.05(b).

The Administrative Agent agrees that the receipt of the Communications by it at its e-mail address set forth above shall constitute effective delivery of the Communications to it for purposes of the Loan Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address.

Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 9.02. ***Survival of Agreement.*** All covenants, agreements, representations and warranties made by Parent or the Borrower herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the making by the Lenders of the Loans, regardless of any investigation made by the

Lenders or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any Fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid and so long as the Commitments have not been terminated. The provisions of Sections 2.14, 2.16, 2.20 and 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender.

SECTION 9.03. ***Binding Effect.*** This Agreement shall become effective when it shall have been executed by each of Parent, the Borrower, the Lenders as of the Closing Date and the Agents, and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

SECTION 9.04. ***Successors and Assigns.*** (a) Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of Parent, the Borrower, the Agents or the Lenders that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

(b) Each Lender may assign to one or more assignees (other than any Ineligible Assignee) all or a portion of its interests, rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); *provided* that (x) the Administrative Agent and, after the Syndication End Date, Parent (unless an Event of Default shall have occurred and be continuing) must give their prior written consent to such assignment (which consent shall not be unreasonably withheld, delayed or conditioned (it being understood and agreed that (1) Parent's withholding of consent to any assignment to a competitor of Parent or any Subsidiary shall not be considered to be unreasonably withheld (it being understood that no Lender, Affiliate of a Lender or an Approved Fund of Lender shall be considered a competitor for purposes of this clause (1)), (2) Parent shall be deemed to have consented to any assignment of Loans unless it shall object thereto by written notice to the Administrative Agent within five Business Days after having received notice thereof) and (3) no consent of Parent or the Administrative Agent shall be required with respect to an assignment of Loans to a Lender or the Agents or an Affiliate of a Lender or the Agents or an Approved Fund of a Lender and (y) the amount of the Commitment or Loans, as applicable, of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 (and shall be in an integral multiple thereof), (i) the parties to each such assignment shall electronically execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance), and, in each case, other than assignments occurring on or prior to the Syndication End Date, shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced at the sole discretion of the Administrative Agent and waived for purposes of effectuating any master assignment and assumption agreement or similar agreement entered into in connection the

fronting any the Loans and Commitments on behalf of the Lenders), and (ii) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire (in which the assignee shall designate one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws) and all applicable tax forms. For purposes of this Section 9.04(b), the term "***Approved Fund***" shall mean, with respect to any Lender that is a fund or other investment vehicle that invests in bank loans, any other fund or other investment vehicle that invests in bank loans which is managed or advised by the same investment advisor/manager as such Lender or by an Affiliate of such investment advisor/manager. Upon acceptance and recording pursuant to clause (e) of this Section 9.04, from and after the effective date specified in each Assignment and Acceptance, which effective date shall be at least five Business Days after the execution thereof (or such earlier date to which the Administrative Agent may agree in its sole discretion), (A) the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and (B) the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.16, 2.20 and 9.05, as well as to any Fees accrued for its account and not yet paid).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim, (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of Parent or any Subsidiary or the performance or observance by Parent or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee represents and warrants that it is not an Ineligible Assignee and that it is legally authorized to enter into such Assignment and Acceptance; (iv) such assignee represents and warrants that it is not the subject of any Sanctions; (v) such assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05 or delivered pursuant to Section 5.04 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (vi) such assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, the Security Trustee, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vii) such assignee appoints and authorizes the Administrative Agent, the Collateral Agent and the Security Trustee to take such action as agent and/or trustee on its behalf and to exercise such powers under this Agreement as are delegated to

the Administrative Agent, the Collateral Agent and the Security Trustee, respectively, by the terms hereof, together with such powers as are reasonably incidental thereto; and (viii) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in The City of New York a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive absent manifest error and Parent, the Borrower, the Administrative Agent, the Collateral Agent, the Security Trustee and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Parent, the Borrower, the Collateral Agent, the Security Trustee and any Lender (but only in respect of such Lender's name and the amount of its Loans and Commitments), at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) above and, if required, the written consent of Parent and the Administrative Agent to such assignment and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective unless it has been recorded in the Register as provided in this clause (e).

(f) (i) Each Lender may without the consent of Parent or the Borrower or the Administrative Agent sell participations to one or more banks or other entities (other than any Ineligible Assignee) in all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement and the other Loan Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating banks or other entities shall be entitled to the benefit of the cost protection provisions contained in Sections 2.14, 2.16, 2.20 and 2.21 to the same extent as if they were Lenders (but, with respect to any particular participant, to no greater extent than the Lender that sold the participation to such participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the participant acquired the applicable participation) and (iv) Parent, the Borrower, the Agents and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents, and such Lender shall retain the sole right to enforce the obligations of Parent and the Borrower relating to the Loans and to approve any amendment, modification or waiver of any provision of this Agreement (other than amendments, modifications or waivers decreasing any fees payable to such participating bank or person hereunder or the amount of principal of or the rate at which interest is payable on the Loans in which such participant bank or person has an interest, extending any scheduled principal payment date or date fixed for the payment of interest on the

Loans in which such participant bank or person has an interest, changing the currency in which any amount is denominated that is required to be funded or paid under the Loan Documents (solely with respect to any Loans or Commitments in which such participant bank or person has an interest), releasing any Guarantor (other than in connection with the sale of such Guarantor in a transaction permitted by Section 6.05) or all or substantially all of the Collateral or increasing or extending the Commitments in which such participant bank or person has an interest).

(ii) Each Lender that sells a participation and each Granting Lender shall, acting solely for this purpose as a non-fiduciary agent of Parent and the Borrower, maintain a register on which it enters the name and address of each participant and SPC, as applicable, and the principal amounts (and stated interest) of each participant's and SPC's, as applicable, interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"), which entries shall be conclusive absent manifest error; *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any person except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(g) Any Lender or participant may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 9.04, disclose to the assignee or participant or proposed assignee or participant any information relating to Parent or the Borrower furnished to such Lender by or on behalf of Parent or the Borrower; *provided* that, prior to any such disclosure of Information (as defined in Section 9.17) which Information is confidential pursuant to Section 9.17, each such assignee or participant or proposed assignee or participant shall execute an agreement whereby such assignee or participant shall agree (subject to customary exceptions) to preserve the confidentiality of such confidential information on terms no less restrictive than those applicable to the Lenders pursuant to Section 9.17.

(h) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to a natural Person) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a U.S. Federal Reserve Bank or other central banking authority, *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(i) No Borrower shall assign or delegate any of its rights or duties hereunder without the prior written consent of the Administrative Agent and each Lender, and any attempted assignment without such consent shall be null and void.

(j) Notwithstanding anything to the contrary contained herein, any Lender (a "***Granting Lender***") may grant to a special purpose funding vehicle (an "***SPC***"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and Parent, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement;

provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, (i) any SPC may (x) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (y) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC, and (ii) the protections afforded to any SPC pursuant to the provisions of this Section 9.04(j) may not be amended or modified without the written consent of such SPC.

(k) [Reserved].

(l) The parties acknowledge and agree that (i) where this Agreement (including the Schedules and Exhibits thereto) or any Assignment and Acceptance Agreement would otherwise operate as an assignment of a debt due from the Borrower, there shall not be an assignment of such debt; (ii) the transaction shall for all purposes take effect as a loan under this Agreement to the Borrower made by the Lender which, but for this clause, would have been an assignee of such debt ("***Incoming Lender***") of an amount equal to the outstanding debt which would, but for this clause, have been assigned; (iii) the Borrower shall for all purposes be treated by the parties hereto as having directed the Incoming Lender to pay the amount of that loan to the Lender, which but for this clause, would have been the assignor of such debt; (iv) all references in this Agreement (including the Schedules and Exhibits hereto) and any Assignment and Acceptance Agreement will be construed accordingly; and (v) to the extent that the assignment also operates to assign any rights or interests which are not a debt due from the Borrower, the assignment shall, to that extent, take effect in accordance with its terms.

SECTION 9.05. ***Expenses; Indemnity***. (a) The Borrower agrees to pay all (i) reasonable and documented out-of-pocket expenses incurred by each Agent, the Escrow Agent, the Ad Hoc Group of Lenders, any Receiver and each Affiliate of the foregoing persons in connection with the structuring, documentation, negotiation, arrangement and syndication of the credit facilities provided for herein and the preparation and administration of the Escrow Agreement, this Agreement and the other Loan Documents, in connection with any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions hereby or thereby contemplated shall be consummated) and the transactions contemplated

thereby, including the reasonable and documented fees, charges and disbursements of (1) Davis Polk and Skadden or other primary counsel for the Lenders and the Agents, (2) KWM, or other Australian counsel for the Lenders and Agents, (3) Stroock & Stroock & Lavan LLP, or other special counsel for the Lenders and the Agents, (4) Greenhill and other Ad Hoc Lender Advisors, (5) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (6) a firm of local counsel in each other relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents and (ii) all documented out-of-pocket expenses incurred by the Ad Hoc Group of Lenders, the Administrative Agent, the Collateral Agent, the Security Trustee, the Escrow Agent, any Receiver, or any Lender in connection with the enforcement or protection of their rights in connection with the Escrow Agreement, this Agreement and the other Loan Documents or in connection with the Loans made, including the reasonable and documented fees, charges and disbursements of (1) Davis Polk and Skadden or other primary counsel for the Lenders and the Agents, (2) KWM, or other Australian counsel for the Lenders and Agents, (3) Stroock & Stroock & Lavan LLP, or other special counsel for the Lenders and the Agents, (4) Greenhill and other Ad Hoc Lender Advisors, (5) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (6) one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents.

(b) The Borrower agrees to indemnify the Ad Hoc Group of Lenders, the Administrative Agent, the Collateral Agent, the Security Trustee, the Escrow Agent, any Receiver, each Lender, each Pre-Petition First Lien Agent (solely with respect to clause (i) below), each Affiliate of any of the foregoing persons and each of their respective directors, officers, employees, agents, trustees, members, partners, representatives, advisors and successors and assigns (each such person being called an "***Indemnitee***") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented related expenses (including the reasonable and documented fees, charges and disbursements of (1) (w) Davis Polk, (x) Skadden, (y) KWM and (z) Stroock & Stroock & Lavan, LLP, as counsel for the Ad Hoc Group of Lenders and/or the Agents (or other primary counsel for the Ad Hoc Group of Lenders and the Agents), (2) Greenhill and other Ad Hoc Lender Advisors, (3) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (4) one firm of local counsel in each other relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents, and (5) one firm of counsel and one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for all of the other Indemnitees taken as a whole (and, solely in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs Parent of such conflict and thereafter retains its own counsel, of another firm of counsel for all similarly affected Indemnitees, and, if reasonably necessary, one firm of local counsel in each applicable jurisdiction for all similarly affected Indemnitees and any specialty counsel for all similarly affected Indemnitees (so long as such shared representation is consistent with and permitted by professional responsibility rules))) incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of the Escrow Agreement, this Agreement or any other Loan Document or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated thereby (including the syndication of the credit facilities provided for

herein and including, with respect to each Pre-Petition First Lien Agent, entry into, and actions taken in connection with, the Roll-Up, any Order, the DIP Documents, the DIP Intercreditor Agreement, and actions taken (or not taken) at the direction of Pre-Petition First Lien Lenders constituting at least the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement in connection with any of the foregoing), (ii) the use of the proceeds of the Loans, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by a Borrower or any of their respective Affiliates or equityholders, or (iv) any actual or alleged presence, Release or threat of Release of Hazardous Materials on any Properties, or any Environmental Claim related in any way to Parent or the Subsidiaries; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment (A) to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee or any of its Related Indemnified Parties, (y) a material breach by such Indemnitee or any of its Related Indemnified Parties of its obligations under any Loan Document to which it is a party or (z) any dispute solely among Indemnitees and not arising out of any act or omission of a Borrower or any of its Affiliates (other than any proceeding against any Indemnitee to the extent acting in its capacity or in fulfilling its role as Administrative Agent, Collateral Agent, the Security Trustee or any similar role with respect to the credit facilities provided for herein). No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent the liability of any such person is found in a final ruling by a court of competent jurisdiction to have resulted primarily from such person's gross negligence or willful misconduct and, in any case, subject to the other provisions of this Section 9.05(b). This Section 9.05(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. "***Related Indemnified Party***" shall mean, as to any Indemnitee, such Indemnitee's controlled affiliates or any of its or such controlled affiliates' respective officers, directors or employees, or any agent, advisor or other representative acting at the direction of such Indemnitee or any of such Indemnitee's controlled affiliates.

(c) To the extent permitted by applicable law, none of the Loan Parties and their respective Subsidiaries and Affiliates shall assert, and Parent, on behalf of itself and its Subsidiaries and Affiliates, hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings) (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Loan Document or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof.

(d) The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender. All amounts due under this Section 9.05 shall be payable on written demand therefor.

SECTION 9.06. ***Right of Setoff***. If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, except to the extent prohibited by law and subject to the terms of the Orders and the provisions thereof, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of any Loan Party against any of and all the obligations of any Loan Party now or hereafter existing under this Agreement and other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or such other Loan Document and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.26 (to the extent applicable) and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender agrees to notify Parent and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application under this Section 9.06. The rights of each Lender under this Section 9.06 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.07. ***Applicable Law***. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK AND TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

SECTION 9.08. ***Waivers; Amendment***. (a) No failure or delay of any Agent, any Lender in exercising any power or right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent, the Security Trustee and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Except as expressly provided in the other clauses of this Section 9.08, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by each applicable Loan Party and the Required Lenders; *provided* that no such agreement shall (i) decrease the principal amount of, or extend the maturity of or any scheduled principal

payment date or date for the payment of any interest on any Loan, or waive or excuse any such payment or any part thereof, or decrease the rate of interest on any Loan without the prior written consent of each Lender directly and adversely affected thereby, (ii) increase or extend the Commitment or decrease or extend the date for payment of any Fees, premium or any other amount due and payable hereunder to any Lender without the prior written consent of such Lender, (iii) amend or modify the pro rata requirements of Section 2.17 or Section 7.02, the sharing provisions of Section **Error! Reference source not found.**, the provisions of Section 9.04(i), the provisions of this Section 9.08, or release Parent as a Guarantor, all or substantially all of the value of the Guarantees of Subsidiary Guarantors under the Loan Documents or all or substantially all of the Collateral, without the prior written consent of each Lender, (iv) modify the protections afforded to an SPC pursuant to the provisions of Section 9.04(j) without the written consent of such SPC, (v) reduce the percentage contained in the definition of the term, or otherwise amend or modify the definition of, "Required Lenders" or "Required LC Lenders" or impose additional material restrictions on the ability of the Lenders to assign their rights and obligations under the Loan Documents, without the prior written consent of each Lender (it being understood that with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Commitments on the date hereof), (vi) except as provided by operation of law and otherwise permitted hereunder, amend or modify the Superpriority Claims status of the Obligations under the Orders or under any Loan Document without the prior written consent of each Lender, (vii) change the currency in which any Commitment or Loan is denominated, without the prior written consent of each affected Lender, (viii) modify Section 2.01(b) or any of the Orders to reduce the ratio of Roll-Up Loans that are deemed funded to New Money Commitments (to less than $1.00 to $1.00) without the consent of each affected Lender, (ix) modify the restriction in Section 8.01 regarding the prohibition on Secured Parties credit bidding independently without the consent of each affected Lender or (x) modify the voting requirements set forth in the sixth paragraph of Section 8.01 in respect of the appointment of a successor Agent or the requirement that such successor Agent be a nationally recognized commercial bank with an office in New York, New York, in each case without the consent of each affected Lender; *provided*, *further*, that (1) no such agreement shall amend, modify or otherwise affect the rights (including rights to fees and other amounts) or duties of any Agent or Pre-Petition First Lien Agent hereunder or under any other Loan Document without the prior written consent of such Agent or Pre-Petition First Lien Agent and (2) any fee letter between any Agent, on the one hand, and any Loan Party, on the other hand, may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto (without the consent of any other Person),

(c) [Reserved]

(d) [Reserved]

(e) Notwithstanding anything in clause (b) or otherwise herein to the contrary, (i) guarantees, collateral security documents and related documents executed by the Loan Parties or the Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Agents and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent or other applicable Agent at the request of Parent without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (x)

to comply with local law or advice of local counsel or (y) to cause such guarantee, collateral security document or other document to be consistent with this Agreement (including the Agreed Security Principles) and the other Loan Documents, (ii) no Lender consent is required for any Agent to enter into or to effect any amendment, modification or supplement to any Intercreditor Agreement or any other arrangement permitted under this Agreement or in any document pertaining to any Indebtedness permitted hereby that is permitted to be secured by the Collateral, for the purpose of adding the holders of such Indebtedness (or their representative) as a party thereto and otherwise causing such Indebtedness to be subject thereto, in each case as contemplated by the terms of such Intercreditor Agreement or other arrangement (it being understood that any such amendment or supplement may make such other changes to any Intercreditor Agreement, as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing; *provided* that such other changes are not adverse, in any material respect (taken as a whole), to the interests of the Lenders); *provided*, *further*, that no such agreement shall amend, modify or otherwise affect the rights or duties of any Agent hereunder or under any other Loan Document without the prior written consent of such Agent and (iii) if Parent shall request (A) the release of any Collateral to be sold as part of any Asset Sale permitted under Section 6.05 and shall deliver to the Agents a certificate to the effect that such Asset Sale and the disposition of the proceeds thereof will comply with the terms of this Agreement or (B) the subordination of the Lien of any Agent, for the benefit of the Secured Parties, on any item of Collateral to any Lien permitted by Section 6.02(k) and shall deliver to the Agents a certificate to the effect that the incurrence of such other Lien on the Collateral will comply with the terms of this Agreement, then each Agent, if reasonably satisfied that the applicable certificate is correct, shall and is hereby authorized to, without the consent of any Lender, execute and deliver all such instruments as may be required to effect the release of such Collateral (in the case of an Asset Sale described in subclause (A) above) or the subordination of the Lien of any Agent, for the benefit of the Secured Parties, in such Collateral (in the case of such other Lien as described in subclause (B) above).

(f) The Administrative Agent (or any other Agent party to the applicable Loan Document) and the applicable Loan Party may amend any Loan Document to correct any errors, mistakes, omissions, defects or inconsistencies, or to effect administrative changes that are not adverse to any Lender without any further consent of any other party to such Loan Document; *provided* that no such amendment shall become effective until the fifth (5th) Business Day after it has been posted to the Lenders, and then only if the Required Lenders have not objected in writing thereto within such five (5) Business Day period.

(g) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender, (y) the date scheduled for any payment of principal (including final maturity) of the loans of any Defaulting Lender may not be postponed without the consent of such Lender and (z) any waiver, amendment or modification requiring the consent of all Lenders or each directly and adversely affected Lender that by its terms materially and adversely affects any Defaulting Lender to a greater extent than other affected Lenders shall require the consent of such Defaulting Lender.

SECTION 9.09. ***Interest Rate Limitation.*** Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "***Charges***"), shall exceed the maximum lawful rate (the "***Maximum Rate***") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan or participation in accordance with applicable law, the rate of interest payable in respect of such Loan or participation hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation but were not payable as a result of the operation of this Section 9.09 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participations or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.10. ***Entire Agreement.*** This Agreement and the other Loan Documents constitute the entire contract between the parties relative to the subject matter hereof. Any other previous agreement among the parties with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any person (other than the parties hereto and thereto, their respective successors and assigns permitted hereunder, and, to the extent expressly contemplated hereby, the Indemnitees and the Related Parties of each of the Agents) any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

SECTION 9.11. ***WAIVER OF JURY TRIAL.*** **EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.**

SECTION 9.12. ***Severability***. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 9.13. ***Counterparts***. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as provided in Section 9.03. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission, including by .PDF file, shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 9.14. ***Headings***. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 9.15. ***Jurisdiction; Consent to Service of Process; Waivers***. (a) Parent and the Borrower each hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have, or abstains from jurisdiction, of any New York State court or federal court of the United States of America sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined only in such New York State or, to the extent permitted by law, in such federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against Parent, the Borrower or their respective properties in the courts of any jurisdiction.

(b) Parent and the Borrower each hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in the Bankruptcy Court and, if the Bankruptcy Court does not have, or abstains from jurisdiction, in any New York State or federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01; *provided* that Parent hereby appoints Speedcast Communications, Inc., a Texas corporation, at 4400 S. Sam Houston Pkwy East, Houston, TX 77048, as its agent for service of process. The Borrower hereby agrees to act as agent for service of process for each other Loan Party that is organized under the laws of a jurisdiction outside the United States upon the express conditions contained herein and the other Loan Documents, as applicable. Notwithstanding the foregoing, promptly after any request by the Required Lenders, each Loan Party that is not a U.S. Person shall appoint an agent for service of process that is not

an Affiliate of the Borrower. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(d) Each party to this Agreement hereby expressly acknowledges and agrees, to the fullest extent it may lawfully do so, that (i) if the payment of the Loans is accelerated or the Loans otherwise become due and payable, in each case, including as a result of any Termination Date (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the Exit Fee with respect to the Loans will also be due and payable as though the Loans were otherwise redeemed or repaid, prepaid or mandatorily assigned, and in all cases the Exit Fee shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof, (ii) such Exit Fee (x) shall be presumed to be the liquidated damages sustained by each Lender as the result any redemption (including prior to the Stated Maturity Date) and (y) is reasonable under the circumstances currently existing, (iii) such Exit Fee shall also be payable in the event that the Loans are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by any other means, (iv) THE BORROWER EXPRESSLY WAIVES THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE EXIT FEE IN CONNECTION WITH ANY SUCH ACCELERATION INCLUDING WITH ANY VOLUNTARY OR INVOLUNTARY ACCELERATION PURSUANT TO ANY INSOLVENCY PROCEEDING PURSUANT TO ANY DEBTOR RELIEF LAW, (v) such Exit Fee is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (vi) such Exit Fee shall be payable notwithstanding the then prevailing market rates at the time payment is made, (vii) there has been a course of conduct between the Lenders and the Borrower giving specific consideration in this transaction for such agreement to pay such Exit Fee, (viii) the Borrower shall be estopped hereafter from claiming differently than as agreed to in this clause (d) and otherwise in this Agreement and (ix) the Borrower's agreement to pay the Exit Fee to Lenders as herein described is a material inducement to the Lenders to make the Loans.

SECTION 9.16. ***Conversion of Currencies***. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder or under any other Loan Document in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party to any Loan Document in respect of any sum due to any other party to any Loan Document or any holder of the obligations owing under any Loan Document (the "***Applicable Creditor***") shall, notwithstanding any judgment or order in a currency (the "***Judgment Currency***") other than the currency in which such sum is stated to be due hereunder or under any other Loan Document (the "***Agreement Currency***"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency

with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, each Loan Party agrees, as a separate obligation and notwithstanding any such judgment or order, to indemnify the Applicable Creditor against such loss and any premiums and costs of exchange payable in connection with the purchase of or conversion into any applicable currency. The obligations of the Loan Parties contained in this Section 9.16 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder, and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid.

SECTION 9.17. ***Confidentiality***. Each Agent and each of the Lenders agrees to maintain the confidentiality of the Information (as defined below) provided to such party, except that except that Information may be disclosed (a) to (i) its Affiliates (or any of its head offices, branches or representative offices) and its and such Affiliates' respective officers, directors, employees, professionals, other experts, agents and representatives, including accountants, legal counsel and other advisors, and (ii) numbering, administration and settlement or similar service providers in connection with the administration and management of this Agreement and the other Loan Documents or otherwise as need to know such Information (including to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein) and to other Persons authorized by any of the Agents and Lenders to organize, present or disseminate such Information in connection with disclosures otherwise made in accordance with this Section 9.17, (b) to the extent requested by any regulatory authority, quasi-regulatory authority or self-regulatory body (which, for the avoidance of doubt, includes any Tax Authority), (c) to the extent otherwise required pursuant to the order of any court or administrative agency, or in any pending legal or administrative proceeding or by applicable laws and regulations or by any subpoena or other compulsory process (and in each case under this clause (c), the disclosing party agrees, to the extent practicable and not prohibited by applicable law, rule or regulation, to inform Parent promptly thereof prior to such disclosure), (d) in connection with the exercise of any remedies hereunder or under the other Loan Documents or any suit, action or proceeding relating to the enforcement of its rights hereunder or thereunder, (e) subject to an agreement to be bound by the provisions of this Section 9.17 or substantially similar confidentiality undertakings, to (i) any actual or prospective assignee of or participant in any of its rights or obligations under this Agreement and the other Loan Documents or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to Parent or any Subsidiary or any of their respective obligations, (f) to Moody's and S&P and other rating agencies or to market data collectors on a confidential basis, (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.17 or (ii) becomes available to any Agent or any Lender on a non-confidential basis from a source other than Parent or the Borrower, (h) to the extent such disclosure is permitted pursuant to, and made in accordance with the terms of, Section 9.04(g), (i) for purposes of establishing a "due diligence" defense or (j) otherwise with the consent of Parent. For the purposes of this Section, "***Information***" shall mean all financial statements, certificates, reports, agreements and information that are received from or on behalf of Parent or any of its Subsidiaries pursuant to or in connection with any Loan Document or the transactions contemplated thereby and that are related to Parent or any of its Subsidiaries or their respective businesses, other than any of the foregoing that were available to any Agent or any Lender on a non-confidential basis prior to its disclosure thereto by or on behalf of Parent or any of its Subsidiaries, and which are in the case

of Information provided after the Closing Date, either financial information or clearly identified at the time of delivery as confidential. The provisions of this Section 9.17 shall remain operative and in full force and effect regardless of the expiration and term of this Agreement; provided that the provisions and obligations contained in this Section 9.17 shall terminate on the one-year anniversary of the date on which this Agreement has expired or been terminated. Any Person required to maintain the confidentiality of Information as provided in this Section 9.16 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord its own confidential information.

SECTION 9.18. [Reserved].

SECTION 9.19. [Reserved].

SECTION 9.20. ***No Advisory or Fiduciary Responsibility***. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), Parent, on behalf of itself and its Subsidiaries, acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Agents, the Ad Hoc Group of Lenders and the Lenders are arm's-length commercial transactions between Parent and its Affiliates, on the one hand, and the Agents, the Ad Hoc Group of Lenders and the Lenders, on the other hand, (ii) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate and (iii) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each Agent, member of the Ad Hoc Group of Lenders and Lender is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for Parent or any of its Affiliates, or any other person, and (ii) no Agent, member of the Ad Hoc Group of Lenders or Lender has any obligation to Parent or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Ad Hoc Group of Lenders, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Parent and its Affiliates and no Agent, member of the Ad Hoc Group of Lenders or Lender has any obligation to disclose any of such interests to Parent or any of its Affiliates. To the fullest extent permitted by law, Parent, on behalf of itself and its Subsidiaries, hereby waives and releases any claims that it may have against the Agents, the Ad Hoc Group of Lenders and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

SECTION 9.21. ***USA PATRIOT Act and Beneficial Ownership Regulation Notice***. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

SECTION 9.22. [Reserved]

SECTION 9.23. ***Acknowledgment and Consent to Bail-In of EEA Financial Institutions***. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

SECTION 9.24. ***Certain Privacy Principles and Laws***.

(a) If any personal data of any natural person (including any officer, director or employee of any Loan Party or Subsidiary) is provided by or on behalf of any Loan Party or Subsidiary to any of the Agents or Lenders as required by or pursuant to the Loan Documents, then such Loan Party, on behalf of itself and its Subsidiaries, represents and warrants to the Agents and Lenders that such Loan Party and, as applicable, its Subsidiaries have, to the extent required by applicable law (including, to the extent applicable, the Australian Privacy Principles and the Singapore Personal Data Protection Act 2012): (i) notified the relevant natural person of the purposes for which data will be collected, processed, used or disclosed, and (ii) obtained such natural person's consent for, and hereby consents on behalf of such natural person to, the collection, processing, use and disclosure of his/her personal data by the Agents and/or Lenders, in each case, in accordance with or for the purposes of the Loan Documents (including any disclosure permitted by Section 9.17) or for the purposes as set out in an Agent's or Lender's privacy notice duly served on such Loan Party. Any such consent given in connection with the Loan Documents in relation to personal data shall, subject to all applicable laws and regulations, survive death, incapacity, bankruptcy or insolvency of any such natural person and the termination or expiration of this Agreement or any other Loan Document.

(b) To the extent that any information provided by or on behalf of any Loan Party to any of the Agents or Lenders as required by or pursuant to the Loan Documents comprises personal information of any officer, director or employee of Parent or any of its Subsidiaries that are incorporated or organized under the laws of Australia, such Agent or Lender (as the case may be) agrees to hold that personal information in accordance with the Australian Privacy Principles, to the extent applicable and required thereby. If the Administrative Agent receives a request by any other Agent, Lender, the Administrative Agent will provide a privacy notice (in the form recommended by the Asia Pacific Loan Market Association (Australian Branch) or as otherwise reasonably directed by such other Agent or Lender) to a representative of the officers, directors and employees of Parent and any such Subsidiary, which details the manner in which personal information collected in connection with the Loan Documents may be used and disclosed by the Agents and/or Lenders.

(c) Each Loan Party, on behalf of itself and its Subsidiaries, agrees and undertakes to notify the Administrative Agent promptly upon such Loan Party or any of its Subsidiaries becoming aware of the withdrawal by the relevant natural person of his/her consent to the collection, processing, use and/or disclosure by any of the Agents or Lenders of any personal data of such natural person that was provided by or on behalf of any Loan Party or Subsidiary to any of the Agents or Lenders in accordance with clause (a) or (b) above.

SECTION 9.25. ***Release of Liens***. If any of the Collateral shall be sold, transferred or otherwise disposed of by the Borrower or any other Loan Party in a transaction permitted by this Agreement (including by way of merger, consolidation or in connection with the sale of a Subsidiary permitted hereunder, but excluding any such sale, transfer or other disposition to any other Loan Party or any Subsidiary required to become a Loan Party), then the Liens created by any of the Security Documents on such property shall be automatically released (without need for further action by any person). If a Subsidiary Guarantor is released from its Guarantee of the Obligations pursuant to the Guarantee Agreement, then the Liens created by any of the Security Documents on the property of such person shall be automatically released (without need for further action by any person), except to the extent such assets are sold, transferred or otherwise disposed of to any other Loan Party or any Subsidiary required to become a Loan Party. Upon the written request of Parent, any other asset may be released from any Lien created by any Security Document to the extent such release is permitted pursuant to Section 10 of the Agreed Security Principles. In connection with any release pursuant to this Section 9.25, upon receipt by the Agents of a certificate of Parent to the effect that such transaction and the disposition of the proceeds thereof will comply with the terms of this Agreement (with such supporting detail as the Agents may reasonably request), each Agent, at the request and sole expense of the Loan Parties, shall execute and deliver without recourse, representation or warranty all releases or other documents necessary or desirable to evidence the release of the Liens created by any of the Security Documents on such Collateral.

SECTION 9.26. ***Exclusion of Certain PPSA Provisions***. Each Loan Party acknowledges that none of the Agents or Lenders needs to give any notice to a Loan Party under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded. If a Loan Document (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, each party hereto agrees that, to the extent the law permits:

(a) for the purposes of sections 115(1) and 115(7) of the PPSA, none of the Agents or Lenders needs to comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and sections 142 and 143 of the PPSA are excluded;

(b) for the purposes of section 115(7) of the PPSA, none of the Agents or Lenders needs to comply with sections 132 and 137(3);

(c) if the PPSA is amended after the date of this Agreement to permit a grantor and secured party to agree to not comply with or to exclude other provisions of the PPSA, the Administrative Agent may notify the grantor of a security interest that any of these provisions is excluded, or that none of the Agents or Lenders needs to comply with any of these provisions, as notified to the grantor by the Administrative Agent; and

(d) the grantor of a security interest agrees not to exercise its rights to make any request of any of the Agents or Lenders under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

SECTION 9.27. ***DIP Orders***. The Loan Parties, the Administrative Agent, the Collateral Agent and the Lenders hereby expressly agree that in the event of any conflict or inconsistency between this Agreement (or any other Loan Document) and the Orders, the Orders shall control.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

Executed by **SPEEDCAST INTERNATIONAL LIMITED ACN 600 699 241**, as Parent in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of Director	Signature of Director/Secretary
Name of Director (print)	Name of Director/Secretary (print)

SPEEDCAST COMMUNICATIONS, INC.,
as Borrower

By: _____
Name:
Title: Authorized Signatory

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Administrative Agent, Collateral Agent, Security Trustee and a Lender

By: _____
Name:
Title: Authorized Signatory

By: _____
Name:
Title: Authorized Signatory

[__], as a Lender

By: _____
Name:
Title: Authorized Signatory

Schedule 1

Initial Budget

Speedcast: 13-week DIP Budget	Post Petition													
($USD in Thousands) **DIP Budget**	**Week 1 Forecast 04/24/20**	**Week 2 Forecast 05/01/20**	**Week 3 Forecast 05/08/20**	**Week 4 Forecast 05/15/20**	**Week 5 Forecast 05/22/20**	**Week 6 Forecast 05/29/20**	**Week 7 Forecast 06/05/20**	**Week 8 Forecast 06/12/20**	**Week 9 Forecast 06/19/20**	**Week 10 Forecast 06/26/20**	**Week 11 Forecast 07/03/20**	**Week 12 Forecast 07/10/20**	**Week 13 Forecast 07/17/20**	**13 Week Forecast Total**
Receipts														
Customer Receipts	$4,683	$4,342	$3,513	$4,348	$4,851	$10,255	$8,993	$8,074	$8,720	$7,953	$7,777	$9,476	$7,776	**$90,761**
Government Receipts	-	-	-	-	-	-	-	-	-	-	-	5,000	-	**5,000**
Other Receipts	-	273	-	-	-	-	556	-	-	-	-	-	-	**829**
Total Receipts	**$4,683**	**$4,615**	**$3,513**	**$4,348**	**$4,851**	**$10,255**	**$9,549**	**$8,074**	**$8,720**	**$7,953**	**$7,777**	**$14,476**	**$7,776**	$96,590
Operating Disbursements														
Bandwidth	-	(24,750)	(750)	(750)	(2,250)	(4,148)	(2,560)	(790)	(312)	(2,606)	(3,735)	(2,639)	(1,013)	**(46,303)**
Employee Related	(6,284)	-	-	(2,542)	(2,363)	(3,588)	(44)	(2,585)	(1,821)	(3,667)	(551)	(1,888)	(1,492)	**(26,827)**
Telecom/Terrestrial	-	-	-	-	-	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	**(9,385)**
Wholesale Voice	-	-	-	-	-	(436)	(436)	(436)	(436)	(436)	(436)	(436)	(436)	**(3,485)**
Capex	-	-	(100)	(100)	(100)	(332)	(530)	(530)	(530)	(530)	(932)	(932)	(932)	**(5,545)**
Other Disbursements	(4,211)	(704)	(776)	(1,410)	(776)	(1,360)	(1,416)	(1,360)	(2,532)	(1,360)	(3,393)	(4,250)	(2,341)	**(25,890)**
Total Operating Disbursements	**($10,495)**	**($25,454)**	**($1,626)**	**($4,802)**	**($5,489)**	**($11,038)**	**($6,159)**	**($6,873)**	**($6,804)**	**($9,771)**	**($10,220)**	**($11,318)**	**($7,387)**	($117,436)
Operating Cash Flow	**($5,812)**	**($20,838)**	**$1,887**	**($455)**	**($638)**	**($783)**	**$3,390**	**$1,201**	**$1,916**	**($1,818)**	**($2,442)**	**$3,158**	**$389**	($20,846)
Non-Operating Items	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Restructuring Related Items														
DIP Financing	35,000	-	-	-	15,000	-	-	-	-	-	10,000	-	-	**60,000**
DIP Cash Interest & Fees	(1,800)	-	-	-	-	(305)	-	-	-	-	(403)	-	-	**(2,508)**
First Day Payments	(1,500)	(2,241)	(2,041)	(2,041)	(2,041)	(2,041)	-	-	-	-	(167)	-	-	**(12,074)**
Professional Fees	(4,760)	-	-	-	-	-	(7,820)	-	-	-	(5,664)	-	-	**(18,244)**
Total Restructuring Related	**$26,940**	**($2,241)**	**($2,041)**	**($2,041)**	**$12,959**	**($2,347)**	**($7,820)**	**$ -**	**$ -**	**$ -**	**$3,767**	**$ -**	**$ -**	$27,173
Net Cash Flow	**$21,128**	**($23,080)**	**($154)**	**($2,496)**	**$12,320**	**($3,130)**	**($4,430)**	**$1,201**	**$1,916**	**($1,818)**	**$1,324**	**$3,158**	**$389**	$6,328
Beginning Unrestricted Cash	20,769	41,897	18,817	18,663	16,167	28,487	25,357	20,927	22,128	24,044	22,226	23,550	26,708	**20,769**
Net Cash Flow	21,128	(23,080)	(154)	(2,496)	12,320	(3,130)	(4,430)	1,201	1,916	(1,818)	1,324	3,158	389	**6,328**
Outstanding Checks	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ending Unrestricted Cash	**$41,897**	**$18,817**	**$18,663**	**$16,167**	**$28,487**	**$25,357**	**$20,927**	**$22,128**	**$24,044**	**$22,226**	**$23,550**	**$26,708**	**$27,097**	$27,097
Minimum Cash Requirement	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	**(10,000)**
Net Liquidity	**$31,897**	**$8,817**	**$8,663**	**$6,167**	**$18,487**	**$15,357**	**$10,927**	**$12,128**	**$14,044**	**$12,226**	**$13,550**	**$16,708**	**$17,097**	$17,097
Restricted/Trapped Cash	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	**14,690**
Consolidated Cash Balance	**$56,587**	**$33,507**	**$33,353**	**$30,857**	**$43,177**	**$40,047**	**$35,617**	**$36,818**	**$38,734**	**$36,916**	**$38,240**	**$41,398**	**$41,787**	$41,787

Tab 2

Corrected Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief

ENTERED
04/24/2020

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Joint Administration Requested)**
	§	**(Emergency Hearing Requested)**

CORRECTED INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**DIP Motion**")[2] of SpeedCast International Limited and each of its affiliates that are debtors and debtors-in-possession (each, a "**Debtor**" and collectively, the "**Debtors**") in the above-captioned cases (the "**Chapter 11 Cases**") and pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506(c) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "**Bankruptcy Code**"), Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1 of the Bankruptcy Local Rules of the United States Bankruptcy Court for the Southern District of Texas (together, the "**Local Rules**"), and the Procedures for Complex Chapter 11 Bankruptcy Cases (the "**Complex**

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1 A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

2 Capitalized terms used but not defined herein are given the meanings ascribed to such terms in the DIP Credit Agreement (as defined herein).

Case Rules" and, together with the Local Rules, the "**Bankruptcy Local Rules**"), seeking entry of this interim order (this "**Interim Order**") among other things:

(i) authorizing SpeedCast Communications, Inc. (the "**Borrower**") to obtain postpetition financing ("**DIP Financing**") pursuant to a senior secured, superpriority and priming debtor-in-possession term loan credit facility (the "**DIP Facility**") subject to the terms and conditions set forth in that certain Senior Secured Superpriority Debtor-in-Possession Term Loan Credit Agreement attached hereto as **Exhibit 1** (as amended, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), in an aggregate principal amount of up to $180 million, consisting of:

a. new money term loans in the aggregate principal amount of $90 million (the "**DIP New Money Term Loans**") from the DIP Lenders (as defined herein), of which $35 million will be available immediately upon entry of this Interim Order, and the remainder to be available no later than (3) three business days following the date of entry of the Final Order; and

b. term loans in an aggregate principal amount of $90 million (the "**DIP Roll-Up Loans**" and, together with the DIP New Money Term Loans, the "**DIP Loans**") from the DIP Lenders issued in substitution and exchange for (and in prepayment of) Prepetition Loans (as defined herein) of the DIP Lenders on a dollar-for-dollar basis pursuant to the terms and conditions of the DIP Credit Agreement;

by and among, SpeedCast International Limited, as parent, the Borrower, as borrower, the several banks and other financial institutions or entities from time to time party thereto as "Lenders" (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacity, together with its successors and permitted assigns, the "**DIP Agent**" and, collectively, with the DIP Lenders, the **"DIP Secured Parties"**);

(ii) authorizing the Debtors other than the Borrower (such Debtors, the "**Debtor DIP Guarantors**," and together with the Borrower, the "**Debtor DIP Loan Parties**") to jointly and severally guarantee the DIP Loans and the other DIP Obligations as set forth in that certain Guarantee Agreement among SpeedCast International Limited, certain subsidiaries thereof, and the DIP Agent (the "**DIP Guarantee Agreement**");

(iii) authorizing and directing the Debtors to use reasonable best efforts to cause the DIP Guarantors that are not Debtors (the "**Non-Debtor DIP Loan Parties**" and together with the Debtor DIP Guarantors, the "**DIP Guarantors**" and together with the Borrower and the Debtor DIP Guarantors, the "**DIP Loan Parties**") to jointly and severally guarantee on the basis set forth in the DIP Guarantee Agreement, the DIP Loans and the other DIP Obligations;

(iv) authorizing the Debtors, (i) subject to entry of this Interim Order, on the Syndication End Date, to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Initial Commitments in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Initial Roll-Up**") and (ii) upon entry of the Final Order, to substitute and exchange (and prepay) Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Delayed Draw Commitments in effect as of the Closing Date (such substitution and exchange (and prepayment), the "**Delayed Draw Roll-Up**" and, together with the Initial Roll-Up, the "**Roll-Up**");

(v) authorizing the Debtor DIP Loan Parties to, and authorizing and directing the Debtor DIP Loan Parties to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, execute, deliver and perform under the DIP Credit Agreement and all other loan documentation, including security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, the DIP Intercreditor Agreement, [3] the Syndicated Facility Amendment,[4] the Fee Letter, and such other documents that may be reasonably requested by the DIP Agent and the DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Credit Agreement, all Loan Documents and this Interim Order, the "**DIP Documents**");

(vi) authorizing the Debtor DIP Loan Parties to incur, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to incur, loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees, administrative agency fees, exit fees, other fees and fees payable pursuant to the Fee Letter), costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other Obligations due or payable under the DIP Documents (collectively, the "**DIP Obligations**"), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

(vii) subject to the Carve Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative

[3] That certain DIP Intercreditor Agreement, dated as of April 24, 2020, among SpeedCast International Limited, as Parent, the other grantors party thereto, the DIP Agent and the Prepetition Agent (as defined herein).

[4] That certain Syndicated Facility Amendment, dated as of April 24, 2020, by and among SpeedCast International Limited, as Parent Borrower, SpeedCast Americas Inc., the Borrower, and SpeedCast Limited, each of the other "Loan Parties" party thereto, and the lenders party thereto.

expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtor DIP Loan Parties;

(viii) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to section 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 prepetition and postpetition property of the Debtor DIP Loan Parties' estates (other than certain excluded property as provided in the DIP Documents (the "**Excluded Assets**")) and all proceeds thereof, including, subject only to and effective upon entry of the Final Order (as defined herein), any Avoidance Proceeds (as defined herein), in each case subject to the Carve Out (as defined herein);

(ix) authorizing the DIP Agent, acting at the direction of the Requisite DIP Lenders (as defined below), and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders (as defined below), to take all commercially reasonable actions to implement and effectuate the terms of this Interim Order;

(x) subject to the Carve Out (as defined herein), authorizing the Debtors to waive (a) their right to surcharge the Prepetition Collateral and the DIP Collateral (as defined herein) (together, but excluding any Excluded Assets, the "**Collateral**") pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;

(xi) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);

(xii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, use proceeds of the DIP Facility solely in accordance with this Interim Order and the DIP Documents;

(xiii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents;

(xiv) subject to the restrictions set forth in the DIP Documents and this Interim Order, authorizing the Debtors to use the Prepetition Collateral (as defined herein), including Cash Collateral of the Prepetition Secured Parties under the Prepetition Loan Documents (as defined herein), and provide adequate protection to the Prepetition Secured Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) (as defined herein), resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the "**Automatic Stay**"), the Debtors' use, sale, or lease of the

Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral);

(xv) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the Debtors and their affiliates and the Prepetition Secured Parties to implement and effectuate the terms and provisions of this Interim Order, the DIP Documents and the Final Order and to deliver any notices of termination described below and as further set forth herein;

(xvi) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order and the Final Order; and

(xvii) scheduling a final hearing (the "**Final Hearing**") to consider final approval of the DIP Facility and use of Cash Collateral pursuant to a proposed final order (the "**Final Order**"), as set forth in the DIP Motion and the DIP Documents filed with this Court.

The Court having considered the interim relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Adam Waldman in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Waldman Declaration**"), and the *Declaration of Michael Healy in Support of the Debtors' Chapter 11 Petitions and First Day Relief* (the "**Healy Declaration**"), the available DIP Documents, and the evidence submitted and arguments made at the interim hearing held on April 23, 2020 (the "**Interim Hearing**"); and due and sufficient notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Bankruptcy Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtor DIP Loan

Parties and their estates pending the Final Hearing, otherwise is fair and reasonable and in the best interests of the Debtor DIP Loan Parties and their estates, and is essential for the continued operation of the Debtor DIP Loan Parties' businesses and the preservation of the value of the Debtor DIP Loan Parties' assets; and it appearing that the Debtor DIP Loan Parties' entry into the DIP Documents is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[5]

A. *Petition Date*. On April 23, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Court**"). On April 23, 2020, this Court entered an order approving the joint administration of the Chapter 11 Cases.

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

C. *Jurisdiction and Venue*. This Court has core jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Consideration of the DIP Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent

[5] 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.

with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 363(m), 364(c), 364(d)(1), 364(e), and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014, and Bankruptcy Local Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1.

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

E. *Notice*. The Interim Hearing was held pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate and sufficient notice of the DIP Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Local Rules, and no other or further notice of the DIP Motion or the entry of this Interim Order shall be required.

F. *Cash Collateral*. As used herein, the term "**Cash Collateral**" shall mean all of the Debtors' cash except for cash that is an Excluded Asset, wherever located and held, including cash in deposit accounts, that constitutes or will constitute "cash collateral" of the Prepetition Secured Parties and DIP Secured Parties within the meaning of section 363(a) of the Bankruptcy Code.

G. *Debtors' Stipulations*. Subject to the limitations contained in paragraph 20 hereof, and after consultation with their attorneys and financial advisors, the Debtors admit, stipulate and agree that:

(i) *Prepetition Credit Facility*. Pursuant to that certain Syndicated Facility Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Credit Agreement**", and collectively with the other Loan Documents (as defined in the Prepetition Credit Agreement) and

any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Loan Documents**"), among (a) SpeedCast International Limited, SpeedCast Americas, Inc., SpeedCast Communications, Inc. and SpeedCast Limited, as borrowers (in such capacity, the "**Prepetition Borrowers**"), (b) SpeedCast International Limited, as parent, (c) Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacities, the "**Prepetition Agent**"), (d) the Term Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Term Loan Lenders**"), (e) the Issuing Banks (as defined in the Prepetition Credit Agreement) party thereto (the "**Prepetition Issuers**"), and (f) the Revolving Credit Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Revolving Lenders**" and, together with the Prepetition Term Loan Lenders, the "**Prepetition Lenders**") (the Prepetition Lenders, collectively with the Prepetition Agent, the Prepetition Issuers and all other holders of Prepetition Credit Facility Debt (as defined herein), the "**Prepetition Secured Parties**"), (1)(x) the Prepetition Issuers issued and participated in letters of credit in support of the Prepetition Borrowers and (y) the Prepetition Revolving Lenders provided revolving loans and other financial accommodations to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Revolving Credit Facility**") and (2) the Prepetition Term Loan Lenders provided term loans to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Term Loan Credit Facility**" and, together with the Prepetition Revolving Credit Facility, the "**Prepetition Credit Facilities**").

(ii) *Prepetition Guarantee*. Pursuant to that certain Guarantee Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or

otherwise modified from time to time), the Debtors and their direct and indirect non-Debtor subsidiaries and affiliates party thereto (the "**Prepetition Guarantors**") guaranteed on a joint and several basis the obligations under the Prepetition Loan Documents.

(iii) *Prepetition Credit Facility Debt.* As of the Petition Date, the Prepetition Borrowers were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than $689.7 million including (a) $87.7 million in outstanding principal amount of Revolving Loans (as defined in the Prepetition Credit Agreement), (b) $10.6 million of outstanding Letters of Credit (as defined in the Prepetition Credit Agreement) and (c) $591.4 million in outstanding principal amount of Term Loans (as defined in the Prepetition Credit Agreement) (collectively, together with accrued and unpaid interest, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including attorneys' fees, accountants' fees, auditor fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Borrowers' or the Prepetition Guarantors' obligations pursuant to, or secured by, the Prepetition Credit Agreement, including all Obligations (as defined in the Prepetition Credit Agreement, the "**Prepetition Obligations**"), and all interest, fees, prepayment premiums, early termination fees, costs and other charges, the "**Prepetition Credit Facility Debt**") which Prepetition Credit Facility Debt has been guaranteed on a joint and several basis by each of the Prepetition Guarantors.

(iv) *Prepetition Credit Facility Liens*. As more fully set forth in the Prepetition Loan Documents, prior to the Petition Date, the Prepetition Borrowers and the Prepetition Guarantors each granted to the Prepetition Agent, for the benefit of itself and the other Prepetition Secured Parties, a security interest in and continuing lien on (the "**Prepetition Liens**") substantially all of their assets and property, including Cash Collateral, subject to certain limited customary exclusions as set forth in the Prepetition Loan Documents (the "**Prepetition Collateral**").

(v) *Validity, Perfection and Priority of Prepetition Liens and Prepetition Debt*. The Debtors acknowledge and agree that as of the Petition Date (a) 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; (b) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law or otherwise permitted by the Prepetition Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date, the "**Prepetition Permitted Prior Liens**"); (c) the Prepetition Credit Facility Debt constitutes legal, valid, binding, and non-avoidable obligations of the Prepetition Borrowers and Prepetition Guarantors enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Credit Facility Debt exist, and no portion of the Prepetition Liens or Prepetition Credit Facility Debt is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-

bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Credit Facilities; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Credit Facility Debt, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the Prepetition Liens securing the Prepetition Credit Facility Debt.

(vi) *No Control*. None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Prepetition Loan Documents.

(vii) *No Claims or Causes of Action*. No claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition Secured Parties (in their capacity as such) under any agreements by and among the Debtors and any Prepetition Secured Party that is in existence as of the Petition Date.

(viii) *Release*. Effective as of the date of entry of this Interim Order, each of the Debtors and the Debtors' estates, on its own behalf, on behalf of (to the greatest extent permitted by law) the Non-Debtor DIP Loan Parties, and on behalf of its and their past, present and future predecessors, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP

Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the "**Released Parties**"), from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date (collectively, the "**Released Claims**") of any kind, nature or description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, upon contract or tort or under any state or federal law or otherwise, arising out of or related to (as applicable) the Prepetition Loan Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Order. For the avoidance of doubt, nothing in this release shall relieve the DIP Secured Parties of their Obligations under the DIP Documents from and after the date of this Interim Order.

H. *Findings Regarding the DIP Financing and Use of Cash Collateral*.

(i) Good and sufficient cause has been shown for the entry of this Interim Order and for authorization of the Debtor DIP Loan Parties to obtain financing pursuant to the DIP Credit Agreement.

(ii) The Debtor DIP Loan Parties have an immediate and critical need to obtain the DIP Financing and to use Prepetition Collateral (including Cash Collateral) in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain

business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, to satisfy other working capital and operational needs and to fund expenses of these Chapter 11 Cases. The access of the Debtor DIP Loan Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, the incurrence of new indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern values of the Debtor DIP Loan Parties and to a successful reorganization of the Debtor DIP Loan Parties.

(iii) The Debtor DIP Loan Parties are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor DIP Loan Parties are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting to the DIP Secured Parties, the DIP Liens and the DIP Superpriority Claims (as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case subject to the Carve Out, under the terms and conditions set forth in this Interim Order and in the DIP Documents.

(iv) The Debtor DIP Loan Parties continue to collect cash, rents, income, offspring, products, proceeds, and profits generated from the Prepetition Collateral and acquire equipment, inventory and other personal property, all of which constitute Prepetition Collateral under the Prepetition Loan Documents that are subject to the Prepetition Secured Parties' security interests as set forth in the Prepetition Loan Documents.

(v) The Debtor DIP Loan Parties desire to use a portion of the cash, rents, income, offspring, products, proceeds and profits described in the preceding paragraph in their business operations that constitute Cash Collateral of the Prepetition Secured Parties under section 363(a) of the Bankruptcy Code. Certain prepetition rents, income, offspring, products, proceeds, and profits, in existence as of the Petition Date, including balances of funds in the Debtor DIP Loan Parties' prepetition and postpetition operating bank accounts, also constitute Cash Collateral.

(vi) Based on the DIP Motion, the Healy Declaration, the Waldman Declaration and the record presented to the Court at the Interim Hearing, the terms of the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 15 of this Interim Order (the "**Adequate Protection**"), and the terms on which the Debtor DIP Loan Parties may continue to use the Prepetition Collateral (including Cash Collateral) pursuant to this Interim Order and the DIP Documents are fair and reasonable, reflect the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(vii) The DIP Financing (including the Roll-Up), the Adequate Protection and the use of the Prepetition Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtor DIP Loan Parties, the DIP Secured Parties, and the Prepetition Secured Parties, and all of the Debtor DIP Loan Parties' obligations and indebtedness arising under, in respect of, or in connection with, the DIP Financing and the DIP Documents, including, without limitation: all loans made to and guarantees issued by the Debtor DIP Loan Parties pursuant to the DIP Documents and any DIP Obligations shall be deemed to have been extended by the DIP Agent and the DIP Secured Parties and their respective affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the

protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(viii) The Prepetition Agent and the Prepetition Secured Parties have acted in good faith regarding the DIP Financing and the Debtor DIP Loan Parties' continued use of the Prepetition Collateral (including Cash Collateral) to fund the administration of the Debtor DIP Loan Parties' estates and continued operation of their businesses (including entry into the Syndicated Facility Amendment and the incurrence and payment of the Adequate Protection Obligations and the granting of the Adequate Protection Liens (as defined herein)), in accordance with the terms hereof, and the Prepetition Agent and Prepetition Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of sections 363(m) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(ix) The Prepetition Secured Parties are entitled to the Adequate Protection provided in this Interim Order as and to the extent set forth herein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Prepetition Collateral (including Cash Collateral) are fair and reasonable, reflect the Debtor DIP Loan Parties' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of the Prepetition Collateral, including the Cash Collateral, and the "Required Lenders" (as such term is defined in the Prepetition Credit Agreement, the "**Required Prepetition Lenders**"), have consented or are deemed hereby to have consented to the

use of the Prepetition Collateral, including the Cash Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, and the Roll-Up; *provided* that nothing in this Interim Order or the DIP Documents shall (x) be construed as the affirmative consent by any of the Prepetition Secured Parties for the use of Cash Collateral other than on the terms set forth in this Interim Order and in the context of the DIP Financing authorized by this Interim Order to the extent such consent has been or will be given, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the Prepetition Collateral (whether senior or junior) or (z) prejudice, limit or otherwise impair the rights of any of the Prepetition Secured Parties to seek new, different or additional adequate protection or assert the interests of any of the Prepetition Secured Parties, and the rights of any other party in interest, including the Debtor DIP Loan Parties, to object to such relief are hereby preserved.

(x) Upon (i) entry of this Interim Order and the occurrence of the Syndication End Date and (ii) entry of the Final Order, as applicable, the exchange and substitution (and prepayment) of Prepetition Loans with DIP Roll-Up Loans on a dollar-for-dollar basis in an amount of Prepetition Loans equal to 100% of the amount of the DIP Commitments (as of the Closing Date) reflects the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties. The Prepetition Secured Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined herein), and the DIP Secured Parties would not be willing to provide the DIP Facility or extend credit to the Debtor DIP Loan Parties thereunder without the Roll-Up. The Roll-Up will benefit the Debtors and their estates because it will enable the Debtors to obtain urgently needed financing critical to administering these Chapter 11 Cases and funding their operations, which financing would not otherwise be available.

(xi) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties an initial budget (the "**Initial DIP Budget**"), attached hereto as Schedule 1. The Initial DIP Budget reflects, among other things, the Parent's and its Subsidiaries' anticipated cash receipts and anticipated disbursements for each calendar week, in form and substance satisfactory to the Requisite DIP Lenders. The Initial DIP Budget may be modified, amended and updated from time to time in accordance with the DIP Credit Agreement, and once approved by the Requisite DIP Lenders,[6] shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent approved budget, shall constitute without duplication, an "**Approved Budget**"). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances. The DIP Secured Parties are relying, in part, upon the DIP Loan Parties' agreement to comply with the Approved Budget (subject to only permitted variances), the other DIP Documents and this Interim Order in determining to enter into the postpetition financing arrangements provided for in this Interim Order.

(xii) Each of the Prepetition Secured Parties shall 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 with respect to any of the Prepetition Collateral.

I. *Immediate Entry*. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2) and Bankruptcy Local Rule 4001-1(b). Absent granting the relief set forth in this Interim Order, the Debtor DIP Loan Parties' estates will

[6] "**Requisite DIP Lenders**" means, as applicable, pursuant to the requirements of the DIP Credit Agreement, either or both of the "Required IC Lenders" and/or "Required Lenders" (each as defined in the DIP Credit Agreement).

be immediately and irreparably harmed. Consummation of the DIP Financing and the use of Prepetition Collateral (including Cash Collateral), in accordance with this Interim Order and the DIP Documents are therefore in the best interests of the Debtor DIP Loan Parties' estates and consistent with the Debtor DIP Loan Parties' exercise of their fiduciary duties. The DIP Motion and this Interim Order comply with the requirements of Bankruptcy Local Rule 4001-1(b).

J. *Permitted Prior Liens; Continuation of Prepetition Liens*. Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtor DIP Loan Parties, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties 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 DIP Liens (as defined herein). The Prepetition Liens, and the DIP Liens that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens in light of the integrated nature of the DIP Facility, the DIP Documents and the Prepetition Loan Documents.

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

IT IS HEREBY ORDERED THAT:

1. *Motion Granted*. The interim relief sought in the DIP Motion is granted, the interim financing described herein is authorized and approved, and the use of Cash Collateral on an interim

basis is authorized, in each case subject to the terms and conditions set forth in the DIP Documents and this Interim Order. All objections to this Interim Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits.

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

(a) The Debtor DIP Loan Parties are hereby authorized, and the Debtors are authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties, as applicable, to execute, deliver, enter into and, as applicable, perform all of their obligations under the DIP Documents (including without limitation the DIP Intercreditor Agreement and the Syndicated Facility Amendment) and such other and further acts as may be necessary, appropriate or desirable in connection therewith. The Borrower is hereby authorized to borrow money pursuant to the DIP Credit Agreement, each Debtor DIP Guarantor is hereby authorized to, and the Debtors are hereby authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, provide a guaranty of payment in respect of the Borrower's obligations with respect to such borrowings, subject to any limitations on borrowing under the DIP Documents, which shall be used for all purposes permitted under the DIP Documents (and subject to and in accordance with the Approved Budget) (subject to any permitted variances).

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor DIP Loan Party is authorized to, and authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages, financing statements and other similar documents), and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable for the DIP Loan

Parties' performance of their obligations under or related to the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents;

(ii) the execution and delivery of, and performance under, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the DIP Loan Parties and the DIP Agent (acting in accordance with the terms of the DIP Credit Agreement and at the direction of the Requisite DIP Lenders) may agree, it being understood that no further approval of this Court shall be required for any authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees and other expenses (including attorneys', accountants', appraisers' and financial advisors' fees), amounts, charges, costs, indemnities and other obligations paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder; *provided* that, for the avoidance of doubt, updates and supplements to the Approved Budget required to be delivered by the DIP Loan Parties under the DIP Documents shall not be considered amendments or modifications to the Approved Budget or the DIP Documents;

(iii) the non-refundable payment to the DIP Agent and the DIP Secured Parties, as the case may be, of all fees, including unused facility fees, amendment fees, prepayment premiums, early termination fees, servicing fees, audit fees, liquidator fees, structuring fees, administrative agent's, collateral agent's or security trustee's fees, upfront fees, closing fees, commitment fees, exit fees, closing date fees, backstop fees, original issue discount fees, prepayment fees or agency fees, indemnities and professional fees (which fees shall be irrevocable,

and shall be, and shall be deemed to have been, approved upon entry of this Interim Order, whether or not the fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, applicable non-bankruptcy law or otherwise) and any amounts due (or that may become due) in respect of the indemnification and expense reimbursement obligations, in each case referred to in the DIP Credit Agreement or DIP Documents (or in any separate letter agreements, including, without limitation, any fee letters between any or all DIP Loan Parties, on the one hand, and any of the DIP Agent and/or DIP Secured Parties, on the other, in connection with the DIP Financing) and the costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained by, or on behalf of, any of the DIP Agent or DIP Secured Parties (including without limitation those of Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, Skadden, Arps, Slate, Meagher & Flom LLP, King & Wood Mallesons, Rapp & Krock, P.C., Greenhill & Co., LLC, and any local legal counsel or other advisors in any foreign jurisdictions and any other advisors as are permitted under the DIP Documents), in each case, as provided for in the DIP Documents (collectively, the "**DIP Fees and Expenses**"), without the need to file retention motions or fee applications; and

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

3. *DIP Obligations*. Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the DIP Loan Parties, enforceable against each Debtor DIP Loan Party and their estates and each Non-Debtor DIP Loan Party in accordance with the terms of the DIP Documents and this Interim Order, and any successors thereto, including 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 execution and delivery of the DIP Documents, 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 DIP Loan Parties to any of the DIP Agent or DIP Secured Parties, in each case, under, or secured by, the DIP Documents or this Interim Order, including all principal, interest, costs, fees, expenses, indemnities and other amounts under the DIP Documents (including this Interim Order). The DIP Loan Parties shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the DIP Secured Parties (including their Representatives) 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 subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any

other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

4. *Prepetition Credit Facility Debt Roll-Up.*

(a) Subject to entry of this Interim Order, and effective upon Syndication End Date in accordance with the DIP Credit Agreement and the other DIP Loan Documents, the Debtors shall be deemed to exchange and substitute (and prepay) Prepetition Loans of the DIP Lenders on a cashless, dollar-for-dollar basis with the DIP Roll-Up Loans in an amount equal to the Initial Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective principal amounts of their DIP Loans as of such date and subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged (and used to prepay Prepetition Loans) under this paragraph 4(a) shall, subject to paragraph 4(c) of this Interim Order, be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged (and prepaid) therefor. The cashless substitution and exchange (and prepayment) dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(a) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the

claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans and the Carve-Out in all respects.

(b) Subject to and effective upon entry of the Final Order, in accordance with the DIP Credit Agreement and the other DIP Documents, the Debtors shall be deemed to exchange and substitute (and prepay) Prepetition Loans of the DIP Lenders on a cashless dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the Delayed-Draw Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective principal amounts of their DIP Loans as of such date, subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged (and used to prepay Prepetition Loans) under this paragraph 4(b) shall be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged (and prepaid) therefor. The cashless substitution and exchange (and prepayment) dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(b) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans in all respects.

(c) If, prior to the entry of the Final Order, all DIP Obligations relating to the DIP New Money Term Loans are repaid in full in cash by the DIP Loan Parties with the proceeds of a debtor-in-possession financing loan obtained with the approval of this Court, then the provisions relating to the Initial Roll-Up will be reversed and (i) the DIP Roll-Up Loan amounts will no longer be part of the DIP Facility and (ii) the Prepetition Loans (the "**Rolled-Down Prepetition Loans**") for which the DIP Roll-Up Loans were exchanged and substituted (and that the DIP Roll-Up Loans were used to prepay) in connection with the Initial Roll-Up shall be exchanged and substituted for the DIP Roll-Up Loans that are reversed pursuant to this paragraph 4(c). The Rolled-Down Prepetition Loans shall be deemed to constitute Prepetition Loans held by the holders of the DIP Roll-Up Loans immediately prior to such exchange and substitution being reversed for all purposes under the Prepetition Credit Agreement, and the interest rate on the Rolled-Down Prepetition Loans amounts will revert to the interest rate in effect on all amounts that were not "rolled-up" under the Prepetition Credit Agreement, as though the Roll-Up had never occurred; *provided* that in such an event, (i) the DIP Lenders will retain all fees and charges previously received by them on account of the DIP Roll-Up Loans as part of the Initial Roll-Up and (ii) all DIP Commitments shall be deemed terminated; *provided*, *further* that upon entry of the Final Order, the provisions of this paragraph 4(c) shall be deemed null and void and shall have no further effect.

(d) The DIP Agent and Prepetition Agent, acting at the direction of, as applicable, the Requisite DIP Lenders or the Required Prepetition Lenders, is hereby authorized to take any actions as may be necessary or advisable to effectuate the terms of the Roll-Up, including entry into and performance under the DIP Intercreditor Agreement and in accordance with the terms thereof and of the other DIP Documents, and may conclusively rely on the

provisions of this Interim Order in adjusting the Register and the Register (as defined in the Prepetition Credit Agreement) to reflect the Roll-Up.

5. *Professional Fee Account*.

(a) Contemporaneously with the initial funding of the DIP Loans, the Debtors shall transfer an amount equal to the total budgeted weekly fees and expenses to be incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**" and, such fees and expenses of the Professional Persons, the "**Professional Fees**") for the first two weekly periods set forth in the Approved Budget into a segregated account not subject to the control, liens, security interests, or claims of the DIP Agent, any DIP Lender, or any Prepetition Secured Party, other than the reversionary interest of the DIP Agent and Prepetition Agent (for the benefit of the DIP Secured Parties and Prepetition Secured Parties, respectively), which interest shall be senior to any interest of the Debtors therein (the "**Professional Fees Account**"). Thereafter, on a weekly basis, the Debtors shall transfer into the Professional Fees Account cash proceeds from the DIP Facility or cash on hand in an amount equal to the aggregate unpaid amount of Estimated Fees and Expenses (as defined herein) included in all Weekly Statements (as defined herein) timely received by the Debtors, which shall be reported to the DIP Agent (or, in the event of a DIP Repayment, the Prepetition Agent), or if an estimate is not provided, the total budgeted weekly fees of Professional Persons for the prior week set forth in the Approved Budget,

(b) Starting with the third full calendar week following the Petition Date, each Professional Person shall deliver to the Debtors a statement (each such statement, a "**Weekly**

Statement") setting forth a good-faith estimate of the amount of unpaid fees and expenses incurred during the preceding week by such Professional Person (the "**Estimated Fees and Expenses**"). No later than one business day after the delivery of a Carve-Out Trigger Notice (as defined below) (the "**Carve-Out Statement Date**"), each Professional Person shall deliver one additional statement to the Debtors setting forth a good-faith estimate of the amount of Estimated Fees and Expenses incurred on and during the period prior to the Carve-Out Statement Date to the extent not otherwise paid or included in a previous Weekly Statement, and the Debtors shall transfer such amounts to the Professional Fees Account.

(c) The Debtors shall be authorized to use funds held in the Professional Fees Account to pay Professional Fees as they become allowed and payable pursuant to any interim or final order of the Bankruptcy Court or otherwise; *provided*, that when all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, any funds remaining in the Professional Fees Account shall revert to the Debtors for use solely in accordance with this Interim Order and the other DIP Documents and subject to the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims in the order of priority set forth herein; *provided*, *further*, that the Debtors' obligations to pay allowed Professional Fees shall in no way be limited or deemed limited to funds held in the Professional Fees Account.

(d) Notwithstanding anything herein to the contrary, (i) funds transferred to the Professional Fees Account shall be held in trust exclusively for the Professional Persons, including with respect to obligations arising out of the Carve-Out (as defined herein) and (ii) funds transferred to the Professional Fees Account shall not be subject to any liens or claims granted to the DIP Agent or DIP Lenders herein or any liens or claims granted to the Prepetition Agent or the

Prepetition Secured Parties, and shall not constitute DIP Collateral, Prepetition Collateral, or Cash Collateral; provided, that the DIP Collateral and the Prepetition Collateral shall include a reversionary interest in funds held in the Professional Fees Account, if any, after all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, which reversionary interest shall be senior to (i) any liens and claims against the Debtors other than the Carve-Out and (ii) any interest of the Debtors therein.

6. *Carve-Out*.

(a) As used in this Interim Order, the term "**Carve-Out**" means the sum of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate (without regard to the notice set forth in clause (iv) below); (ii) fees and expenses up to $100,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iv) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all professional fees and expenses (excluding any transaction fees or success fees) of Professional Persons (collectively, the "**Allowed Professional Fees**") incurred at any time before or on the day of delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined herein), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice (as defined herein) and without regard to whether such fees and expenses are provided for in the Approved Budget; and (iv) Allowed Professional Fees incurred after the day following delivery by the DIP Agent of the Carve-Out Trigger Notice (as defined herein) in an aggregate amount not to exceed $7,000,000 (the amount set forth in this clause (iv) being the "**Post-Carve-Out Trigger Notice Cap**"); *provided*, *further*, that nothing

herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in this paragraph 6(a) on any grounds.

(b) 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 (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and lead counsel to the Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the obligations under the DIP Facility (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, any occurrence that would constitute an Event of Default hereunder) or the occurrence of the Maturity Date (as defined in the DIP Credit Agreement), stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(c) On the day on which a Carve-Out Trigger Notice is received by the Debtors, the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand to transfer to the Professional Fees Account cash in an amount equal to all obligations benefitting from the Carve-Out.

(d) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by the Debtors at any time before or on the first business day after delivery by the DIP Agent or the Prepetition Agent, as applicable, of a Carve-Out Trigger Notice but have not yet been allowed by the Bankruptcy Court, such professional fees and expenses of the Professional Persons shall constitute Allowed Professional Fees benefiting from the Carve-Out upon their allowance by the Bankruptcy Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the

Debtors shall fund the Professional Fees Account in the amount of such professional fees and expenses.

(e) Following delivery of a Carve-Out Trigger Notice, the Debtors shall deposit into the Professional Fees Account any cash swept or foreclosed upon (including cash received as a result of the sale or other disposition of any assets) until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Notwithstanding anything to the contrary herein or in the DIP Documents, following delivery of a Carve-Out Trigger Notice, the DIP Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Further, notwithstanding anything to the contrary herein, (i) disbursements by the Debtors from the Professional Fees Account shall not constitute DIP Loans, (ii) the failure of the Professional Fees Account to satisfy in full the Professional Fees shall not affect the priority of the Carve-Out, and (iii) in no way shall the Carve-Out, Professional Fees Account, any Approved Budget, the Permitted Variance, Weekly Statements, Estimated Fees and Expenses, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors or that may be allowed by the Bankruptcy Court at any time (whether by interim order, final order, or otherwise).

7. *DIP Superpriority Claims*. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtor DIP Loan Parties on a joint and several basis (without the need to file any proof of claim) with priority over any and all claims against the Debtor DIP Loan Parties, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative

expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the "**DIP Superpriority Claims**") shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which DIP Superpriority Claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtor DIP Loan Parties and all proceeds thereof (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") but, subject to the entry of the Final Order, including any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance Proceeds**")) in accordance with the DIP Documents and this Interim Order, subject only to the liens on such property and the Carve Out and all other property of the Non-Debtor DIP Loan Parties as set forth in this Interim Order and the DIP Documents. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise. The DIP Superpriority Claims shall be *pari passu* in right of payment with one another and senior to the 507(b) Claims (as defined herein), and subordinated to the Carve Out.

8. *DIP Liens*. As security for the DIP Obligations, effective and automatically and properly perfected upon the date of this Interim Order and without the necessity of the execution,

recordation or filing by the DIP Loan Parties or any of the DIP Secured Parties of mortgages, security agreements, control agreements, pledge agreements, financing statements, notation of certificates of title for titled goods or other similar documents, instruments, deeds, charges or certificates, or the possession or control by the DIP Agent of, or over, any Collateral, the following valid, binding, continuing, enforceable and non-avoidable security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**") are hereby granted to the DIP Agent for its own benefit and the benefit of the DIP Secured Parties (all property identified in clauses (a) through (c) below being collectively referred to as the "**DIP Collateral**"); *provided* that notwithstanding anything herein to the contrary, the DIP Liens shall be (a) subject and junior to the Carve Out in all respects, (b) senior in all respects to the Prepetition Liens and (c) senior in all respects to the Adequate Protection Liens:

(a) *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, including, without limitation, any and all unencumbered cash of the Debtor DIP Loan Parties (whether maintained with any of the DIP Secured Parties or otherwise) and any investment of cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, goodwill,

commercial tort claims and claims that may constitute commercial tort claims (known and unknown), chattel paper, interests in leaseholds, real properties, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, wherever located, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing (the "**Unencumbered Property**"), in each case other than the Avoidance Actions (but, for the avoidance of doubt, subject to entry of the Final Order, "Unencumbered Property" shall include Avoidance Proceeds);

(b) *Liens Priming Certain Prepetition Secured Parties' Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties subject to the Prepetition Liens, regardless of where located, regardless whether or not any liens on such assets are voided, avoided, invalidated, lapsed or unperfected (the "**Priming Liens**"), which Priming Liens shall prime in all respects the interests of the Prepetition Secured Parties arising from the current and future liens of the Prepetition Secured Parties (including, without limitation, the Adequate Protection Liens granted to the Prepetition Secured Parties) (the "**Primed Liens**").

(c) *Liens Junior to Certain Other Liens*. Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all tangible and intangible prepetition and postpetition property of each Debtor DIP Loan Party that is subject to either (i) valid, perfected and non-avoidable senior liens in existence immediately prior to the Petition Date (other than the Primed Liens) or (ii) any valid and non-avoidable senior liens (other than the Primed Liens) in existence immediately prior to the Petition

Date that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, which shall be (x) junior and subordinate to any valid, perfected and non-avoidable liens (other than the Primed Liens) in existence immediately prior to the Petition Date, and (y) any such valid and non-avoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code; *provided* that nothing in the foregoing clauses (i) and (ii) shall limit the rights of the DIP Secured Parties under the DIP Documents to the extent such liens are not permitted thereunder; and

(d) *Liens Senior to Certain Other Liens.* The DIP Liens shall not be (i) subject or subordinate to or made *pari passu* with (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or in this Interim Order, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit (including any regulatory body), commission, board or court for any liability of the Debtor DIP Loan Parties, or (C) any intercompany or affiliate liens of the Debtor DIP Loan Parties or security interests of the Debtor DIP Loan Parties; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code granted after the date hereof.

9. *Protection of DIP Lenders' Rights.*

(a) So long as there are any DIP Obligations outstanding or the DIP Lenders have any outstanding Commitments (the "**DIP Commitments**") under the DIP Documents, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Loan Documents

or this Interim Order, or otherwise seek to exercise or enforce any rights or remedies against the DIP Collateral, including in connection with the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, the DIP Collateral (but not any proceeds of such transfer, disposition or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments), to the extent the transfer, disposition, sale or release is authorized under the DIP Documents; (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral other than as necessary to give effect to this Interim Order other than, (x) solely as to this clause (iii), the DIP Agent filing financing statements or other documents to perfect the liens granted pursuant to this Interim Order, or (y) as may be required by applicable state law or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-avoidable liens or security interests existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the DIP Loan Parties' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent or the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the DIP Collateral subject to any sale or court-approved disposition.

(b) To the extent any Prepetition Secured Party has possession of any Prepetition Collateral or DIP Collateral or has control with respect to any Prepetition Collateral or DIP Collateral, or has been noted as secured party on any certificate of title for a titled good constituting Prepetition Collateral or DIP Collateral, then such Prepetition Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee and/or gratuitous agent for perfection for the benefit of the DIP Agent and the DIP Secured Parties,

and such Prepetition Secured Party and the Prepetition Agent shall comply with the instructions of the DIP Agent, acting at the direction of the Requisite DIP Lenders, with respect to the exercise of such control.

(c) Any proceeds of Prepetition Collateral subject to the Primed Liens received by any Prepetition Secured Party, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Collateral or otherwise received by the Prepetition Agent, shall be segregated and held in trust for the benefit of and forthwith paid over to the DIP Agent for the benefit of the DIP Secured Parties in the same form as received, with any necessary endorsements. The DIP Agent is hereby authorized to make any such endorsements as agent for the Prepetition Agent or any such Prepetition Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) The Automatic Stay is hereby modified to the extent necessary to permit the DIP Agent (acting at the direction of the Requisite DIP Lenders) (and in the case of the following clause (i), after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent, acting at the direction of the Required Prepetition Lenders) to take any or all of the following actions, at the same or different time, in each case without further order or application of the Court and immediately upon the occurrence of an Event of Default: (i) deliver a notice of an Event of Default to the Debtors; (ii) declare the termination, reduction or restriction of any further DIP Commitment to the extent any such DIP Commitment remains outstanding; (iii) declare the termination of the DIP Documents as to any future liability or obligation of the DIP Agent and the DIP Secured Parties (but, for the avoidance of doubt, without affecting any of the DIP Liens or the DIP Obligations); and (iv) declare all applicable DIP Obligations to be immediately due and payable, without presentment, demand, protest or other

notice of any kind, all of which are expressly waived by the Debtors (or, in the case of the Prepetition Agent, rescind consent to the use of Prepetition Collateral (including Cash Collateral)). Following the delivery of such notice, the DIP Agent (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) may file a motion (the "**Stay Relief Motion**") seeking emergency relief from the Automatic Stay on at least five (5) business days' notice to request a further order of the Court permitting the DIP Agent (or Prepetition Agent, if applicable), whether or not the maturity of any of the DIP Obligations shall have been accelerated, to proceed to protect, enforce and exercise all other rights and remedies provided for in the DIP Documents and under applicable law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in any such DIP Document or any instrument pursuant to which such DIP Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of any of such DIP Secured Parties. The Debtors shall not object to the fact that the Stay Relief Motion is being heard on such shortened notice. Until such time that the Stay Relief Motion has been adjudicated by the Court the Debtor DIP Loan Parties may use the proceeds of the DIP Facility (to the extent drawn prior to the occurrence of Event of Default) or Cash Collateral to fund operations in accordance with the DIP Credit Agreement and the Approved Budget (subject to permitted variances).

(e) No rights, protections or remedies of the DIP Agent or the DIP Secured Parties granted by the provisions of this Interim Order or the DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral; (ii) any actual or purported

termination of the Debtors' authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtors' continued use of Cash Collateral or the provision of adequate protection to any party.

10. *Limitation on Charging Expenses Against Collateral*. No costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral (including Cash Collateral) or Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent or the Prepetition Agent, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties, and nothing contained in this Interim Order shall be deemed to be a consent by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise; *provided* that the foregoing shall be without prejudice to the rights of any Committee to seek different terms in the Final Order with respect to the period from and after entry of the Final Order.

11. *No Marshaling*. In no event shall the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Credit Facility Debt, or the Prepetition Collateral. Further, in no event shall the "equities of the case" exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agent or the Prepetition Secured Parties with respect to proceeds, products, offspring or profits of any Prepetition Collateral; *provided* that the foregoing shall be without prejudice to the rights of

any Committee to seek different terms in the Final Order with respect to the period from and after entry of the Final Order.

12. *Payments Free and Clear*. Any and all payments or proceeds remitted to the DIP Agent by, through or on behalf of the DIP Secured Parties pursuant to the provisions of this Interim Order, the DIP Documents or any subsequent order of the Court shall be irrevocable, received free and clear of any claim, charge, assessment or other liability, including without limitation, any claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtors; *provided* that the foregoing shall be without prejudice to the rights of any Committee to seek different terms in the Final Order with respect to the period from and after entry of the Final Order.

13. *Use of Cash Collateral*. The Debtors are hereby authorized, subject to the terms and conditions of this Interim Order, to use all Cash Collateral; *provided* that (a) the Prepetition Secured Parties are granted the Adequate Protection as hereinafter set forth and (b) except on the terms and conditions of this Interim Order, the Debtors shall be enjoined and prohibited from at any times using the Cash Collateral absent further order of the Court.

14. *Disposition of DIP Collateral*. The Debtor DIP Loan Parties shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as otherwise provided for in the DIP Documents or otherwise permitted by an order of the Court.

15. *Adequate Protection of Prepetition Secured Parties*. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Secured

Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents and this Interim Order, the payment of any amounts under the Carve Out or pursuant to this Interim Order, the Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "**Adequate Protection Claims**"). In consideration of the foregoing, the Prepetition Agent, for the benefit of the Prepetition Secured Parties, is hereby granted the following as Adequate Protection for, and to secure repayment of an amount equal to such Adequate Protection Claims, and as an inducement to the Prepetition Secured Parties to consent to the priming of the Prepetition Liens and use of the Prepetition Collateral (including Cash Collateral) (collectively, the "**Adequate Protection Obligations**"):

(a) *Prepetition Adequate Protection Liens*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted (effective and perfected upon the date of this Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Secured Parties' Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the "**Adequate Protection Liens**"), in each case subject and subordinate only to (A) the DIP Liens and (B) the Carve Out.

(b) *Section 507(b) Claims*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted, subject to the Carve Out, an allowed superpriority administrative expense claim as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Secured Parties' Adequate Protection Claims, with priority

in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "**507(b) Claims**") which 507(b) Claims shall have recourse to and be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions, but including, subject to entry of Final Order, Avoidance Proceeds). The 507(b) Claims shall be subject and subordinate only to the Carve Out and the DIP Superpriority Claims. Except to the extent expressly set forth in this Interim Order, the Final Order or the DIP Documents, the Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(c) *Prepetition Secured Parties Fees and Expenses*. The Debtor DIP Loan Parties shall provide the Prepetition Agent, for the benefit of the Prepetition Secured Parties, without duplication of fees paid for the benefit of the DIP Secured Parties, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Agent and ad hoc group of Prepetition Lenders, including without limitation (i) Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, King & Wood Mallesons, Greenhill & Co., LLC, Rapp & Krock, P.C., and any other advisors retained by or on behalf of the ad hoc group of Prepetition Lenders and (ii) Skadden, Arps, Slate, Meagher & Flom LLP as counsel to the Prepetition Agent (the "**Adequate Protection Fees and Expenses**") (and such counsel and advisors, the

"**Prepetition Secured Parties Advisors**"), subject to the review procedures set forth in paragraph 19 of this Interim Order.

(d) *Adequate Protection Payments.* Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to application of all mandatory prepayments as described in Section 2.13 of the DIP Credit Agreement to repayment of the Prepetition Secured Obligations in accordance with the priorities set forth in the Prepetition Loan Documents (the "**Adequate Protection Payments**") and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification with respect to such Adequate Protection Payments.

(e) *Milestones*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to performance of those certain case milestones set forth in Section 5.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Milestones**"), and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification of such Adequate Protection Milestones.

(f) *Budget and Financial Covenants*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Budget Requirement**"), (ii) the Prepetition Secured Parties are hereby entitled to performance of those certain financial and other covenants set forth in Sections 5.11, 5.17, 5.18, 5.20, 6.15 and 6.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Covenants**") and (iii) the Required Prepetition Lenders shall constitute the

Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Budget Requirement or Adequate Protection Covenants.

(g) *Prepetition Secured Parties' Information Rights*. The DIP Loan Parties shall promptly provide the Prepetition Agent, for distribution to the Prepetition Secured Parties (and subject to applicable confidentiality restrictions governing the Prepetition Credit Agreement, including with respect to any "private" side lender database), with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under Sections 5.04, 5.05, 5.06 and 5.07 of the DIP Credit Agreement (the "**Adequate Protection Reporting Requirement**"). Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Reporting Requirement.

(h) *Maintenance of Collateral*. The DIP Loan Parties shall continue to maintain and insure the Prepetition Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Credit Facilities and the DIP Documents.

(i) *Prepetition Secured Parties' Additional Adequate Protection.* In the event the Debtors file, support, make a written proposal or counterproposal to any party relating to, or take any other similar action in furtherance of (any of the foregoing, a "**Non-Permitted Action**"), a chapter 11 plan, sale process or other restructuring transaction that does not (i) provide for the indefeasible payment on the effective date thereof of all claims on account of the Prepetition Credit

Facility Debt in full in cash or (ii) constitute an Approved Restructuring (as defined in the DIP Credit Agreement) (in each case, a "**Non-Permitted Restructuring**"), the Debtors shall provide notice to counsel to the ad hoc group of Prepetition Lenders not less than seven (7) business days before taking such Non-Permitted Action (the "**Non-Permitted Restructuring Notice**"). Upon receipt of a Non-Permitted Restructuring Notice, each of the Prepetition Secured Parties shall have the right to immediately file a Stay Relief Motion on five Business Days' notice seeking to terminate the Debtor DIP Loan Parties' right to use Cash Collateral pursuant to this Interim Order (consistent with the procedures set forth in paragraph 9 of this Interim Order), and seek authority thereby to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

16. *Reservation of Rights of Prepetition Secured Parties*. Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties and any other parties' holding interests that are secured by Primed Liens; *provided* that the Prepetition Agent, acting on its own behalf or at the direction of the requisite Prepetition Secured Parties, may request further or different adequate protection and the Debtor DIP Loan Parties or any other party in interest may contest any such request.

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

(a) Without in any way limiting the automatically effective perfection of the DIP Liens granted pursuant to paragraph 8 hereof and the Adequate Protection Liens granted pursuant to paragraph 15 hereof, the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties are hereby authorized, but not required, to file or record (and

to execute in the name of the DIP Loan Parties and the Prepetition Secured parties (as applicable), as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be reasonably required or deemed appropriate by the DIP Agent, acting at the direction of the Requisite DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, under applicable local laws, or take possession of or control over cash or securities, or to amend or modify security documents, or enter into, amend or modify intercreditor agreements, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to document, validate and perfect the liens and security interests granted to them hereunder the ("**Perfection Actions**"). Whether or not the DIP Agent, on behalf of the DIP Secured Parties and acting at the direction of the Required DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Parties and acting at the direction of the Required Prepetition Lenders, shall take such Perfection Actions, the liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of this Interim Order. Upon the request of the DIP Agent, acting at the direction of the Required DIP Lenders, or the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, each of the Prepetition Secured Parties and the Debtor DIP Loan Parties, without any further consent of any party, and at the sole cost of the Debtors as set forth herein, is authorized (in the case of the Debtor DIP Loan Parties), authorized and directed to use reasonable best efforts to cause (in the case of the Debtors with respect to the Non-Debtor DIP Loan Parties) and directed (in the case of the Prepetition Secured Parties), and such direction is hereby deemed to constitute required direction under the applicable DIP Documents or Prepetition

Loan Documents, to take, execute, deliver and file such actions, instruments and agreements (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens in all jurisdictions required under the DIP Credit Agreement, including all local law documentation therefor determined to be reasonably necessary by the DIP Agent, acting at the direction of the Required DIP Lenders; provided, however, that no action need be taken in a foreign jurisdiction that would jeopardize the validity and enforceability of the Prepetition Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. To the extent necessary to effectuate the terms of this Interim Order and the DIP Documents, each of the DIP Agent and the Prepetition Agent hereby is deemed to appoint the other (and deemed to have accepted such appointment) to act as its agent with respect to the Shared Collateral (as defined in the DIP Documents) and under the Common Security Documents (as defined in the DIP Documents) to which they are a party in such capacity, with such powers as are expressly delegated thereto under the DIP Documents and Prepetition Loan Documents (and even if it involves self-contracting and multiple representation to the extent legally possible), together with such other powers as are reasonably incidental thereto.

(b) A certified copy of this Interim Order may, in the discretion of the DIP Agent, acting at the direction of the Required DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized and directed to accept a certified copy of this Interim Order for filing and/or recording, as applicable. The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent and the Prepetition Agent to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

18. *Preservation of Rights Granted Under this Interim Order.*

(a) Other than the Carve Out and other claims and liens expressly granted by this Interim Order, no claim or lien having a priority superior to or *pari passu* with those granted by this Interim Order to the DIP Agent and the DIP Secured Parties or the Prepetition Agent and the Prepetition Secured Parties shall be permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in this Interim Order, the DIP Liens and the Adequate Protection Liens shall not be: (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise; (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the DIP Loan Parties; or (iv) subject or junior to any intercompany or affiliate liens or security interests of the DIP Loan Parties.

(b) The occurrence of (i) any Event of Default or (ii) any violation of any of the terms of this Interim Order, shall, after notice by the DIP Agent (acting in accordance with the terms of this Interim DIP Order) in writing to the Borrower (and, in the case of violation of any terms of this Interim Order, and after indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments, notice by the Prepetition Agent acting at the direction of the Required Prepetition Lenders), constitute an event of default under this Interim Order (each an "**Event of Default**") and, upon any such Event of Default, interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Credit Agreement.

Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code: (A) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full (and that such DIP Superpriority Claims, 507(b) Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest); (B) the other rights granted by this Interim Order, including with respect to the Carve Out, shall not be affected; and (C) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in this Interim Order.

(c) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect: (i) the validity, priority or enforceability of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay; or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens or the Carve Out. Notwithstanding any reversal, modification, vacatur or stay of any use of Cash Collateral, any DIP Obligations, DIP Liens, Adequate Protection Obligations or Adequate Protection Liens incurred by the Debtor DIP Loan Parties to the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties, as the case may be, prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original

provisions of this Interim Order, and the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in sections 364(e) and 363(m) of the Bankruptcy Code, this Interim Order and the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, the 507(b) Claims and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents and the Carve Out shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases or terminating the joint administration of these Chapter 11 Cases or by any other act or omission; (ii) the entry of an order approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents); (iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the DIP Loan Parties have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens and the Adequate Protection Obligations and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the

provisions of this Interim Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated (and in the case of rights and remedies of the Prepetition Agent and Prepetition Secured Parties, shall remain in full force and effect thereafter, subject to the terms of this Interim Order), and the Carve Out shall continue in full force and effect.

19. *Payment of Fees and Expenses*. The Fee Letter is hereby approved, and the Debtor DIP Loan Parties are authorized to and shall pay the DIP Fees and Expenses. Subject to the review procedures set forth in this paragraph 19, payment of all DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and the Prepetition Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines, however any time that such professionals seek payment of fees and expenses from the Debtor DIP Loan Parties after the Initial Funding and prior to confirmation of a chapter 11 plan, each professional shall provide summary copies of its invoices (which shall not be required to contain time entries and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of their invoices shall not constitute any waiver of the attorney client privilege or of any benefits of the attorney work product doctrine) to the Debtor DIP Loan Parties, the U.S. Trustee, and counsel to any statutory committee appointed in these Chapter 11 Cases (together, the "**Review Parties**"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after the receipt by the Review Parties (the "**Review Period**"). If no

written objection is received by 12:00 p.m., prevailing Eastern Time, on the end date of the Review Period, the Debtor DIP Loan Parties shall pay such invoices within three (3) calendar days. If an objection to a professional's invoice is received within the Review Period, the Debtor DIP Loan Parties shall promptly pay the undisputed amount of the invoice and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtor DIP Loan Parties are authorized and directed to pay on the Closing Date the DIP Fees and Expenses and Adequate Protection Fees and Expenses incurred on or prior to such date without the need for any professional engaged by, or on behalf of, the DIP Secured Parties or the Prepetition Secured Parties to first deliver a copy of its invoice or other supporting documentation to the Review Parties (other than the Debtor DIP Loan Parties). No attorney or advisor to the DIP Secured Parties or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Secured Parties in connection with or with respect to the DIP Facility and (ii) Prepetition Secured Parties in connection or with respect to these matters, are hereby approved in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtor DIP Loan Parties or any other person.

20. *Effect of Stipulations on Third Parties.* The Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) in all circumstances and for all purposes. The Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding

upon all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors, in all circumstances and for all purposes unless: (a) such committee or any other party in interest with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so) has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by no later than (i) the earlier of (x) an order confirming a chapter 11 plan, (y) 60 calendar days after the appointment of the Creditors' Committee and (z) 75 calendar days after entry of this Interim Order; (ii) any such later late agreed to in writing by the DIP Agent (acting with the direction of the Requisite DIP Lenders) and Prepetition Agent (acting with the direction of the Required Prepetition Lenders); and (iii) any such later date as has been ordered by the Court for cause upon a motion filed and served within any applicable period (the time period established by the foregoing clauses (i)-(iii), the "**Challenge Period**"), (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Credit Facility Debt or the Prepetition Liens, or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "**Challenges**") against the Prepetition Secured Parties or their respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (each, a "**Representative**" and, collectively, the "**Representatives**") in

connection with matters related to the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral; and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; *provided*, *however*, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred. If no such Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding then: (1) the Debtors' stipulations, admissions, agreements and releases contained in this Interim Order shall be binding on all parties in interest; (2) the obligations of the Debtor DIP Loan Parties under the Prepetition Loan Documents, including the Prepetition Credit Facility Debt, shall constitute allowed claims not subject to defense, claim, counterclaim, recharacterization, subordination, recoupment, offset or avoidance, for all purposes in the Chapter 11 Cases, and any subsequent chapter 7 case(s); (3) the Prepetition Liens on the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to recharacterization, subordination, avoidance or other defense; and (4) the Prepetition Credit Facility Debt and the Prepetition Liens on the Prepetition Collateral shall not be subject to any other or further claim or challenge by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party in interest acting or seeking to act on behalf of the Debtor DIP Loan Parties' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases

or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition Secured Parties and their Representatives arising out of or relating to any of the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral shall be deemed forever waived, released and barred. If any such Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements and releases contained in this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any statutory or nonstatutory committee appointed or formed in the Chapter 11 Cases and on any other person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in this Interim Order vests or confers on any Person (as defined in the Bankruptcy Code), including any statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition Loan Documents, the Prepetition Credit Facility Debt or the Prepetition Liens, and any ruling on standing, if appealed, shall not stay or otherwise delay the Chapter 11 Cases or confirmation of any plan of reorganization.

21. *Limitation on Use of DIP Financing Proceeds and Collateral*. Notwithstanding any other provision of this Interim Order or any other order entered by the Court, no DIP Loans, DIP Collateral, Prepetition Collateral (including Cash Collateral) or any portion of the Carve Out, may be used directly or indirectly, (a) in connection with the investigation, threatened initiation or

prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against any of the DIP Secured Parties, or the Prepetition Secured Parties, or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, in each case in their respective capacity as such, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Credit Facility Debt, and/or the Adequate Protection Obligations and Adequate Protection Liens granted to the Prepetition Secured Parties, as applicable, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the DIP Obligations, the Prepetition Credit Facility Debt and/or the liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under this Interim Order, the Final Order, the DIP Documents or the Prepetition Loan Documents in respect of the Prepetition Credit Facility Debt, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise (provided that, notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and/or DIP Collateral (including Cash Collateral) may be used by any Committee to investigate but not to prosecute (A) the claims and liens of the Prepetition Secured Parties and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties (together, the "**Investigation**"), up to an aggregate cap of no more than $50,000 (the "**Investigation Budget**"), (b) to prevent, hinder, or otherwise delay or interfere with the Prepetition Agent's, the Prepetition Secured Parties', the DIP Agent's, or the DIP Secured Parties', as applicable, enforcement or realization on the Prepetition Credit Facility Debt, Prepetition Collateral, DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or Final Order, as applicable, each in accordance with the DIP Documents,

the Prepetition Loan Documents or this Interim Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, or the DIP Secured Parties under this Interim Order, the Prepetition Secured Debt Documents or the DIP Documents, as applicable; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims granted to the Prepetition Secured Parties; or (e) to pay or to seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved or authorized by the Court, agreed to in writing by the DIP Lenders, expressly permitted under this Interim Order or permitted under the DIP Documents (including the Approved Budget, subject to permitted variances), in each case unless all DIP Obligations, Prepetition Credit Facility Debt, Adequate Protection Obligations, and claims granted to the DIP Agent, DIP Secured Parties, Prepetition Agent and Prepetition Secured Parties under this Interim Order, have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the DIP Secured Parties. For the avoidance of doubt, this paragraph 21 shall not limit the Debtors' right to use DIP Collateral to contest that an Event of Default has occurred hereunder pursuant to and consistent with paragraph 9(d) of this Interim Order.

22. *Interim Order Governs*. In the event of any inconsistency between the provisions of this Interim Order and the DIP Documents (including, but not limited to, with respect to the Adequate Protection Obligations) or any other order entered by this Court, the provisions of this Interim Order shall govern. Notwithstanding anything to the contrary in any other order entered by this Court, any payment made pursuant to any authorization contained in any other order entered

by this Court shall be consistent with and subject to the requirements set forth in this Interim Order and the DIP Documents, including, without limitation, the Approved Budget (subject to permitted variances).

23. *Binding Effect; Successors and Assigns*. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties, any statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties and the Debtors and their respective successors and assigns; *provided* that the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties shall have no obligation to permit the use of the Prepetition Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

24. *Exculpation*. Nothing in this Interim Order, the DIP Documents, the Prepetition Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Secured Party or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts. The DIP Secured Parties and Prepetition Secured Parties shall not, in any

way or manner, be liable or responsible for (i) the safekeeping of the DIP Collateral or Prepetition Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person and (b) all risk of loss, damage or destruction of the DIP Collateral or Prepetition Collateral shall be borne by the Debtors.

25. *Limitation of Liability*. In determining to make any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or Prepetition Collateral (including Cash Collateral) or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents or Prepetition Loan Documents, none of the DIP Secured Parties or Prepetition Secured Parties shall (a) have any liability to any third party or be deemed to be in "control" of the operations of the Debtors; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (c) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" or "managing agent" with respect to the operation or management of any of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in this Interim Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Agent, DIP Secured Parties, Prepetition Agent or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

26. *Master Proof of Claim*. The Prepetition Agent, and/or any other Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Cases or any

Successor Case in order to assert claims on behalf of themselves or the Prepetition Secured Parties for payment of the Prepetition Credit Facility Debt arising under the Prepetition Loan Documents, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts under the Prepetition Loan Documents. The statements of claim in respect of such indebtedness set forth in this Interim Order, together with any evidence accompanying the DIP Motion and presented at the Interim Hearing, are deemed sufficient to and do constitute proofs of claim in respect of such debt and such secured status. However, in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, the Prepetition Agent is authorized, but not directed or required, to file in the Debtors' lead chapter 11 case *In re Speedcast International Limited*, Case No. 20-32243 (MI), a master proof of claim on behalf of its respective Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Loan Documents and hereunder (each, a "**Master Proof of Claim**") against each of the Debtors. Upon the filing of a Master Proof of Claim by the Prepetition Agent, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Loan Documents, and the claim of each applicable Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if it had filed a separate proof of claim in each of these Chapter 11 Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among the holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 26 and each Master Proof of Claim

are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Chapter 11 Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the Prepetition Agent. The DIP Agent and the DIP Secured Parties shall similarly not be required to file proofs of claim with respect to their DIP Obligations under the DIP Documents, and the evidence presented with the DIP Motion and the record established at the Interim Hearing are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

27. *Forbearance of the Prepetition Secured Parties.* Prior to the occurrence of an Event of Default, except as expressly permitted pursuant to the terms of this Interim Order or the DIP Documents, the Prepetition Secured Parties shall not (i) exercise any rights or remedies with respect to any Prepetition Liens or Prepetition Collateral, (ii) enforce or pursue an event of default or other breach under any Prepetition Loan Document, or (iii) assert any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any Prepetition Obligations; *provided* that, following (x) payment in full of the DIP Obligations and termination of the DIP Commitments and (y) the occurrence of any Event of Default or other violation of the terms of this Interim Order, subject to five (5) business days' notice; *provided* that such notice period will not apply with respect to any non-Debtor Loan Parties, (i) the forbearance set forth in this paragraph 27 shall be of no further force or effect, and (ii) the Prepetition Secured Parties shall be permitted to rescind any consent given under this Interim Order regarding the use of Prepetition Collateral (including Cash Collateral) and file a Stay Relief

Motion (consistent with the procedures set forth in paragraph 9 of this Interim Order) seeking authority to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

28. *Insurance*. To the extent that the Prepetition Agent is listed as loss payee under the Borrower's or DIP Guarantors' insurance policies, the DIP Agent is also deemed to be the loss payee under the insurance policies and shall act in that capacity and distribute any proceeds recovered or received in respect of the insurance policies, to the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments, and to the payment of the applicable Prepetition Credit Facility Debt.

29. *Credit Bidding*. (a) The DIP Agent shall have the right to credit bid, in accordance with the DIP Documents, up to the full amount of the DIP Obligations in any sale of the DIP Collateral and (b) the Prepetition Agent shall have the right, consistent with the provisions of the Prepetition Loan Documents (and providing for the DIP Obligations to be indefeasibly repaid in full in cash and the termination of the DIP Commitments), to credit bid up to the full amount of the Prepetition Credit Agreement Debt, in each case as and to the extent provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether any such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, in each case unless the Court for cause orders otherwise.

30. *Effectiveness*. This Interim Order shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy

Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

31. *Modification of DIP Documents and Approved Budget*. The Debtors are hereby authorized, without further order of this Court, to enter into agreements with the DIP Secured Parties (or the Prepetition Secured Parties after the indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments) providing for any consensual non-material modifications to the Approved Budget or the DIP Documents, or of any other modifications to the DIP Documents necessary to conform the terms of the DIP Documents to this Interim Order, in each case consistent with the amendment provisions of the DIP Documents; *provided*, *however*, that notice of any material modification or amendment to the DIP Documents shall be provided to the U.S. Trustee and any statutory committee which shall have five (5) days from the date of such notice within which to object, in writing, to the modification or amendment. If the U.S. Trustee or any statutory committee timely objects to any material modification or amendment to the DIP Documents, the modification or amendment shall only be permitted pursuant to an order of the Court. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a material modification on an expedited basis.

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

33. *Payments Held in Trust*. Except as expressly permitted in this Interim Order or the DIP Documents and except with respect to the DIP Loan Parties, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP

Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the benefit of the DIP Agent and the DIP Secured Parties and shall immediately turn over the proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Interim Order.

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

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

36. *Necessary Action*. The Debtors, the DIP Secured Parties and the Prepetition Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of this Interim Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in these Chapter 11 cases to take all actions as are necessary or appropriate to implement the terms of this Interim Order.

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

38. *Final Hearing*. A final hearing to consider the relief requested in the Motion shall be held on May 14, 2020 at 2:30 p.m. (Prevailing Central Time) and any objections or responses to the Motion shall be filed on or prior to May 11, 2020 at 4:00 p.m. (Prevailing Central Time).

39. *Objections*. Any party in interest objecting to the relief sought at the Final Hearing shall file and serve (via mail and e-mail) written objections, which objections shall be served upon (a) the U.S. Trustee; (b) entities listed as holding the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the Debtors, SpeedCast International Ltd. c/o SpeedCast Communications, Inc., 4400 S. Sam Houston Pkwy E, Houston TX 77048 (Attn.: Dominic Gyngell (dominic.gyngell@speedcast.com)); (d) counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 5th Avenue, New York, New York 10153, (Attn.: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), David Nigel Griffiths, Esq. (david.griffiths@weil.com) and Kelly DiBlasi, Esq. (kelly.diblasi@weil.com)); (e) counsel to the DIP Agent and Prepetition Agent, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York, 10001 (Attn.: Steven Messina, Esq. (steven.messina@skadden.com) and George Howard, Esq. (george.howard@skadden.com)) and 155 N. Wacker Drive, Chicago, Illinois 60606 (Attn.: David M. Wagener, Esq. (david.wagener@skadden.com)); (f) counsel to the Ad Hoc Group of Term Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn.: Damian Schaible, Esq. (damian.schaible@davispolk.com) and Jon Finelli, Esq. (jon.finelli@davispolk.com)); (g) the Office of the United States Attorney for the Southern District of Texas; (h) the state attorneys general for states in which the Debtor DIP Loan Parties conduct business; (i) the Internal Revenue Service; (j) the Securities and Exchange Commission; (k) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtor DIP Loan Parties conduct business; and (l) any other party that has filed a request for

notices with this Court pursuant to Bankruptcy Rule 2002, with a copy to the Court's chamber, in each case to allow actual receipt by the foregoing no later than May 11, 2020 at 4:00 p.m., prevailing Central Time and otherwise in conformity with the Court's order establishing notice and case management procedures.

40. The Debtors shall promptly serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the parties having been given notice of the Interim Hearing and to any party that has filed a request for notices with this Court.

41. The Court orally modified that portion of the DIP Credit Agreement providing that the Debtor's plan versus Sale election must be acceptable to the lender. On that issue, the Court's statements on the record control.

Signed: April 24, 2020

Marvin Isgur
United States Bankruptcy Judge

Exhibit 1

DIP Credit Agreement

FILING VERSION

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT

dated as of April [24], 2020,

among

SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241),
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,

as Parent,

SPEEDCAST COMMUNICATIONS, INC.,
a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code,

as the Borrower,

THE LENDERS NAMED HEREIN

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,

as Administrative Agent, Collateral Agent and Security Trustee

TABLE OF CONTENTS

PAGE

ARTICLE I
DEFINITIONS

SECTION 1.01. Defined Terms 1
SECTION 1.02. Terms Generally 35
SECTION 1.03. LLC Division 35
SECTION 1.04. Classification of Loans and Borrowings 36
SECTION 1.05. Dutch Terms 36

ARTICLE II
THE CREDITS

SECTION 2.01. Commitments and Loans 36
SECTION 2.02. Loans 38
SECTION 2.03. Borrowing Procedure 39
SECTION 2.04. Evidence of Debt; Repayment of Loans 39
SECTION 2.05. Fees 40
SECTION 2.06. Interest on Loans 41
SECTION 2.07. Default Interest 41
SECTION 2.08. Alternate Rate of Interest 42
SECTION 2.09. Termination of Commitments 42
SECTION 2.10. Conversion and Continuation of Borrowings 42
SECTION 2.11. Repayment of Borrowings 43
SECTION 2.12. Voluntary Prepayment 44
SECTION 2.13. Mandatory Prepayments 44
SECTION 2.14. Reserve Requirements; Change in Circumstances 45
SECTION 2.15. Change in Legality 46
SECTION 2.16. Indemnity 47
SECTION 2.17. Pro Rata Treatment 47
SECTION 2.18. Sharing of Setoffs 47
SECTION 2.19. Payments 48
SECTION 2.20. Taxes 48
SECTION 2.21. [Reserved] 52
SECTION 2.22. Assignment of Loans Under Certain Circumstances; Duty to Mitigate 52
SECTION 2.23. [Reserved] 54
SECTION 2.24. Parent as Borrower Agent 54
SECTION 2.25. Disbursement of Funds from the Escrow Account 54
SECTION 2.26. Defaulting Lenders 56
SECTION 2.27. Payments to Administrative Agent for Fronting Exposure 57

ARTICLE III
REPRESENTATIONS AND WARRANTIES

SECTION 3.01. Organization; Powers 57

SECTION 3.02. Authorization 58
SECTION 3.03. Enforceability 58
SECTION 3.04. Governmental Approvals 58
SECTION 3.05. Financial Statements 59
SECTION 3.06. No Material Adverse Change 59
SECTION 3.07. Title to Properties; Possession Under Leases 59
SECTION 3.08. Subsidiaries 60
SECTION 3.09. Litigation; Compliance with Laws 60
SECTION 3.10. Agreements 60
SECTION 3.11. Federal Reserve Regulations 61
SECTION 3.12. Investment Company Act 61
SECTION 3.13. Use of Proceeds 61
SECTION 3.14. Tax Returns 61
SECTION 3.15. No Material Misstatements 62
SECTION 3.16. Employee Benefit Plans 62
SECTION 3.17. Environmental Matters 63
SECTION 3.18. Insurance 64
SECTION 3.19. Security Documents 64
SECTION 3.20. Location of Material Owned Real Property 64
SECTION 3.21. Labor Matters 64
SECTION 3.22. [Reserved] 64
SECTION 3.23. Sanctions, Anti-Terrorism and Anti-Bribery Laws 65
SECTION 3.24. Senior Indebtedness 65
SECTION 3.25. Australian Tax Consolidation 65
SECTION 3.26. Trustee; Benefit; Financial Assistance; Etc 66
SECTION 3.27. Beneficial Ownership 66
SECTION 3.28. Cases; Orders 66

ARTICLE IV
CONDITIONS

SECTION 4.01. Credit Event 67
SECTION 4.02. Delayed Draw Borrowing 72
SECTION 4.03. Disbursements 73

ARTICLE V
AFFIRMATIVE COVENANTS

SECTION 5.01. Existence; Businesses and Properties 75
SECTION 5.02. Insurance 75
SECTION 5.03. Obligations and Taxes 76
SECTION 5.04. Financial Statements, Reports, etc 77
SECTION 5.05. Litigation and Other Notices 80
SECTION 5.06. Employee Benefits 80
SECTION 5.07. Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings 81
SECTION 5.08. Use of Proceeds 81

SECTION 5.09. Compliance with Environmental Laws....81
SECTION 5.10. Preparation of Environmental Reports....82
SECTION 5.11. Guarantors; Further Assurances; Etc....82
SECTION 5.12. Senior Indebtedness....84
SECTION 5.13. Compliance with Tax Sharing Agreement and Tax Funding Agreement....85
SECTION 5.14. Post-Closing Matters....85
SECTION 5.15. Federal Reserve Regulations....85
SECTION 5.16. Milestones....86
SECTION 5.17. Lender Conference Calls....88
SECTION 5.18. Chief Restructuring Officer....88
SECTION 5.19. Priority of Liens....88
SECTION 5.20. Bankruptcy Related Matters....90

ARTICLE VI
NEGATIVE COVENANTS

SECTION 6.01. Indebtedness....92
SECTION 6.02. Liens....94
SECTION 6.03. Sale and Lease-Back Transactions....97
SECTION 6.04. Investments, Loans and Advances....97
SECTION 6.05. Mergers, Consolidations and Sales of Assets....99
SECTION 6.06. Dividends and Distributions; Restrictions on Ability of Subsidiaries to Pay Dividends....99
SECTION 6.07. Transactions with Affiliates....100
SECTION 6.08. Business of Parent and Subsidiaries....100
SECTION 6.09. Other Indebtedness and Agreements....100
SECTION 6.10. [Reserved]....102
SECTION 6.11. Fiscal Year....102
SECTION 6.12. [Reserved]....102
SECTION 6.13. Certain Issuances of Equity Interests....102
SECTION 6.14. Sanctions-Compliant Repayment of Obligations....102
SECTION 6.15. Budget Variance....102
SECTION 6.16. Liquidity....103
SECTION 6.17. Subsidiaries....103
SECTION 6.18. Additional Bankruptcy Matters....103

ARTICLE VII
EVENTS OF DEFAULT

SECTION 7.01. Events of Default....104
SECTION 7.02. Application of Proceeds....111

ARTICLE VIII
THE AGENTS, ETC.; CERTAIN ERISA MATTERS

SECTION 8.01. The Administrative Agent, the Collateral Agent and the Security Trustee, Etc....112

SECTION 8.02. Certain ERISA Matters 119

ARTICLE IX
MISCELLANEOUS

SECTION 9.01. Notices 121
SECTION 9.02. Survival of Agreement 124
SECTION 9.03. Binding Effect 125
SECTION 9.04. Successors and Assigns 125
SECTION 9.05. Expenses; Indemnity 129
SECTION 9.06. Right of Setoff 132
SECTION 9.07. Applicable Law 132
SECTION 9.08. Waivers; Amendment 132
SECTION 9.09. Interest Rate Limitation 135
SECTION 9.10. Entire Agreement 135
SECTION 9.11. WAIVER OF JURY TRIAL 135
SECTION 9.12. Severability 135
SECTION 9.13. Counterparts 136
SECTION 9.14. Headings 136
SECTION 9.15. Jurisdiction; Consent to Service of Process; Waivers 136
SECTION 9.16. Conversion of Currencies 137
SECTION 9.17. Confidentiality 138
SECTION 9.18. [Reserved] 139
SECTION 9.19. [Reserved] 139
SECTION 9.20. No Advisory or Fiduciary Responsibility 139
SECTION 9.21. USA PATRIOT Act and Beneficial Ownership Regulation Notice 139
SECTION 9.22. [Reserved] 140
SECTION 9.23. Acknowledgment and Consent to Bail-In of EEA Financial Institutions 140
SECTION 9.24. Certain Privacy Principles and Laws 140
SECTION 9.25. Release of Liens 141
SECTION 9.26. Exclusion of Certain PPSA Provisions 141
SECTION 9.27. DIP Orders 142

SCHEDULES

Schedule 1.01(a) Agreed Security Principles
Schedule 1.01(b) Excluded Subsidiaries
Schedule 1.01(c) Operating Accounts
Schedule 1.01(d) Initial Subsidiary Guarantors
Schedule 2.01 Lenders; Commitments
Schedule 3.01 Organization; Powers
Schedule 3.08 Subsidiaries
Schedule 3.09 Litigation
Schedule 3.10(b) Agreements
Schedule 3.17 Environmental Matters
Schedule 3.18 Insurance

Schedule 3.19	Additional Security Requirements
Schedule 3.20	Material Owned Real Property
Schedule 3.21	Labor Matters
Schedule 4.01(d)	Initial Security Documents and Certain Closing Deliverables
Schedule 4.01(j)	Existing Indebtedness for Borrowed Money
Schedule 5.14	Post-Closing Matters
Schedule 6.01	Indebtedness
Schedule 6.02	Liens
Schedule 6.04	Investments
Schedule 6.07	Transactions with Affiliates

EXHIBITS

Exhibit A	Form of Administrative Questionnaire
Exhibit B	Form of Assignment and Acceptance
Exhibit C	Form of Borrowing Request
Exhibit D	Form of Guarantee Agreement
Exhibit E	Form of Security Trust Deed
Exhibit F	Form of Compliance Certificate
Exhibit G	Form of Solvency Certificate
Exhibit H	Form of Promissory Note
Exhibit I	[Reserved]
Exhibit J-1	Form of U.S. Tax Compliance Certificate
Exhibit J-2	Form of U.S. Tax Compliance Certificate
Exhibit J-3	Form of U.S. Tax Compliance Certificate
Exhibit J-4	Form of U.S. Tax Compliance Certificate
Exhibit K	Form of Notice of Disbursement
Exhibit L	Form of Liquidity Certificate
Exhibit M	Form of Global Subordinated Intercompany Note
Exhibit N	Interim Order

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT, dated as of April [24], 2020 (this "***Agreement***"), among SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241), a company organized under the laws of Australia and registered in Victoria, Australia and a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code ("***Parent***"), SPEEDCAST COMMUNICATIONS, INC., a Texas corporation and a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code (the "***Borrower***"), the Lenders (as defined in Article I) and CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as administrative agent (in such capacity, including any successor thereto, the "***Administrative Agent***") for the Lenders, as collateral agent (in such capacity, including any successor thereto, the "***Collateral Agent***") for the Secured Parties, and as security trustee (in such capacity, including any successor thereto, the "***Security Trustee***") for the Secured Parties.

On April [23], 2020 (the "***Petition Date***"), the Borrower, Parent and certain Subsidiary Guarantors (each a "***Debtor***" and collectively, the "***Debtors***") filed voluntary petitions with the Bankruptcy Court commencing their respective cases that are pending under Chapter 11 of the Bankruptcy Code (each case of the Borrower and each other Debtor, a "***Case***" and collectively, the "***Cases***") and have continued in the possession of their assets and management of their business pursuant to Section 1107(a) and 1108 of the Bankruptcy Code.

The Borrower has requested that the Lenders extend credit (or be deemed to extend credit) to the Borrower in the form of new money loans in an aggregate principal amount of up to $90,000,000 and loans issued hereunder in substitution and exchange (and prepayment) of existing Pre-Petition First Lien Loans in an aggregate principal amount equal $90,000,000 pursuant to this Agreement (collectively, the "***DIP Term Facility***"), with all of the Borrower's obligations under the DIP Term Facility to be guaranteed by Parent and each Subsidiary Guarantor.

The priority of the DIP Term Facility with respect to the Collateral granted to secure the Obligations shall be as set forth in the Interim Order and the Final Order, as applicable, in each case upon entry thereof by the Bankruptcy Court and in the DIP Intercreditor Agreement.

The Borrower, Parent and the Subsidiary Guarantors are engaged in related businesses, and Parent and each Subsidiary Guarantors will derive substantial direct and indirect benefit from the making of the extensions of credit under this Agreement.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. ***Defined Terms***. As used in this Agreement, the following terms shall have the meanings specified below:

"***ABR***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"***Acceptable Plan***" shall mean a plan of reorganization implementing an Approved Restructuring (which may, for the avoidance of doubt and without limitation, contemplate one or more sale of assets).

"***Acceptable Sale Transaction***" shall mean a sale of assets pursuant to section 363 of the Bankruptcy Code that is utilized to implement an Approved Restructuring and includes bid procedures that, without limitation, permit credit bidding of the Obligations at the full face amount thereof in accordance with Section 8.01.

"***Ad Hoc Group of Lenders***" shall mean those certain Lenders represented by the Ad Hoc Lender Advisors as of the Closing Date.

"***Ad Hoc Lender Advisors***" shall mean (i) Davis Polk, (ii) Greenhill, (iii) KWM and (iv) any other financial advisor, auditor, attorney, accountant, appraiser, auditors, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts reasonably retained by the Ad Hoc Group of Lenders and/or the Required Lenders with the prior consent of Parent (not to be unreasonably withheld or delayed).

"***Additional Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Adjusted LIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to the LIBO Rate in effect for such Interest Period multiplied by Statutory Reserves.

"***Administrative Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Administrative Questionnaire***" shall mean an Administrative Questionnaire substantially in the form of Exhibit A, or such other form as may be supplied by the Administrative Agent.

"***Affected Financial Institution***" shall mean (a) any EEA Financial Institution or (b) any UK Financial Institution.

"***Affiliate***" shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

"***Agent Fees***" shall have the meaning assigned to such term in Section 2.05.

"***Agents***" shall have the meaning assigned to such term in Article VIII.

"***Agreed Security Principles***" means the principles set out in Schedule 1.01(a) hereto (Agreed Security Principles).

"***Agreement***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Agreement Value***" shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to any such Hedging Agreement, (i) for any date on or after the date such Hedging Agreement has been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (ii) for any date prior to the date referenced in clause (i), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreement (which may include a Lender or any Affiliate of a Lender).

"***Agreement Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Alternate Base Rate***" shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate in effect on such day for a one-month Interest Period commencing on the second Business Day after such day plus 1.00%; *provided* that the Alternate Base Rate shall not be less than 3.00%. If the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or the Adjusted LIBO Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) or (c), as applicable, of the preceding sentence until the circumstances giving rise to such inability no longer exist. The term "***Prime Rate***" shall mean the rate of interest per annum determined from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City and notified to the Borrower. The term "***Federal Funds Effective Rate***" shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System of the United States, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, as the case may be.

"***Anti-Bribery Laws***" shall have the meaning assigned to such term in Section 3.23(b)**Error! Reference source not found.**.

"***Applicable Creditor***" shall have the meaning assigned to such term in Section 9.16(b).

"***Applicable Rate***" shall mean, for any day, with respect to (a) Roll-Up Loans, 1.75% per annum and (b) with respect to New-Money Loans, (i) 8.00% per annum, in the case of a Eurocurrency Loan, or (ii) 7.00% per annum, in the case of an ABR Loan.

"***Approved Budget***" shall mean the Initial DIP Budget or the then most current DIP Budget prepared by Parent and approved by the Required IC Lenders and the Required Lenders pursuant to Section 5.04(j), as applicable.

"***Approved Restructuring***" shall mean a restructuring transaction (or series of transactions) to be implemented through (a) prior to the occurrence of a Plan Election, an Acceptable Sale Transaction or (b) following the occurrence of a Plan Election, an Acceptable Plan, in each case with the consent of the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, with terms and conditions and definitive documents acceptable to the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, in each case in their sole discretion (including, except as otherwise agreed by the Required IC Lenders, the Required Lenders and the Required First Lien Lenders, in each case in their sole discretion, as such terms, conditions and/or documents are amended, restated, amended and restated, supplemented, superseded and/or otherwise modified).

"***Asset Sale***" shall mean the sale, transfer or other disposition (by way of merger, casualty, condemnation or otherwise and including by way of a Sale and Leaseback) by Parent or any Subsidiary to any person other than any Loan Party of (a) any Equity Interests of any Subsidiary (other than directors' or foreign nationals' qualifying shares) or (b) any other assets of Parent or any Subsidiary (other than sales, transfers or other dispositions in the ordinary course of business and consistent with the Approved Budget).

"***Assignment and Acceptance***" shall mean an assignment and acceptance entered into by a Lender and an assignee, and accepted by the Administrative Agent, substantially in the form of Exhibit B or such other form as shall be approved by the Administrative Agent.

"***ASX***" means ASX Limited.

"***Auction***" shall have the meaning assigned to such term in Section 5.16(c).

"***Australian Corporations Act***" shall mean the Corporations Act 2001 of Australia (Cth).

"***Australian Employee Benefit Account***" shall mean any bank account established or designated as such (including after the date of this Agreement) in accordance with clause 9 of the Forbearance Agreement and held with an Australian authorized deposit taking institution which is secured in favor of the Secured Parties for the sole purpose of holding funds to pay when due entitlements of Australian employees which would have priority under sections 556(1)(e), 556(1)(f) and 556(1)(g) of the Australian Corporations Act.

"***Australian Privacy Principles***" shall mean the Australian Privacy Principles in Schedule 1 of the Privacy Act 1988 (Cth) of Australia.

"***Australian Tax Act***" shall mean the Income Tax Assessment Act 1936 of Australia or the Income Tax Assessment Act 1997 of Australia, as the context requires, and includes any amended or successor provisions thereof.

"***Australian Withholding Tax***" means any Australian Tax required to be withheld or deducted from any payment or deemed payment of interest or other payment under Division 11A of Part III of the Australian Tax Act or Subdivision 12-F of Schedule 1 to the Taxation Administration Act 1953 (Cth).

"***Avoidance Action***" shall mean the Debtors' claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code.

"***Avoidance Proceeds***" shall mean any proceeds or property recovered, unencumbered or otherwise in connection with successful Avoidance Actions, whether by judgment, settlement or otherwise.

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

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

"***Bankruptcy Code***" shall mean Title 11 of the United States Code entitled "***Bankruptcy***" as now or hereafter in effect, or any successor statute.

"***Bankruptcy Court***" shall mean the United States Bankruptcy Court for the Southern District of Texas, or any appellate court having jurisdiction over the Cases from time to time.

"***Bankruptcy Rules***" shall mean the Federal Rules of Bankruptcy Procedure, as the same may from time to time be in effect and applicable to the Cases.

"***Beneficial Ownership Certification***" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

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

"***Benefit Plan***" shall mean any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of

Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"***Bid Procedures Motion***" shall have the meaning assigned to such term in Section 5.16(c).

"***Bid Procedures Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Board***" shall mean the Board of Governors of the Federal Reserve System of the United States of America.

"***Borrower Materials***" shall have the meaning assigned to such term in Section 9.01.

"***Borrower***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Borrowing***" shall mean a group of Loans of a single Type made (or, in the case of Roll-Up Loans, deemed made) by the Lenders on, and converted or continued on, the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

"***Borrowing Minimum***" shall mean $500,000.

"***Borrowing Multiple***" shall mean $100,000.

"***Borrowing Request***" shall mean a request by Parent in accordance with the terms of Section 2.03 and substantially in the form of Exhibit C, or such other form as shall be approved by the Administrative Agent.

"***Breakage Event***" shall have the meaning assigned to such term in Section 2.16.

"***Budget Test Period***" shall have the meaning specified in the definition of "Budget Variance Report".

"***Budget Variance Report***" shall mean a variance report, in a form satisfactory to Greenhill (which may take direction from the Required IC Lenders and the Required Lenders) and certified by the chief financial officer and chief restructuring officer of Parent, setting forth (a) (x) for the period beginning on the Petition Date through the second to last Friday prior to delivery of such variance report (the "***Cumulative Budget Test Period***") and (y) the rolling four-week period most recently ended on the second to last Friday prior to the delivery of such variance report (commencing on the first Friday following the fourth anniversary following the Petition Date) (the "***Budget Test Period***"), (i) the cumulative negative variance (as compared to the Approved Budget) of the aggregate cash receipts of the Loan Parties and their Subsidiaries (presented on a line-item basis) and (ii) the cumulative positive variance (as compared to the Approved Budget) of the aggregate operating disbursements made by the Loan Parties and their Subsidiaries (presented on a line-item basis) and (b) an explanation, in reasonable detail, of any material variance and a distinction between permanent and timing-related variances.

"***Business Day***" shall mean any day other than a Saturday, Sunday or day on which banks in New York City are authorized or required by law to close; *provided* that when used in connection with a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"***Capital Lease Obligations***" of any person shall mean the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as, or accounted for in a similar way to, a finance lease or capital lease on a balance sheet or statement of financial position of such person under GAAP, and the amount of such obligations shall be the principal or capitalized amount thereof determined in accordance with GAAP.

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

"***Case***" and "***Cases***" shall have the meaning assigned to such term in the recitals to this Agreement.

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

"***Change in Law***" shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of Sections 2.14 and 2.15, by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; *provided* that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or non-U.S. regulatory authorities, in each case pursuant to Basel III, and (iii) any law or regulation that implements or applies Basel III Standards (including the Capital Requirement Regulation (EU) no. 575/2013 dated 26 June 2013 and the Capital Requirement Directive 2013/36/EU dated 26 June 2013), shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

A "***Change of Control***" shall be deemed to have occurred if (a) any person or group shall (i) own directly or indirectly, beneficially or of record, shares representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent or (ii) obtain or acquire the power to appoint or remove all, or the majority, of the directors or other equivalent officers of Parent; (b) any "change of control" (or similar event, however denominated) with respect to Parent or any of its Subsidiaries shall occur under and as defined in any indenture or agreement in respect of Indebtedness in an outstanding principal amount in excess of the Threshold Amount to which Parent or any of its Subsidiaries is a party and incurred on or after the Petition Date; (c) any person or group shall otherwise directly or

indirectly Control Parent or (d) Parent shall cease to own beneficially, directly or indirectly, 100% of the issued and outstanding Equity Interests of the Borrower.

"***Charges***" shall have the meaning assigned to such term in Section 9.09.

"***Closing Date***" shall mean the date on which the conditions precedent set forth in Section 4.01 shall have been satisfied or waived, notice of which date shall be provided by the Administrative Agent to the Lenders (provided that references in any other Loan Document to "Funding Date" shall be a reference to the Closing Date).

"***Class***" shall mean, when used in reference to (a) any Loan or Borrowing, whether such Loan, or the Loans comprising such Borrowing, are Roll-Up Loans or New Money Loans, and (b) any Lender, whether such Lender has a Loan or Borrowing with respect to a particular Class of Loans or Borrowings.

"***Code***" shall mean the United States Internal Revenue Code of 1986, as amended from time to time.

"***Collateral***" shall mean all the "Collateral" (or equivalent term) as defined in the Interim Order (and, when entered into, the Final Order) and (a) all the "Collateral", "Pledged Collateral" and any similar term as defined in any Security Document, (b) the "Trust" and the "Trust Fund" (as such terms are defined in the Security Trust Deed), (c) the Mortgaged Properties and (d) any other asset that is otherwise subject to any Transaction Security Interest (as defined in the Security Trust Deed), pursuant to this Agreement or any Security Document.

"***Collateral Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Commitment***" shall mean, with respect to any Lender, individually or collectively, as the context may require, such Lender's Initial Commitment or Delayed Draw Commitment. The aggregate amount of the Commitments as of the Closing Date is $90,000,000, as set forth on the Commitment Schedule.

"***Commitment Schedule***" shall mean the Schedule attached hereto as Schedule 2.01.

"***Commitment Fee***" shall have the meaning assigned to such term in Section 2.05(b).

"***Committee***" shall mean the official committee of unsecured creditors appointed in the Cases pursuant to section 1102 of the Bankruptcy Code.

"***Commodity Exchange Act***" shall mean the United States Commodity Exchange Act (7 § 1 et seq.), as amended from time to time, and any successor statute.

"***Communications***" shall have the meaning assigned to such term in Section 9.01.

"***Compliance Certificate***" shall mean a certificate of the chief financial officer and the chief restructuring officer of Parent, substantially in the form of Exhibit F or such other form as shall be approved by the Administrative Agent.

"***Confirmation Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Connection Income Taxes***" shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"***Control***" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and the terms "***Controlling***" and "***Controlled***" shall have meanings correlative thereto; *provided* that any reference to "Control" in the definition of "Change of Control" shall have the meaning given in section 50AA of the Australian Corporations Act.

"***Credit Date***" shall mean the date on which any Borrowing is made.

"***Cumulative Budget Test Period***" shall have the meaning assigned to such term in the definition of "Budget Test Period."

"***Davis Polk***" shall mean Davis Polk & Wardwell LLP, acting in their capacity as counsel to the Ad Hoc Group of Lenders.

"***Debtor***" shall have the meaning assigned to such term in the recitals of this Agreement.

"***Debtor Relief Laws***" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, judicial management, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief statute, law, ordinance, rule or regulation of the United States of America, any State thereof or the District of Columbia, or other applicable jurisdictions from time to time in effect.

"***Declined Amounts***" shall have the meaning assigned to such term in Section 2.13(e).

"***Declining Lender***" shall have the meaning assigned to such term in Section 2.13(e).

"***Default***" shall mean any event or condition which upon notice, lapse of time or both would constitute an Event of Default.

"***Defaulting Lender***" shall mean, subject to Section 2.26(b), any Lender that has (a) failed to fund any portion of its Loans within two Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) notified any Borrower and the Administrative Agent in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit, unless such writing or public statement indicates that such position is based on such Lender's good-faith determination that a condition precedent to funding (specifically identified, including, if applicable, by reference to a specific Default) has not been

satisfied, (c) failed, within three Business Days after written request by the Administrative Agent, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans; *provided* that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent, (d) otherwise failed to pay over to the Administrative Agent or any other Lender any other amount (other than a *de minimis* amount) required to be paid by it hereunder within two Business Days of the date when due, unless the subject of a good faith dispute, (e) (i) has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or has a parent company that has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or (ii) become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, administration, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachments on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender, or (f) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under this definition shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to Parent and each Lender (or each Lender of the applicable Class).

"***Delayed Draw Borrowing Date***" shall mean the date on which the conditions precedent in Section 4.02 have been satisfied and the Delayed Draw Loan is made, which shall be no earlier than the Final Order Entry Date.

"***Delayed Draw Commitment***" shall mean, with respect to each Lender, the commitment of such Lender to make a Delayed Draw Loan to the Borrower in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on the Commitment Schedule, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate amount of the Lenders' Delayed Draw Commitments on the Closing Date is $55,000,000.

"***Delayed Draw Commitment Fee***" shall have the meaning assigned to such term in Section 2.05(d).

"***Delayed Draw Commitment Termination Date***" shall mean the earlier to occur of (a) the Delayed Draw Borrowing Date and (b) the Termination Date.

"***Delayed Draw Loan***" shall have the meaning assigned to such term in Section 2.01.

"***DIP Budget***" shall mean a budget in form and substance satisfactory to the Required IC Lenders and the Required Lenders delivered on or prior to the Closing Date and updated from time to time as set forth Section 5.04(j), setting forth on a weekly basis, among other things, Parent's and its Subsidiaries' projected cash receipts and cash disbursements (including professional fee expenses and capital expenditures) during such period.

"***DIP Intercreditor Agreement***" shall mean that certain Intercreditor Agreement, dated as of the date hereof, among Parent, the Borrower, the borrowers party to the Pre-Petition First Lien Credit Agreement, the Collateral Agent, the Security Trustee, the Pre-Petition First Lien Security Agents and the other parties thereto.

"***DIP Term Facility***" shall have the meaning assigned to such term in the recitals to this Agreement.

"***Disbursement***" shall mean a release of funds from the Escrow Account.

"***Disbursement Date***" shall mean the date of the release of funds from the Escrow Account constituting a Disbursement.

"***Disbursement Termination Instruction***" shall have the meaning assigned to such term in Section 2.25(b).

"***Disclosure and Solicitation Documents***" shall have the meaning assigned to such term in Section 5.16(c).

"***Disclosure Statement Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Disqualified Stock***" shall mean any Equity Interest that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case at any time on or prior to the first anniversary of the Stated Maturity Date, or (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interest referred to in clause (a) above, in each case at any time prior to the first anniversary of the Stated Maturity Date.

"***Dollar Equivalent***" shall mean, on any date of determination, with respect to any amount denominated in any currency other than dollars, the equivalent in dollars of such amount, determined by the Administrative Agent using the applicable Exchange Rate with respect to such currency at the time in effect.

"***dollars***", "***Dollars***" or "***$***" shall mean lawful money of the United States of America.

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

"***EEA Member Country***" shall mean any member state of the European Union, Iceland, Liechtenstein and Norway.

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

"***environment***" shall mean ambient air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, the workplace or as otherwise defined in any Environmental Law.

"***Environmental Claim***" shall mean any written notice of violation, claim, demand, order, directive, cost recovery action or other cause of action by, or on behalf of, any Governmental Authority or any person for damages, injunctive or equitable relief, personal injury (including sickness, disease or death), Remedial Action costs, tangible or intangible property damage, natural resource damages, nuisance, pollution, any adverse effect on the environment caused by any Hazardous Material, or for fines, penalties or restrictions, resulting from or based upon (a) the existence, or the continuation of the existence, of a Release (including sudden or non-sudden, accidental or non-accidental Releases), (b) exposure to any Hazardous Material, (c) the presence, use, handling, transportation, storage, treatment or disposal of any Hazardous Material or (d) the violation or alleged violation of any Environmental Law or Environmental Permit.

"***Environmental Law***" shall mean any and all applicable present and future treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the presence, management, Release or threatened Release of any hazardous or toxic material or to health and safety matters.

"***Environmental Permit***" shall mean any permit, approval, authorization, certificate, license, variance, filing or permission required by or from any Governmental Authority pursuant to any Environmental Law.

"***Equity Interests***" shall mean shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity interests in any person and any option, warrant or other right (other than Indebtedness that is convertible into, or exchangeable for, any such equity interest) entitling the holder thereof to purchase or otherwise acquire any such equity interest.

"***Equity Issuance***" shall mean any issuance or sale by Parent or any Subsidiary of any Equity Interests of Parent or any Subsidiary, as applicable.

"***ERISA***" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time.

"***ERISA Affiliate***" shall mean any trade or business (whether or not incorporated) that, together with the Borrower or Parent, is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code. When any provision of this Agreement relates to a past event, the term "ERISA Affiliate" includes any person who was an ERISA Affiliate at the time of such past event.

"***ERISA Event***" shall mean (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period has been waived); (b) the adoption of any amendment to a Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code; (c) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived, under any Plan; (d) the filing of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the failure of any Loan Party or an ERISA Affiliate to make any required contributions to a Plan or Multiemployer Plan on or before the due date for such contributions; (f) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Plan or the incurrence of Withdrawal Liability by any Loan Party or any of its ERISA Affiliates from any Multiemployer Plan; (g) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (h) the receipt by any Loan Party or any ERISA Affiliate of any notice concerning a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA, or is in an endangered, critical and declining, or critical status, within the meaning of Section 305 of ERISA; (i) the occurrence of a non-exempt "prohibited transaction" within the meaning of Section 4075 of the Code of Section 406 of ERISA with respect to which any Loan Party or any of its Subsidiaries is a "disqualified person", within the meaning of Section 4975 of the Code, or a "party-in-interest", within the meaning of Section 3(14) of ERISA, or with respect to which any Loan Party or any such Subsidiary could otherwise be liable; (j) the failure of any Benefit Plan of any Loan Party or any ERISA Affiliate that is intended to be qualified under Section 401(a) of the Code to be so qualified; (k) the incurrence of any other liability by any Loan Party or any of its ERISA Affiliates to the PBGC or to any Plan or any trust established under Title IV of ERISA; and (l) any Non-U.S. Benefit Event.

"***Escrow Agreement***" shall mean the escrow agreement, dated as of April [24], 2020, between the Escrow Account Deposit Bank, the Administrative Agent and the Borrower governing the terms of the Escrow Account.

"***Escrow Account***" shall mean the deposit account in the name of, and for the account of, the Administrative Agent maintained by the Escrow Account Deposit Bank as account number [_____].

"***Escrow Account Deposit Bank***" shall mean The Bank of New York Mellon, in its capacity as depository bank in respect of the Escrow Account.

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

"***Eurocurrency***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"***Events of Default***" shall have the meaning assigned to such term in Section 7.01.

"***Exchange Rate***" shall mean, on any day, with respect to any currency other than dollars (for purposes of determining the Dollar Equivalent) the rate at which such currency may be exchanged into dollars as set forth at approximately 11:00 a.m., New York City time, on such date on the applicable Bloomberg Key Cross Currency Rates Page. In the event that any such rate does not appear on any Bloomberg Key Cross Currency Rates Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates selected by the Administrative Agent for such purpose, or, at the discretion of the Administrative Agent, such Exchange Rate shall instead be the spot rate of exchange of the Administrative Agent, at or about 10:00 a.m., local time in such market, on such date for the purchase of dollars for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any other reasonable method it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

"***Excluded Subsidiaries***" shall mean the Subsidiaries listed on Schedule 1.01(b) hereto and any other Subsidiary designated as an "Excluded Subsidiary" by Parent (which may include any Subsidiary whose Guarantee would result in material adverse tax consequences to Parent or its Subsidiaries as determined by Parent in good faith) with the consent of the Required IC Lenders and the Required Lenders (each in their sole discretion).

"***Excluded Taxes***" shall mean any of the following Taxes imposed on or with respect to, or required to be withheld or deducted from a payment to, the Administrative Agent or any Lender: (i) Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes of the Administrative Agent or any Lender (or any Transferee), in each case (A) imposed by the jurisdiction under the laws of which the Administrative Agent or such Lender (or Transferee) is organized or incorporated, or the jurisdiction in which the Administrative Agent's or such Lender's (or Transferee's) principal

office or applicable lending office is located (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) Taxes attributable to such recipient's failure to comply with Section 2.20(f), (iii) in the case of a Lender (or Transferee thereof), Taxes imposed by a Governmental Authority in the United States or Hong Kong, in each case on amounts payable to or for the account of such Lender (or Transferee thereof) with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (x) such Lender (or Transferee thereof) acquires such interest in the Loan or Commitment by way of assignment (other than pursuant to an assignment made at the request of Parent) or (y) such Lender (or Transferee thereof) changes its lending office, except in each case to the extent that pursuant to Section 2.20, amounts with respect to such Taxes were payable either to the assignor of such Lender (or Transferee thereof) immediately before such Lender (or Transferee thereof) acquired the applicable interest in such Loan or Commitment or to such Lender (or Transferee thereof) immediately before it changed its lending office and (iv) any U.S. federal withholding Taxes arising under FATCA.

"***Exit Fee***" shall have the meaning assigned to such term in Section 2.05(c).

"***Extraordinary Receipts***" shall mean an amount equal to (a) any cash payments or proceeds (including Permitted Investments) received (directly or indirectly) by or on behalf of Parent or any of its Subsidiaries not in the ordinary course of business and not consisting of Net Cash Proceeds described in Section 2.13(a) in respect of (i) insurance proceeds in connection with a casualty event, (ii) foreign, United States, state or local tax refunds, (iii) pension plan reversions, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) indemnity payments (other than to the extent such indemnity payments are (A) immediately payable to a Person that is not an Affiliate of Parent or any of its Subsidiaries or (B) received by Parent or its Subsidiaries as reimbursement for any payment previously made to such Person) and (vi) any purchase price adjustment received in connection with any purchase agreement to the extent not constituting Net Cash Proceeds, minus (b) (A) any selling and settlement costs and out-of-pocket expenses (including reasonable broker's fees or commissions and legal fees) and any taxes paid or reasonably estimated to be payable by Parent or its Subsidiaries (after taking into account any tax credits or deductions actually realized by Parent or the Borrower with respect to the transactions described in clause (a) of this definition) in connection with the transactions described in clause (a) of this definition, and (B) for purposes of determining Extraordinary Receipts under Section 2.13, any funding loss expenses incurred by the Borrower under Section 2.16 as a result of a mandatory prepayment required by Section 2.13.

"***FATCA***" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing such Sections of the Code.

"***FCPA***" shall have the meaning assigned to such term in Section 3.23(b).

"***Federal Funds Effective Rate***" shall have the meaning assigned to such term in the definition of "Alternate Base Rate".

"***Fee Letter***" shall mean that certain Fee Letter, dated as of the Closing Date, among the Agents and the Borrower.

"***Fees***" shall mean the Agent Fees, the Commitment Fee, the Exit Fee and the Delayed Draw Commitment Fee.

"***Final Order***" shall mean an order of the Bankruptcy Court (and as to which no stay has been entered) authorizing and approving on a final basis, among other things, the DIP Term Facility and the Transactions contemplated by this Agreement (including the Roll-Up in consideration for providing the New Money Loans) in the form of the Interim Order (with only such modifications thereto as are necessary to convert the Interim Order to a final order and such other modifications as are (subject to Section 9.08) satisfactory to the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion) (as the same may be amended, supplemented, or modified from time to time after entry thereof (subject to Section 9.08) with the consent of the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion).

"***Final Order Entry Date***" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"***Financial Officer***" of any person shall mean the chief financial officer, a Vice President-Finance, principal accounting officer, Head of Capital Management or Group Financial, Treasurer or Controller of such person and any other officer or similar official thereof responsible for financial matters of such person (or any other person reasonably acceptable to the Administrative Agent).

"***Forbearance Agreement***" shall mean that certain Forbearance Agreement dated as of April 1, 2020 entered into by and among Parent, the Borrower, the other Loan Parties party thereto, Prepetition First Lien Administrative Agent and certain of the lenders under the Prepetition First Lien Credit Agreement party thereto.

"***GAAP***" shall mean Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board and the Australian Corporations Act, applied on a consistent basis, or similar accounting standards and interpretation as applied locally for the respective Subsidiary.

"***Government Business***" or "***Government Business Subsidiaries***" shall mean, collectively, UltiSat, Inc. and each direct and indirect subsidiary thereof.

"***Governmental Authority***" shall mean the government of any Specified Jurisdiction, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or

pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"***Granting Lender***" shall have the meaning assigned to such term in Section 9.04(j).

"***Greenhill***" shall mean Greenhill & Co., LLC, acting in their capacity as financial advisor to the Ad Hoc Group of Lenders.

"***Group Liabilities***" has the meaning given in section 721-10 of the Australian Tax Act.

"***Guarantee***" of or by any person shall mean any obligation, contingent or otherwise, of such person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligations of any other person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of such person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligations or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligations, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligations of the payment of such Indebtedness or other obligations or (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligations; *provided*, *however*, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business.

"***Guarantee Agreement***" shall mean the Guarantee Agreement, substantially in the form of Exhibit D, among Parent, the Subsidiaries of Parent party thereto, the Security Trustee and the Collateral Agent, for the benefit of the Secured Parties.

"***Guarantors***" shall mean Parent and the Subsidiary Guarantors.

"***Hazardous Materials***" shall mean all explosive or radioactive materials, substances or wastes, hazardous or toxic materials, substances or wastes, pollutants, solid, liquid or gaseous wastes, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls ("***PCBs***") or PCB-containing materials or equipment, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"***Head Company***" has the meaning given in section 703-15 of the Australian Tax Act.

"***Hedging Agreement***" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b)

any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of ISDA Master Agreement, including any such obligations or liabilities under any ISDA Master Agreement.

"***IC Lender New Money Exposure***" shall have the meaning assigned to such term in the definition of "Required IC Lenders."

"***Indebtedness***" of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes, loan stock or similar instruments, (c) receivables sold or discounted (other than to the extent sold on a non-recourse basis or in the ordinary course of business and not as part of a financing transaction), (d) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person (excluding trade accounts payable and other accrued obligations, in each case incurred in the ordinary course of business), (e) all obligations of such person issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business) with payment terms exceeding 120 days, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person, whether or not the obligations secured thereby have been assumed, but limited to the lower of (i) the fair market value of such property and (ii) the amount of the Indebtedness so secured, (g) all Guarantees by such person of Indebtedness of others, (h) all Capital Lease Obligations and Synthetic Lease Obligations of such person, (i) net obligations of such Person under any Hedging Agreements, valued at the Agreement Value thereof, (j) all obligations of such person as an account party in respect of letters of credit, bond, bank guarantee or similar instrument issued by a bank or financial institution, (k) all obligations of such person as an account party in respect of bankers' acceptances and any other amount raised under any acceptance credit, bill acceptance or bill endorsement facility, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Disqualified Stock of such Person or any other Person or any warrants, rights or options to acquire such equity interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends. The Indebtedness of any person shall include the Indebtedness of any partnership in which such person is a general partner, to the extent such person is liable therefor as a result of such person's ownership interest in or other relationship with such entity, except to the extent the express terms of such Indebtedness do not provide that such person is liable therefor. Notwithstanding the foregoing, the term "Indebtedness" shall not include, for any Person, obligations of such Person in respect of operating leases.

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

"***Indemnitee***" shall have the meaning assigned to such term in Section 9.05(b).

"***Independent Network Review***" shall mean an independent review of Parent's and its Subsidiaries' network by a network engineering firm acceptable to the Required Lenders.

"***Ineligible Assignee***" shall mean (a) Parent or any Affiliate of Parent, (b) any natural person (or any holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, any natural person), (c) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary thereof or (d) a Person that at the time of such assignment, is the subject of Sanctions.

"***Information***" shall have the meaning assigned to such term in Section 9.17.

"***Initial Commitment***" shall mean, with respect to each Lender, the commitment of such Lender to make an Initial Loan to the Borrower in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on the Commitment Schedule, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate amount of the Lenders' Initial Commitments on the Closing Date is $35,000,000.

"***Initial Committing Lenders***" shall mean those Lenders identified on Schedule 2.01 hereto as "Initial Committing Lenders."

"***Initial DIP Budget***" shall have the meaning assigned to such term in Section 4.01(n)(i).

"***Initial Loan***" shall have the meaning assigned to such term in Section 2.01.

"***Initial Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Intellectual Property***" shall have the meaning assigned to such term in the Agreed Security Principles.

"***Intelsat***" shall mean Intelsat US LLC and its Affiliates.

"***Instelsat Agreement***" shall mean any agreements with Intelsat that are in effect immediately prior to the Petition Date or that take effect following the Petition Date.

"***Intercompany Note***" shall mean that certain Global Subordinated Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit M.

"***Intercreditor Agreement***" shall mean the DIP Intercreditor Agreement and any other intercreditor agreement executed in connection with any transaction requiring such agreement to be executed pursuant to the terms hereof, among any of the Agents or any other party, as the case may be, on such terms that are reasonably acceptable to the Agents, in each case, as amended, restated, supplemented or otherwise modified or replaced from time to time with the consent of the Administrative Agent.

"***Interest Payment Date***" shall mean (a) with respect to any ABR Loan or Roll-Up Loans, the last Business Day of each calendar month and the Termination Date, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and the Termination Date.

"***Interest Period***" shall mean (a) as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day

(or, if there is no numerically corresponding day, on the last day) in the calendar month that is one month thereafter and (b) as to any ABR Borrowing, the period commencing on the date of such Borrowing and ending on the earliest of (i) the last Business Day of each calendar month and (ii) the Stated Maturity Date; *provided* that (i) if any Interest Period for any Eurocurrency Borrowing would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period for any Eurocurrency Borrowing that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period and (iii) no Interest Period for any Loan shall extend beyond the maturity date of such Loan. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing. Notwithstanding the foregoing, the Interest Period with respect to the borrowing of the Loans shall be a period commencing on the Closing Date and ending on [__], [__].

"***Interest Rate Protection Agreement***" shall mean any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or similar agreement or arrangement entered into in the ordinary course of business of Parent or any Subsidiary and solely for non-speculative purposes.

"***Interim Order***" shall mean an order of the Bankruptcy Court, in the form set forth in Exhibit N, authorizing on an interim basis, among other things, the DIP Term Facility and the Transactions contemplated by this Agreement (including the Roll-Up), with only such modifications as are satisfactory to the Borrower and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent) in their sole discretion.

"***Interim Order Entry Date***" shall mean the date on which the Interim Order is entered by the Bankruptcy Court.

"***Interpolated Rate***" shall mean, in relation to the LIBO Rate for any Borrowing, the rate which results from interpolating on a linear basis between: (a) the rate published by ICE Benchmark Administration Limited (or another commercially available source as designated by the Administrative Agent from time to time) for the LIBO Rate for the longest period (for which that rate is available) which is less than the Interest Period for such Borrowing and (b) the rate appearing on such screen or other source, as the case may be, for the shortest period (for which that rate is available) which exceeds the Interest Period for such Borrowing as of approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

"***ISDA Master Agreement***" shall mean the Master Agreement (Multicurrency-Cross Border) published by the International Swap and Derivatives Association, Inc., as in effect from time to time.

"***Judgment Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Key Employee or Director***" shall mean any director or officer of any Loan Party or Subsidiary or management personnel employed or to be employed by any Loan Party or Subsidiary, in each case, that has or will be entitled to (A) annual total cash compensation in excess of $300,000 or (B) a severance payment in excess of $200,000.

"***KWM***" shall mean King & Wood Mallesons, acting in their capacity as counsel to the Ad Hoc Group of Lenders.

"***Lenders***" shall mean each person listed on the signature pages hereto as a lender with a Commitment or an outstanding Loan, including each Person identified as a "Lender" on Schedule 2.01 and any Person that becomes a party hereto pursuant to an Assignment and Acceptance, other than, in each case, any such Person that has ceased to be a party hereto pursuant to an Assignment and Acceptance.

"***LIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of the relevant Interest Period (as specified in the applicable Borrowing Request) by reference to the Intercontinental Exchange Benchmark Administration Ltd. rates for deposits in dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the Intercontinental Exchange Benchmark Administration Ltd. (or any successor or substitute agency) as an authorized information vendor for the purpose of displaying such rates), for a period equal to one month; *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBO Rate" for the relevant Interest Period shall be (a) the Interpolated Rate, for a period equal in length to such Interest Period or (b) if such rate is not available at such time for any other reason, a comparable successor rate that is, at such time, broadly accepted by the syndicated loan market for loans denominated in Dollars in lieu of the "LIBO Rate", as determined by the Administrative Agent, or, if no such broadly accepted comparable successor rate exists at such time, a successor index rate as the Administrative Agent may determine with the consent of Parent and the Required Lenders. Notwithstanding the foregoing, the "LIBO Rate" in respect of any Interest Period applicable to any Borrowings will be deemed to be 2.00% per annum if the LIBO Rate for such Interest Period calculated pursuant to the foregoing provisions would otherwise be less than 2.00% per annum.

"***Lien***" shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, encumbrance, charge or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities (and including, for the avoidance of doubt, any "security interest" as defined in sections 12(1) or 12(2) of the PPSA).

"***Liquidity***" shall mean, at any time, an amount equal to the amount of Parent's unrestricted cash calculated in a manner consistent with determining Parent's "Ending Unrestricted Cash" as set forth in the Approved Budget.

"***Liquidity Certificate***" shall mean a certificate substantially in the form of Exhibit L.

"***LLC Division***" shall mean the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or a comparable provision of a different jurisdiction's laws.

"***Loan Documents***" shall mean this Agreement, each Intercreditor Agreement, the Guarantee Agreement, the Security Documents, the promissory notes, if any, executed and delivered pursuant to Section 2.04(e) and any other document executed by or on behalf of any of the Loan Parties (including any officer or employee thereof) and delivered to any of the Secured Parties in connection with the foregoing.

"***Loan Parties***" shall mean the Borrower and the Guarantors.

"***Loans***" shall mean (i) an Initial Loan made by a Lender to the Borrower pursuant to Section 2.01(a)(i) of this Agreement, (ii) a Delayed Draw Loan made by Lender to the Borrower pursuant to Section 2.01(a)(ii) and (iii) a Roll-Up Loan. The Loans shall be Eurocurrency Loans or ABR Loans.

"***Margin Stock***" shall have the meaning assigned to such term in Regulation U.

"***Material Adverse Effect***" shall mean (a) a material adverse effect on the business, assets, financial condition or operating results of Parent and its Subsidiaries, taken as a whole, (b) material impairment of the ability of the Borrower or of the Loan Parties (taken as a whole) to perform their obligations under the Loan Documents or (c) material impairment of the rights of, remedies of or benefits available to the Lenders under any Loan Document; *provided* that "Material Adverse Effect" shall expressly exclude (i) any matters disclosed in any "first day" pleadings or declarations and (ii) the effect of filing the Cases, the events and conditions related to, resulting from and/or leading up thereto and the effects thereon and any action required to be taken under the Loan Documents or the Orders.

"***Material Owned Real Property***" shall mean real property which is owned by Parent or another Loan Party with a fair market value in excess of $500,000.

"***Maximum Rate***" shall have the meaning assigned to such term in Section 9.09.

"***Milestones***" shall mean the Milestones set forth in Section 5.16.

"***Moody's***" shall mean Moody's Investors Service, Inc., or any successor thereto.

"***Mortgaged Properties***" shall mean the Material Owned Real Properties with respect to which a Mortgage is executed and delivered in accordance with Section 6 of the Agreed Security Principles or Section 5.11.

"***Mortgages***" shall mean the mortgages, deeds of trust, assignments of leases and rents, modifications and other security documents delivered pursuant to Section 6 of the Agreed Security Principles or Section 5.11, each in form and substance reasonably acceptable to the Agents.

"***Multiemployer Plan***" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"***Net Cash Proceeds***" shall mean (a) with respect to any Asset Sale, the cash proceeds received by Parent or any Subsidiary (including cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received and including all insurance settlements and condemnation awards), net of (i) transaction expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, transfer and similar taxes and Parent's good faith estimate of income taxes paid or payable in connection with the receipt of such cash proceeds), (ii) amounts provided as a reserve, in accordance with GAAP, including pursuant to any escrow arrangement, against any liabilities under any indemnification obligations or purchase price adjustment associated with such Asset Sale (*provided* that, to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Cash Proceeds), (iii) in the case of insurance settlements and condemnation awards, amounts previously paid by Parent and its Subsidiaries consistent with the Approved Budget to replace or restore the affected property, and (iv) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness for borrowed money which is secured by the asset sold in such Asset Sale and is required to be repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such asset), (b) with respect to any issuance or incurrence of Indebtedness or any Equity Issuance, the cash proceeds thereof, net of all taxes and customary fees, commissions, costs and other expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, and underwriter's discounts and commissions) incurred in connection therewith and (c) with respect to any Extraordinary Receipts, 100% of such cash or proceeds received by Parent or any Subsidiary.

"***New Money Loans***" shall mean, individually or collectively, as the context may require, the Initial Loans and the Delayed Draw Loans.

"***Non-Debtor Subsidiary***" shall mean any Subsidiary of Parent that is not a Debtor.

"***Non-U.S. Benefit Event***" shall mean, with respect to any Non-U.S. Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Non-U.S. Pension Plan or to appoint a trustee or similar official to administer any such Non-U.S. Pension Plan, or alleging the insolvency of any such Non-U.S. Pension Plan and (d) the incurrence of any liability in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency) by any Loan Party or any of its Subsidiaries under applicable law on account of the complete or partial termination of such Non-U.S. Pension Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and could reasonably be expected to result in the incurrence of any liability by any Loan Party or any of its Subsidiaries, or the imposition on any Loan Party or any of its Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law, in each case in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency).

"***Non-U.S. Lender***" shall mean any Lender that not a U.S. Person.

"***Non-U.S. Pension Plan***" shall mean any plan, fund, scheme, or program that (i) is not subject to United States law, (ii) provides retirement income to employees or results in the deferral of income by employees for periods extending to the termination of covered employment or beyond, (iii) is maintained or contributed to by any Loan Party or any Subsidiary or with respect to which any such entities could reasonably be expected to have any current, future or contingent liability or responsibility, and (iv) is maintained for or contributed to on behalf of employees whose principal place of employment is outside the United States.

"***Non-U.S. Subsidiary***" shall mean any Subsidiary that is not a U.S. Subsidiary.

"***Notice of Disbursement***" shall mean a notice substantially in the form of Exhibit K.

"***Obligations***" shall mean all obligations defined as "Obligations" in the Guarantee Agreement.

"***Operating Account***" shall mean each of the deposit accounts maintained by Parent and its Subsidiaries listed on Schedule 1.01(c).

"***Orders***" shall mean the Interim Order and the Final Order, as applicable, in each case upon entry thereof by the Bankruptcy Court.

"***Organization Documents***" shall mean (a) with respect to any corporation, the certificate or articles of incorporation or articles of association and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction).

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

"***Other Taxes***" shall mean any current or future stamp, documentary, excise, transfer, sales, property or similar Taxes, charges or levies (including mortgage recording Taxes and similar fees) that arise from any payment made hereunder or under any other Loan Document or from the execution, delivery, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Document imposed by any Governmental Authority in the United

States or the jurisdiction in which Parent or the Borrower has a place of business other than any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made at the request of the Borrower).

"***Parent***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Participant Register***" shall have the meaning assigned to such term in Section 9.04(f)(ii).

"***Participating Member State***" shall mean any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"***PBGC***" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"***Permitted Investments***" shall mean:

(a) direct obligations of the United States of America or by any of its agencies or instrumentalities, in each case maturing within ten years from the date of acquisition thereof;

(b) direct obligations of any State of the United States of America (or any political subdivision or public instrumentality thereof), U.S. or non-U.S. corporations, or U.S. or non-U.S. commercial banking institutions having, at such date of acquisition, a rating of at least "A" by S&P or "A2" by Moody's, in each case maturing within eighteen months from the date of acquisition thereof;

(c) investments in commercial paper and variable rate notes maturing within one year from the date of acquisition thereof and having, at such date of acquisition, the highest short-term credit rating obtainable from S&P or from Moody's;

(d) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market, checking or demand deposit accounts issued or offered by, (i) the Administrative Agent or any U.S. office of any commercial bank organized under the laws of the United States of America or any State thereof or (ii) a commercial banking institution organized and located in a country recognized by the United States of America, in each case that has a combined capital and surplus and undivided profits of not less than $250,000,000 (or the Dollar Equivalent thereof in another currency);

(e) repurchase obligations with a term of not more than ninety days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above;

(f) (i) investments in money market funds which invest substantially all their assets in securities of the types described in clauses (a) through (e) above or (ii) enhanced yield funds or European money market funds having, at such date of acquisition, a rating of at least

"A" by S&P or "A2" by Moody's and that are capable of being fully liquidated at their respective net asset values at any time within ten Business Days;

(g) dollars, Euros or the currency of any country having a long-term credit rating of at least "A" by S&P or "A2" by Moody's and any other foreign currency held by Parent or any of the Subsidiaries in the ordinary course of business; and

(h) other short-term investments utilized by Parent or any Non-U.S. Subsidiary in accordance with normal investment practices for cash management in investments of a type analogous to the foregoing.

"***person***" or ***"Person"*** shall mean any natural person, corporation, business trust, joint venture, association, company, limited liability company, partnership, other business entity or Governmental Authority.

"***Petition Date***" shall have the meaning assigned to such term in the recitals to this Agreement.

"***PIK Interest***" shall have the meaning assigned to such term in Section 2.06(c).

"***Plan***" shall mean any employee pension benefit plan, as defined in Section 3(2) of ERISA, (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

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

"***Plan Election***" means an election by the Required Lenders, the Required IC Lenders and the Required First Lien Lenders to have an Approved Restructuring implemented through an Acceptable Plan rather than an Acceptable Sale Transaction, which election shall be made within fourteen days of the Petition Date or at such later date as agreed to by the Required IC Lenders.

"***Platform***" shall have the meaning assigned to such term in Section 9.01.

"***Post-Petition***" means the time period commencing immediately upon the filing of the Cases.

"***PPSA***" shall mean the Personal Property Securities Act 2009 (Cth).

"***PPSR***" shall mean the register established under section 147 of the PPSA.

"***Pre-Petition First Lien Administrative Agent***" shall mean the administrative agent under the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Agents***" shall mean, individually or collectively, as the context may require, the Pre-Petition First Lien Administrative Agent and the Pre-Petition First Lien Security Agents.

"***Pre-Petition First Lien Credit Agreement***" shall mean that certain Syndicated Facility Agreement, dated as of May 15, 2018, among, *inter alios*, Parent, the Borrower, the other borrowers named therein, the lenders named therein, the issuing banks named therein, the Pre-Petition First Lien Agent and the Pre-Petition Security Agents.

"***Pre-Petition First Lien Lenders***" shall means lenders under the Pre-Petition First Lien Credit Agreement holding Pre-Petition First Lien Loans.

"***Pre-Petition First Lien Loan Documents***" shall mean the "Loan Documents" as defined in the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Loans***" shall mean the Loans (under and as defined in) the Pre-Petition First Lien Credit Agreement, including, for the avoidance of doubt, the New Incremental Term Loans (as defined in the Incremental Assumption and Amendment Agreement, dated as of October 16, 2018).

*"**Pre-Petition First Lien Obligations**"* shall mean the "Obligations" as such term is defined in the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Security Agents***" shall mean the collateral agent and security trustee under the Pre-Petition First Lien Credit Agreement.

"***Pre-Petition First Lien Security Documents***" shall mean the "Security Documents" as defined in the Pre-Petition First Lien Credit Agreement.

"***Prime Rate***" shall have the meaning assigned to such term in the definition of the term "Alternate Base Rate".

"***Private Lenders***" shall mean Lenders other than Public Lenders.

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

"***Public Lender***" shall have the meaning assigned to such term in Section 9.01.

"***Purchase Money Indebtedness***" shall mean any Indebtedness of Parent or any Subsidiary to any seller or other person incurred to finance the acquisition (including in the case of a Capital Lease Obligation or Synthetic Lease Obligation, the lease), construction, improvement or repair of any fixed or capital assets and which is (i) incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair and (ii) secured only by the assets so acquired, constructed, improved or repaired and proceeds and products thereof, accessions thereto and improvements thereon.

"***Qualified Capital Stock***" of any Person shall mean any Equity Interest of such Person that is not Disqualified Stock.

"***Receiver***" means a receiver and manager or other receiver appointed in respect of all or any part of the Collateral and shall, if allowed by law, include an administrative receiver.

"***Register***" shall have the meaning assigned to such term in Section 9.04(d).

"***Regulation T***" shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation U***" shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation X***" shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Related Business***" shall mean any business that is the same, similar or otherwise reasonably related, ancillary or complementary to the businesses of Parent and its Subsidiaries on the Closing Date.

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

"***Release***" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, emanating or migrating of any Hazardous Material in, into, onto or through the environment.

"***Remedies Notice Period***" shall have the meaning assigned to such term in Section 7.01.

"***Remedial Action***" shall mean (a) "remedial action" as such term is defined in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601(24), and (b) all other actions required by any Governmental Authority or voluntarily undertaken to: (i) clean up, remove, treat, abate or in any other way address any Hazardous Material in the environment; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health, welfare or the environment; or (iii) perform studies and investigations in connection with, or as a precondition to, (i) or (ii) above.

"***Required First Lien Lenders***" shall mean the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement.

"***Required IC Lenders***" shall mean Initial Committing Lenders having outstanding New Money Loans and New Money Commitments (such loans and commitments, the "***IC Lender New Money Exposure***") representing more than 50% of the sum of all New Money Loans outstanding and New Money Commitments at such time; *provided* that if at any time there are three or more Initial Committing Lenders, "Required IC Lenders" shall include two or more

unaffiliated Initial Committing Lenders; *provided*, *further*, that at any time an Initial Committing Lender holds less than 50% of its IC Lender New Money Exposure as of the date hereof, such Lender shall no longer be considered as an Initial Committing Lender for purposes of calculating Required IC Lenders.

"***Required Lenders***" shall mean, at any time, Lenders having outstanding Loans and Commitments representing more than 50% of the sum of all Loans outstanding and Commitments at such time; *provided* that the Loans and Commitments of any Defaulting Lender shall be disregarded in the determination of Required Lenders at any time.

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

"***Responsible Officer***" of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement (or any other person reasonably acceptable to the Administrative Agent).

"***Restricted Payment***" shall have the meaning assigned to such term in Section 6.06(a).

"***Roll Up***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Date***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Loan***" shall have the meaning assigned to such term in Section 2.01(b).

"***Roll-Up Schedule***" shall have the meaning assigned to such term in Section 2.01(b).

"***S&P***" shall mean S&P Global Ratings, or any successor thereto.

"***Sale and Leaseback***" shall have the meaning set forth in Section 6.03.

"***Sale Order***" shall have the meaning assigned to such term in Section 5.16(c).

"***Sanctioned Country***" shall mean, at any time, a country or territory which is itself the subject or target of any Sanctions.

"***Sanctioned Person***" shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which Parent or any of its Subsidiaries operate, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person directly or indirectly owned, 50 percent or more, or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

"***Sanctions***" shall mean economic or financial sanctions or trade embargoes, as well as anti-terrorism laws (including the USA PATRIOT ACT) imposed, administered or enforced

from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which Parent or any of its Subsidiaries operate.

"***SEC***" shall mean the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"***Secured Parties***" shall have the meaning assigned to such term in the Guarantee Agreement.

"***Securities Act***" shall mean the United States Securities Act of 1933, as amended.

"***Security Documents***" shall mean the Security Trust Deed, each of the agreements and instruments listed on Part I of Schedule 4.01(d) hereto and, after execution and delivery thereof, Part I of Schedule 5.14 hereto and each of the security agreements, mortgages and other instruments and documents (including any Mortgages) executed and delivered pursuant to any of the foregoing or pursuant to Section 5.11 or the Agreed Security Principles.

"***Security Trust Deed***" shall mean the Security Trust Deed, substantially in the form of Exhibit E, executed by the Security Trustee, for the benefit of the Secured Parties.

"***Security Trustee***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Singapore Companies Act***" shall mean the Companies Act, Chapter 50 of Singapore.

"***Skadden***" shall mean Skadden, Arps, Slate, Meagher & Flom LLP, acting in their capacity as counsel to the Agents.

"***SPC***" shall have the meaning assigned to such term in Section 9.04(j).

"***Specified Jurisdiction***" shall mean the United States, Australia, Hong Kong, the United Kingdom, any member state of the European Economic Area and any Participating Member State.

"***Stated Maturity Date***" shall mean January [22], 2021.

"***Statutory Reserves***" shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by any Governmental Authority to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for any category of deposits or liabilities customarily used to fund loans or by reference to which interest rates applicable to Loans are determined. Such reserve, liquid asset or similar percentages shall include those imposed pursuant to Regulation D of the Board (and for purposes of Regulation D, Eurocurrency Loans denominated in dollars

shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board)). Loans shall be deemed to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any other applicable law, rule or regulation. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"***Subordinated Indebtedness***" shall mean Indebtedness of Loan Party that (i) is contractually subordinated in right of payment to the Obligations pursuant to subordination terms that are reasonably satisfactory to the Administrative Agent, (ii) matures after, and does not require any scheduled amortization or other scheduled payments of principal prior to, the date that is six months after the Stated Maturity Date, (iii) by its terms, or by the terms of any security into which it is convertible or exchangeable or otherwise, would not be required for any reason to be redeemed, repurchased or repaid on or prior to the date that is six months after the Stated Maturity Date (other than upon the occurrence of a "change of control" or upon the occurrence of an event of default or mandatory prepayment or redemption event, but only so long as any such requirement to be redeemed, repurchased or repaid upon the occurrence of such event is subject to the prior payment in full of all of the Obligations), (iv) is not convertible into or exchangeable for debt securities of Parent or any Subsidiary prior to the date that is six months after the Stated Maturity Date and (v) has terms and conditions (other than interest rate and redemption premiums), taken as a whole, that are not materially less favorable to any Loan Party than the terms and conditions customary at the time for high-yield subordinated debt securities issued in a public offering in the reasonable determination of the Administrative Agent.

"***Subordinated Indebtedness Documents***" shall mean each of the agreements, documents and instruments providing for or evidencing any Subordinated Indebtedness permitted to be issued or incurred under Section 6.01, as amended, supplemented or otherwise modified in accordance with Section 6.09(a).

"***subsidiary***" shall mean, with respect to any person (herein referred to as the "***parent***"), any corporation, partnership, limited liability company, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"***Subsidiary***" shall mean any subsidiary of Parent.

"***Subsidiary Guarantors***" shall mean each person listed on Schedule 1.01(d) and each other person that becomes party to the Guarantee Agreement as a Guarantor, and the permitted successors and assigns of each such person.

"***Superpriority Claim***" shall mean any administrative expense claim in the case of any Loan Party having priority over any and all administrative expenses, diminution claims and all other priority claims against the Debtors, subject only to the Carve-Out, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all

administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 365, 503(b), 506(c) (subject only to and effective upon entry of the Final Order), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code.

"***Syndication End Date***" shall mean the date not later than fifteen days after the Petition Date on which the initial syndication of the Loans and Commitments has been completed (or such earlier or later date as notified to the Administrative Agent by the Required IC Lenders).

"***Synthetic Lease***" shall mean a lease of property or assets (other than inventory) designed to permit the lessee (a) to claim depreciation on such property or assets under U.S. tax law and (b) to treat such lease as an operating lease or not to reflect the leased property or assets on the lessee's balance sheet or statement of financial position under GAAP.

"***Synthetic Lease Obligations***" shall mean, as to any person, an amount equal to the sum of (a) the obligations of such person to pay rent or other amounts under any Synthetic Lease which are attributable to principal or that would appear on a balance sheet or statement of financial position of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations and, without duplication, (b) the amount of any purchase price payment under any Synthetic Lease assuming the lessee exercises the option to purchase the leased property at the end of the lease term.

"***Tax Authority***" shall mean any revenue, customs, fiscal or governmental authority competent to impose or collect any taxation (or any interest, fine, surcharge or penalty relating thereto).

"***Tax Consolidated Group***" shall mean a Consolidated Group or a MEC Group as those terms are defined in the Australian Tax Act.

"***Tax Funding Agreement***" shall mean any agreement, deed or document which determines the funding and payment of Group Liabilities of the Head Company of a Tax Consolidated Group.

"***Tax Sharing Agreement***" shall mean an agreement between the members of a Tax Consolidated Group which takes effect as a tax sharing agreement under section 721-25 of the Australian Tax Act and which complies with the Australian Tax Act and any law, official directive, request, guidance or policy (whether or not having the effect of law) issued in connection with the Australian Tax Act.

"***Taxes***" shall mean all current or future taxes, duties, levies, imposts, deductions, charges, withholdings (including backup withholdings), assessments, fees or other charged imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Termination Date***" shall mean the earliest of (a) the Stated Maturity Date, (b) the effective date of any plan for the reorganization of the Borrower or any other Debtor under chapter 11 of the Bankruptcy Code, (c) the consummation of a sale or other disposition of all or substantially all of the assets of the Debtors under section 363 of the Bankruptcy Code, (d) the date of acceleration of the Loans and the termination of unused Commitments with respect to the

DIP Term Facility in accordance with the terms of this Agreement upon and during the continuance of an Event of Default and (e) the date that is thirty (30) days after the Petition Date (or such later date as may be agreed by the Required IC Lenders and the Required Lenders), unless the Final Order Entry Date has occurred on or prior to such date.

"***Test Period***" in effect at any time shall mean the most recent period of two consecutive fiscal half-year periods of Parent (or, in the case of monthly financial statements, the most recent period of three consecutive fiscal month periods) ended on or prior to such time in respect of which financial statements have been or are required to be delivered pursuant to Section 5.04(a) or 5.04(a), as applicable.

"***Threshold Amount***" shall mean $500,000. In connection with any reference to the Threshold Amount of any Indebtedness, the "principal amount" of the obligations of Parent or any Subsidiary in respect of any Hedging Agreement at any time shall be the Agreement Value of such Hedging Agreement at such time.

"***Transactions***" shall mean, collectively, the execution and delivery by the Loan Parties of the Loan Documents to which they are a party, the making (or deemed making) of the Borrowings hereunder on the Closing Date or the Delayed Draw Borrowing Date, the guaranteeing of the Obligations and the granting of the security interests and the provision of the Collateral pursuant to the terms of this Agreement, the Security Documents and the other Loan Documents.

"***Transferee***" shall mean any transferee or assignee, including a participation holder, of any Agent or any Lender.

"***Type***", when used in respect of any Loan or Borrowing, shall refer to the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term "***Rate***" shall include the Adjusted LIBO Rate and the Alternate Base Rate.

"***UCC***" shall mean the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"***UK Financial Institution***" shall mean any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"***UK Resolution Authority***" shall mean the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"***Undisclosed Administration***" shall mean, in relation to a Lender or its direct or indirect parent company, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or its direct or indirect parent company is

subject to home jurisdiction supervision if, and solely for so long as, applicable law requires that such appointment is not to be publicly disclosed.

"***Unrestricted Cash***" shall mean, at any time, the aggregate amount of cash, to the extent that the use of such cash for application to the payment of the Obligations is not prohibited by law or any contract or other agreement and such cash is free and clear of all Liens (other than Liens in favor of any of the Agents and other Liens permitted under Sections 6.02(b), **Error! Reference source not found.** and **Error! Reference source not found.**); *provided*, for the avoidance of doubt, that Unrestricted Cash shall include, at any time of determination, cash held in the Escrow Account.

"***U.S. Person***" shall mean any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"***U.S. Subsidiary***" shall mean a Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"***U.S. Tax Compliance Certificate***" shall have the meaning assigned to such term in Section 2.20(f)(ii)(B)(3).

"***USA PATRIOT Act***" shall mean The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"***wholly owned Subsidiary***" of any person shall mean a subsidiary of such person of which securities (except for directors' and foreign nationals' qualifying shares) or other ownership interests representing 100% of the outstanding Equity Interests are, at the time any determination is being made, owned, controlled or held by such person or one or more wholly owned subsidiaries of such person or by such person and one or more wholly owned subsidiaries of such person.

Unless the context otherwise requires, as used in this Agreement, "***wholly owned Subsidiary***" shall mean a wholly owned Subsidiary of Parent that is a Subsidiary.

"***Withdrawal Liability***" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"***Withholding Agent***" shall have the meaning assigned to such term in Section 2.20(g).

"***Write-Down and Conversion Powers***" shall mean, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to

provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02. ***Terms Generally***. The definitions in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall"; and the words "asset" and "property" shall be construed as having the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, (a) any reference in this Agreement to any Loan Document shall mean such Loan Document as amended, restated, supplemented or otherwise modified from time to time in each case, in accordance with the express terms of such Loan Document, (b) any reference in this Agreement to any law or regulation shall mean such law or regulation as amended, restated, supplemented or otherwise modified from time to time, and (c) all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided* that if Parent notifies the Administrative Agent that Parent wishes to amend any covenant in Article VI or any related definition to eliminate the effect of any change in GAAP occurring after the date of this Agreement on the operation of such covenant (or if the Administrative Agent notifies Parent that the Required Lenders wish to amend Article VI or any related definition for such purpose), then Parent's and its Subsidiaries' compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to Parent and the Required Lenders. Notwithstanding anything to the contrary herein, (i) all accounting and financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without giving effect to any election under U.S. Financial Accounting Standards Board ASC 825-10, or its equivalent under Australian Accounting Standards Board Accounting Standards (including under AASB No. 7, 132 and 139) to value any Indebtedness or other liabilities of any Loan Party or Subsidiary at "fair value", as defined therein and (ii) for purposes of determining the outstanding amount of any Indebtedness, any original issue discount with respect to such Indebtedness shall not be deducted in determining the outstanding amount of such Indebtedness.

SECTION 1.03. *LLC Division.* Any reference herein to a merger, consolidation, amalgamation, assignment, sale or transfer or disposition or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale or transfer or disposition, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, subsidiary, joint venture or any other like term shall also constitute such a Person or entity), and to the extent any covenant in any Loan Document is applicable to such limited

liability company immediately prior to such division, such covenant shall apply to any Person resulting from such division immediately after such division.

SECTION 1.04. ***Classification of Loans and Borrowings***. For purposes of this Agreement, Loans may be classified and referred to by Type (*e.g.*, a "Eurocurrency Loan"). Borrowings also may be classified and referred to by Type (*e.g.*, a "Eurocurrency Borrowing").

SECTION 1.05. ***Dutch Terms***. In this Agreement:

(a) "moratorium" includes surséance van betaling;

(b) an "administrator" includes a bewindvoerder;

(c) a "receiver" includes a curator;

(d) a "winding-up", "administration" or "dissolution" includes failliet verklaard and ontbonden;

(e) "inability to pay its debts" includes the giving of a notice to the Dutch tax authorities under Section 36(2) of the Dutch 1990 Tax Collection Act (Invorderingswet 1990); and

(f) "levy upon assets" includes an executory attachment (executoriaal beslag) and an interlocutory attachment (conservatoir beslag).

ARTICLE II

The Credits

SECTION 2.01. ***Commitments and Loans***. (a) Subject to the terms and conditions hereof and in the Orders and relying upon the representations and warranties herein set forth, each Lender agrees, severally and not jointly, to (i) following entry of the Interim Order and the satisfaction of the conditions to Borrowing set forth in Section 4.01, make a term loan to the Borrower in a single Borrowing on the Closing Date in a principal amount in Dollars not to exceed such Lender's Initial Commitment (the "***Initial Loan***") and (ii) following satisfaction of the conditions to Borrowing set forth in Section 4.02, make an additional delayed draw term loan to the Borrower in a single Borrowing on the Delayed Draw Borrowing Date (the "***Delayed Draw Loans***") in an aggregate principal amount not to exceed such Lender's Delayed Draw Commitment. Once funded, each Initial Loan and each Delayed Draw Loan shall be a "Loan" and a "New Money Loan" for all purposes under this Agreement and the other Loan Documents.

(b) Subject to the terms and conditions set forth herein and in consideration for providing the New Money Loans, (i) subject to entry of the Interim Order, on the Syndication End Date, Pre-Petition First Lien Loans held by Pre-Petition First Lien Lenders (after giving effect to, and assuming the settlement of, any pending assignments of such Pre-Petition First Lien Loans on the Syndication End Date) who are also Lenders or Affiliates of Lenders hereunder shall be automatically substituted and exchanged for (and prepaid on a cashless basis

by) loans hereunder (the "***Initial Roll-Up Loans***"), in a principal amount equal to 100% of the Initial Commitments on the Closing Date allocated pro rata among such Lenders in accordance with the respective principal amounts of their Initial Loans as of such date and (ii) subject to entry of the Final Order, on the Final Order Entry Date, Pre-Petition First Lien Loans held by Pre-Petition First Lien Lenders (after giving effect to, and assuming the settlement of, any pending assignments of such Pre-Petition First Lien Loans on the Final Order Entry Date) who are also Lenders or Affiliates of Lenders hereunder shall be automatically substituted and exchanged for (and prepaid on a cashless basis by) loans hereunder (the "***Additional Roll-Up Loans***" and, together with the Initial Roll-Up Loans, the "***Roll-Up Loans***"), in a principal amount equal to 100% of the Delayed Draw Commitments on the Closing Date allocated pro rata among such Lenders in accordance with the respective principal amounts of their Delayed Draw Commitments as of such date (without giving effect to any assignment of a Delayed Draw Commitment by such Lender to a fronting lender in connection with the provision of fronting services related to the funding of Delayed Draw Loans) (the Initial Roll-Up Loans shall constitute and be deemed Loans outstanding hereunder on the Syndication End Date and the Additional Roll-Up Loans shall constitute and be deemed Loans outstanding hereunder on the Final Order Entry Date and the Roll-Up Loans shall constitute a Class of Loans) (the foregoing substitution and exchange of Pre-Petition First Lien Loans into Roll-Up Loans shall be defined herein, generally, as the "***Roll-Up***" and, the date upon which a Roll-Up occurs shall be defined herein as a "***Roll-Up Date***"). The parties hereto hereby agree that prior to each of the Syndication End Date and the Final Order Entry Date, the Ad Hoc Lender Advisors shall deliver a schedule to the Administrative Agent (the "***Roll-Up Schedule***") that will include (i) in the case of the Syndication End Date, (x) the name of each Lender or Affiliate of a Lender whose Pre-Petition First Lien Loans will be substituted and exchanged for (and prepaid on a cashless basis by) Initial Roll-Up Loans on the Syndication End Date, (y) the amount of Initial Roll-Up Loans to be received by each Lender or Affiliate of a Lender on the Syndication End Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Initial Roll-Up Loans after giving effect to the Roll-Up and (ii) in the case of the Final Order Entry Date, (x) the name of each Lender or Affiliate of a Lender whose Pre-Petition First Lien Loans will be exchanged for (and prepaid on a cashless basis by) Additional Roll-Up Loans hereunder on the Final Order Entry Date, (y) the amount of Additional Roll-Up Loans to be received by each Lender or Affiliate of a Lender on the Final Order Entry Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Additional Roll-Up Loans after giving effect to the Roll-Up, which such schedule may be attached to this Agreement and modified from time to time without the consent of any Lender. Furthermore, the parties agree that each Affiliate of a Lender that will receive Roll-Up Loans hereunder and that is not already a Lender hereunder at the time thereof must become a Lender hereunder, by executing a joinder to this Agreement in form and substance reasonably satisfactory to the Administrative Agent, on or prior to the entry of the Syndication End Date (in the case of the Initial Roll-Up Loans) or the Final Order Entry Date (in the case of the Additional Roll-Up Loans), as applicable, in order to receive its portion of the Roll-Up. The Administrative Agent and the Pre-Petition First Lien Administrative Agent may each conclusively rely on the provisions of this Section 2.01(b) in adjusting the Register and the Register (as defined in the Pre-Petition First Lien Credit Agreement) to reflect (x) the substitution and exchange (and prepayment on a cashless basis) of an aggregate outstanding principal amount of the Pre-Petition First Lien Loans of each Lender participating in the Roll-Up equal to the amount set forth opposite such Lender's name on the

schedules provided pursuant to clauses (i) and (ii) above, (y) the Roll-Up Loans to be received by the Lenders on the Roll-Up Date and (z) the aggregate amount of Pre-Petition First Lien Loans held by each Lender holding Roll-Up Loans after giving effect to the applicable Roll-Up). Amounts borrowed, deemed borrowed or exchanged under this Section 2.01(b) and, following the Roll-Up, repaid or prepaid, may not be reborrowed.

SECTION 2.02. ***Loans***. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their applicable Commitments; *provided* that the failure of any Lender to make its Loan shall not in itself relieve any other Lender of its obligation to lend hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to make any Loan required to be made by such other Lender). Loans comprising any Borrowing shall be in an aggregate principal amount that is (i) an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or (ii) equal to the remaining available balance of the applicable Commitments.

(b) Subject to Sections 2.06, 2.08 and 2.15, (i) each Borrowing of New Money Loans made by the Borrower shall be comprised entirely of ABR Loans or Eurocurrency Loans as Parent may request pursuant to Section 2.03. Each Lender may at its option make its New Money Loan by causing any U.S. or non-U.S. branch or other Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) Each Lender shall make its New Money Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds to the Escrow Account not later than 11:00 a.m., New York City time.

(d) Unless the Administrative Agent shall have received notice from a Lender prior to the date of the Borrowing that such Lender will not make available to the Administrative Agent such Lender's portion of the Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of the Borrowing in accordance with Section 2.02(c) above and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, such Lender and the Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower to but excluding the date such amount is repaid to the Administrative Agent at (i) in the case of the Borrower, a rate per annum equal to the interest rate applicable at the time to the Loans comprising the Borrowing and (ii) in the case of such Lender, a rate determined by the Administrative Agent to represent its cost of overnight or short-term funds in the applicable currency (which determination shall be conclusive absent manifest error). If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of the Borrowing for purposes of this Agreement.

(e) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request any Interest Period with respect to any Eurocurrency Borrowing that would end after the Stated Maturity Date.

SECTION 2.03. ***Borrowing Procedure***. In order to request a Borrowing of New-Money Loans, Parent shall email, hand deliver or fax to the Administrative Agent a duly completed Borrowing Request (a) in the case of an ABR Borrowing, not later than 1:00 p.m., New York City time, one Business Day before the proposed Credit Date and (b) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the proposed Credit Date. Each Borrowing Request shall be irrevocable, shall be signed by Parent and shall specify the following information: (i) whether it is to be a Eurocurrency Borrowing or an ABR Borrowing; (ii) the date of such Borrowing (which shall be a Business Day); (iii) the number and location of the account to which funds are to be disbursed (which shall be the Escrow Account) and (iv) the amount of such Borrowing; *provided* that notwithstanding any contrary specification in any such Borrowing Request, the requested Borrowing shall comply with the requirements set forth in Section 2.02. If no election as to the Type of Borrowing is specified in the Borrowing Request, then the requested Borrowing shall be an ABR Borrowing. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.03 (and the contents thereof), of each Lender's portion of the requested Borrowing and the wire instructions for the Escrow Account to which Loans made in connection with the requested Borrowing are to be wired.

SECTION 2.04. ***Evidence of Debt; Repayment of Loans***.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent, for the account of each Lender, the principal amount of each Loan of such Lender as provided in Section **Error! Reference source not found.**.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(c) The Administrative Agent shall maintain accounts in which it will record (i) the amount of each Loan made hereunder, the Type thereof and, if applicable, the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower or any Guarantor and each Lender's share thereof.

(d) Subject to Section 9.04(d), the entries made in the accounts maintained pursuant to Sections 2.04(b) and 2.04(c) above shall be prima facie evidence of the existence and amounts of the obligations therein recorded; *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligations of the Borrower to repay the Loans made to the Borrower in accordance with their terms.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in substantially the form set forth in Exhibit H, or otherwise in a form and substance reasonably acceptable to the Administrative Agent and Parent.

SECTION 2.05. ***Fees.*** (a) The Borrower agrees to pay (or cause to be paid) to each Agent in dollars, for its own account, the agency fees from time to time agreed to in writing by the Borrower and such Agent (the "***Agent Fees***").

(b) The Borrower agrees to pay to each Lender, through the Administrative Agent, on the Closing Date, a commitment fee (the "***Commitment Fee***") equal to 2.00% of the Commitment of such Lender on such date (as in effect immediately prior to giving effect to the funding of any Loans on such date), which such fee shall be payable in the form of original issue discount (by reducing the amount of the Loan advanced by each Lender in the amount of such Lender's Commitment Fee).

(c) With respect to each repayment or prepayment of Loans under Section 2.13, any other repayment or prepayment of Loans upon maturity (scheduled or otherwise), any acceleration of the Loans and/or the other Obligations with respect thereto (regardless of whether before or after the occurrence of an Event of Default or the commencement of any bankruptcy or insolvency proceeding or any other proceeding under any Debtor Relief Law (including any deemed repayment or satisfaction in connection therewith)) and/or any mandatory assignment of the Loans of a non-consenting Lender pursuant to Section 2.22, in each case whether in full or in part, the Borrower shall be required to pay an amount equal to 5.00% of the amount of the Loans (including any Roll-Up Loans) repaid, prepaid, accelerated or assigned (the "***Exit Fee***"), in each case, concurrently with such repayment, prepayment, acceleration or assignment. For the avoidance of doubt, it is understood and agreed that, if the Loans are accelerated or otherwise become due prior to the Stated Maturity Date, in each case whether in full or in part (regardless of whether before or after the occurrence of an Event of Default or the commencement of any bankruptcy or insolvency proceeding or any other proceeding under any Debtor Relief Law), the Exit Fee will also automatically be due and payable as though the Loans were being repaid, prepaid or assigned and shall constitute part of the Obligations with respect to the Loans. For the avoidance of doubt, the Exit Fee shall also be due and payable (i) in the event the Loans (or any notes representing the Loans) are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by another means and/or (ii) upon the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any Obligations (and/or this Agreement or the notes evidencing any Obligations) in any insolvency proceeding or other proceeding pursuant to any Debtor Relief Laws, foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by other means or the making of a distribution of any kind in any insolvency proceeding or under any Debtor Relief Law to the Administrative Agent, for the account of the Lenders, in full or partial satisfaction of the Obligations.

(d) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment payment (a "***Delayed Draw Commitment Fee***") equal to 0.50% *per annum* of the average daily unused amount of each Delayed Draw Commitment of such Lender

during the period from and including the date hereof to but excluding the Delayed Draw Commitment Termination Date. Accrued Delayed Draw Commitment Fee shall be payable on the Delayed Draw Commitment Termination Date. The Delayed Draw Commitment Fee shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(e) All Fees shall be paid on the dates due, in immediately available funds in cash (to the extent provided above), to the Administrative Agent for distribution (other than the Agency Fees), if and as appropriate, among the Lenders. Once paid, none of the Fees shall be refundable under any circumstances, absent manifest error in the calculation of such Fees.

SECTION 2.06. ***Interest on Loans.*** (a) Subject to the provisions of Section 2.07, the New Money Loans comprising each ABR Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, and calculated from and including the date of such Borrowing to but excluding the date of repayment thereof) at a rate per annum equal to the sum of (i) the Alternate Base Rate and (ii) the Applicable Rate for such Loans in effect.

(b) Subject to the provisions of Section 2.07, the New Money Loans comprising each Eurocurrency Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days) at a rate per annum equal to the sum of (i) the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing and (ii) the Applicable Rate for such Loans in effect.

(c) The Roll-Up Loans shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, and calculated from and including the date of such Borrowing to but excluding the date of repayment thereof) at a rate per annum equal to the sum of (i) the Alternate Base Rate and (ii) the Applicable Rate for such Loans in effect, *provided* that a portion of the interest on Roll-Up Loans equal to a rate per annum equal to the sum of (i) the Alternative Base Rate and (ii) 0.75% shall be payable in kind as compounded interest and added to the aggregate principal amount of the Roll-Up Loans (such interest, "***PIK Interest***"); *provided*, *further*, that in no event shall the cash portion of the interest payable in respect of the Roll-Up Loans be less than 1.00% per annum of the outstanding aggregate principal amount of the Roll-Up Loans at any time.

(d) Interest on each Loan shall be payable (i) on the Interest Payment Dates applicable to such Loan except as otherwise provided in this Agreement and (ii) in dollars (other than PIK Interest, which shall be paid in kind on each Interest Payment Date). The applicable Alternate Base Rate or Adjusted LIBO Rate for each Interest Period or day within an Interest Period, as the case may be, shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.07. ***Default Interest.*** Upon the occurrence and during the continuance of an Event of Default, unless waived by the Required Lenders, the Borrower shall on demand from time to time pay interest, to the extent permitted by law, on all Obligations owing by it hereunder at a fluctuating interest rate *per annum* at all times (after as well as before judgment) (a) in the case of principal and interest, at the rate that would otherwise be applicable

thereto pursuant to Section 2.06 plus 2.00% *per annum* and (b) in the case of any other amount payable hereunder, at a rate *per annum* equal to the rate applicable to ABR Loans plus 2.00% *per annum*.

SECTION 2.08. ***Alternate Rate of Interest.*** In the event, and on each occasion, that on the day two Business Days prior to the commencement of any Interest Period for a Eurocurrency Borrowing, the Administrative Agent shall have determined that (i) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in the relevant market, (ii) the rates at which such deposits are being offered will not adequately and fairly reflect the cost to any Lender of making or maintaining its Eurocurrency Loan during such Interest Period, or (iii) reasonable means do not exist for ascertaining the Adjusted LIBO Rate, the Administrative Agent shall, as soon as practicable thereafter, give written (including by email) or fax notice explaining such determination or notification to Parent and the Lenders. In the event of any such determination by the Administrative Agent, until the Administrative Agent shall have advised Parent and the Lenders that the circumstances giving rise to such notice no longer exist, any request for a Eurocurrency Borrowing pursuant to Section 2.03 or 2.10 shall be deemed to be a request for an ABR Borrowing. Each determination by the Administrative Agent or a Lender hereunder shall be conclusive absent manifest error.

SECTION 2.09. Termination of Commitments. Following its making of the Initial Loan on the Closing Date, the Initial Commitment of each Lender shall terminate. The Delayed Draw Commitment of each Lender shall terminate on the Delayed Draw Commitment Termination Date and, to the extent applicable, after the making of any Delayed Draw Term Loan on such date.

SECTION 2.10. ***Conversion and Continuation of Borrowings.*** The Borrower shall have the right at any time upon prior irrevocable notice to the Administrative Agent (a) not later than 1:00 p.m., New York City time, one Business Day prior to conversion, to convert the full aggregate principal amount of a Eurocurrency Borrowing into an ABR Borrowing and (b) not later than 12:00 (noon), New York City time, three Business Days prior to conversion or continuation, to convert the full aggregate principal amount of an ABR Borrowing into a Eurocurrency Borrowing or to continue any Eurocurrency Borrowing as a Eurocurrency Borrowing for an additional Interest Period, subject in each case to the following:

(i) each conversion or continuation shall be made pro rata among the Lenders in accordance with the respective principal amounts of the Loans comprising the converted or continued Borrowing;

(ii) each conversion shall be effected by each Lender and the Administrative Agent by recording for the account of such Lender the new Loan of such Lender resulting from such conversion and reducing the Loan (or portion thereof) of such Lender being converted by an equivalent principal amount;

(iii) accrued interest on any Eurocurrency Loan (or portion thereof) being converted shall be paid by the Borrower at the time of conversion;

(iv) if any Eurocurrency Borrowing is converted at a time other than the end of the Interest Period applicable thereto, the Borrower shall pay, upon demand, any amounts due to the Lenders pursuant to Section 2.16;

(v) any portion of a Borrowing maturing or required to be repaid in less than 14 days may not be converted into or continued as a Eurocurrency Borrowing;

(vi) any portion of a Eurocurrency Borrowing that cannot be converted into or continued as a Eurocurrency Borrowing by reason of the immediately preceding clause shall be automatically converted at the end of the Interest Period in effect for such Borrowing into an ABR Borrowing;

(vii) no Interest Period may be selected for any Eurocurrency Borrowing that would end later than the Stated Maturity Date; and

(viii) upon notice to Parent from the Administrative Agent given at the request of the Required Lenders, after the occurrence and during the continuance of a Default or Event of Default, (A) no outstanding Borrowing may be converted into, or continued as, a Eurocurrency Borrowing and (B) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Each notice pursuant to this Section 2.10 shall be irrevocable and shall refer to this Agreement and specify (i) the identity and amount of the Borrowing that Parent requests be converted or continued, (ii) whether such Borrowing is to be converted to or continued as a Eurocurrency Borrowing or an ABR Borrowing and (iii) if such notice requests a conversion, the date of such conversion (which shall be a Business Day). For the avoidance of doubt, all Eurocurrency Borrowings shall have an Interest Period of one month. The Administrative Agent shall advise the Lenders of any notice given pursuant to this Section 2.10 and of each Lender's portion of any converted or continued Borrowing. If Parent shall not have given notice in accordance with this Section 2.10 to continue any Borrowing into a subsequent Interest Period (and shall not otherwise have given notice in accordance with this Section 2.10 to convert such Borrowing), such Borrowing shall, at the end of the Interest Period applicable thereto (unless repaid pursuant to the terms hereof), automatically be continued as an ABR Borrowing. Notwithstanding any contrary provisions herein, the currency of an outstanding Borrowing may not be changed in connection with any conversion or continuation of such Borrowing. Notwithstanding anything in this Agreement to the contrary, Roll-Up Loans shall not be converted into Eurocurrency Loans.

SECTION 2.11. ***Repayment of Borrowings***.

(a) To the extent not previously paid, all Loans (including the Roll-Up Loans) shall be due and payable on the Termination Date, together with accrued and unpaid interest on the principal amount to be paid to but excluding the date of payment and the Exit Fee.

(b) All repayments pursuant to this Section 2.11 shall be applied in accordance with Section 2.19(c) and subject to Section 2.05(c) and 2.16, but shall otherwise be without premium or penalty.

SECTION 2.12. ***Voluntary Prepayment.***

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, upon prior written notice (or telephone notice promptly confirmed by written notice) to the Administrative Agent given before 1:00 p.m. New York City Time, three Business Days before such prepayment; *provided* that each partial prepayment shall be in an amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum.

(b) Each notice of prepayment shall specify the prepayment date and the principal amount of each Borrowing (or portion thereof) to be prepaid, shall be irrevocable and shall commit the Borrower to prepay such Borrowing by the amount stated therein on the date stated therein.

(c) All prepayments under this Section 2.12 shall be applied in accordance with Section 2.19(c) and subject to Sections 2.05(c) and 2.16 in all respects but otherwise without premium or penalty. Notwithstanding anything to the contrary contained in this Section 2.12(c), a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by Parent (by written (including by email) or fax notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. All prepayments under this Section 2.12 shall be accompanied by accrued interest on the principal amount being prepaid to but excluding the date of payment and the Exit Fee.

SECTION 2.13. ***Mandatory Prepayments***.

(a) Not later than the second Business Day following the receipt of Net Cash Proceeds by Parent or any Subsidiary in respect of any Asset Sale, the Borrower shall apply 100% of the Net Cash Proceeds received with respect thereto to prepay outstanding Loans in an aggregate principal amount equal to 100% of such Net Cash Proceeds.

(b) Not later than the second Business Day following the receipt of Net Cash Proceeds by Parent or any Subsidiary in respect of Extraordinary Receipts in excess of $500,000 in the aggregate for all such Extraordinary Receipts during the term of this Agreement, the Borrower shall cause to be prepaid an aggregate principal amount of Loans in an amount equal to 100% of all such excess Net Cash Proceeds received therefrom.

(c) In the event that Parent or any Subsidiary shall receive Net Cash Proceeds from the issuance or incurrence of any Indebtedness by Parent or any Subsidiary (other than any cash proceeds from the issuance or incurrence of Indebtedness permitted pursuant to Section 6.01), then the Borrower shall, substantially simultaneously with the receipt of such Net Cash Proceeds by Parent or any Subsidiary, apply an amount equal to 100% of such Net Cash Proceeds to prepay outstanding Loans.

(d) Parent shall deliver to the Administrative Agent, at the time of each prepayment required under this Section 2.13, (i) a certificate signed by a Financial Officer of Parent setting forth in reasonable detail the calculation of the amount of such prepayment and (ii) to the extent practicable, at least three Business Days' prior written notice of such prepayment.

Each notice of prepayment shall specify the prepayment date, the Type of each Loan being prepaid and the principal amount of each Loan (or portion thereof) to be prepaid. All prepayments of Borrowings under this Section 2.13 shall be applied in accordance with Section 2.19(c) and subject to Sections 2.05(c) and 2.16, but shall otherwise be without premium or penalty. All prepayments of Borrowings under this Section 2.13 shall be accompanied by accrued and unpaid interest on the principal amount to be prepaid to but excluding the date of payment and the Exit Fee.

(e) [Reserved].

(f) Notwithstanding any of the other provisions of Section 2.13, each Lender may elect not to accept all (but not less than all) of its pro rata percentage of any mandatory prepayment (any such Lender, a "***Declining Lender***", and any such declined amounts, the "***Declined Amounts***") of Loans required to be made pursuant to clauses (a) and (b) of this Section 2.13 by providing written notice (each, a "***Rejection Notice***") to the Administrative Agent no later than 5:00 p.m., New York City time, on the Business Day of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Loans. Any Declined Amounts shall be offered to Lenders that are not Declining Lenders on a pro rata basis, and any Declined Amounts remaining thereafter shall be applied to prepay other Indebtedness to the extent required by the terms thereof and, after giving effect thereto, any remaining amounts may be retained by the Borrower.

SECTION 2.14. ***Reserve Requirements; Change in Circumstances.*** (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall change the basis of taxation of payments to any Agent or any Lender of the principal of or interest on any Eurocurrency Loan made by such Lender or any Fees or other amounts payable under any Loan Document (other than changes in respect of Indemnified Taxes, Taxes described in clauses (ii), (iii), (iv) and (v) of the definition of Excluded Taxes and Connection Income Taxes), or shall impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement against assets of, deposits with or for the account of or credit extended by any Lender (except any such reserve requirement which is reflected in the Adjusted LIBO Rate) or shall impose on such Lender or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or participation therein, and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan or purchasing or maintaining a participation therein or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise) by an amount deemed by such Lender to be material, then the Borrower will pay to such Lender, as the case may be, upon demand such additional amount or amounts as will compensate such Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender shall have determined that any Change in Law (including any regarding liquidity or capital adequacy) has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender pursuant hereto to a level

below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to liquidity or capital adequacy) by an amount deemed by such Lender to be material, then from time to time the Borrower shall pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as applicable, as specified in clause (a) or (b) above and setting forth in reasonable detail the basis for, and calculation of, such amount or amounts shall be delivered to Parent and shall be conclusive absent manifest error. Notwithstanding anything in this Section 2.14 to the contrary, no Lender shall be entitled to any additional amount or amounts under this Section 2.14 unless and only if such Lender is generally seeking similar compensation from similarly situated borrowers (which are parties to credit or loan documentation containing a provision similar to this Section 2.14), as determined by such Lender in its reasonable discretion. The Borrower shall pay such Lender the amount shown as due on any such certificate delivered by it within twenty (20) days after its receipt of the same.

(d) Failure or delay on the part of any Lender to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital shall not constitute a waiver of such Lender's right to demand such compensation. The protection of this Section shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, agreement, guideline or other change or condition that shall have occurred or been imposed.

SECTION 2.15. ***Change in Legality***. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall make it unlawful for any Lender to make or maintain any Eurocurrency Loan or to give effect to its obligations as contemplated hereby with respect to any Eurocurrency Loan, then, by written notice to Parent and to the Administrative Agent:

(i) such Lender may declare that Eurocurrency Loans will not thereafter (for the duration of such unlawfulness) be made by such Lender hereunder (or be continued for additional Interest Periods) and ABR Loans will not thereafter (for such duration) be converted into Eurocurrency Loans, whereupon any request for a Eurocurrency Borrowing (or to convert an ABR Borrowing to a Eurocurrency Borrowing or to continue a Eurocurrency Borrowing for an additional Interest Period) shall, as to such Lender only, be deemed a request for an ABR Loan (or a request to continue an ABR Loan as such for an additional Interest Period or to convert a Eurocurrency Loan into an ABR Loan, as the case may be), unless such declaration shall be subsequently withdrawn; and

(ii) such Lender may require that all outstanding Eurocurrency Loans made by it be converted to ABR Loans in which event all such Eurocurrency Loans shall be automatically converted to such ABR Loans as of the effective date of such notice as provided in clause (b) below.

(iii) In the event any Lender shall exercise its rights under (i) or (ii) above, all payments and prepayments of principal that would otherwise have been applied to repay

the Eurocurrency Loans that would have been made by such Lender or the converted Eurocurrency Loans of such Lender shall instead be applied to repay the ABR Loans made by such Lender in lieu of, or resulting from the conversion of, such Eurocurrency Loans.

(b) For purposes of this Section 2.15, a notice to Parent by any Lender shall be effective as to each Eurocurrency Loan made by such Lender, if lawful, on the last day of the Interest Period currently applicable to such Eurocurrency Loan; in all other cases such notice shall be effective on the date of receipt by Parent.

SECTION 2.16. ***Indemnity***. The Borrower shall indemnify each Lender against any loss or expense, including any break-funding cost that such Lender may sustain or incur as a consequence of (a) any event, other than a default by such Lender in the performance of its obligations hereunder, which results in (i) such Lender receiving or being deemed to receive any amount on account of the principal of any Eurocurrency Loan prior to the end of the Interest Period in effect therefor, (ii) the conversion of any (A) Eurocurrency Loan to an ABR Loan or (B) Interest Period with respect to any Eurocurrency Loan, in each case other than on the last day of the Interest Period in effect therefor, or (iii) any Eurocurrency Loan to be made by such Lender (including any Eurocurrency Loan to be made pursuant to a conversion or continuation under Section 2.10) not being made after notice of such Loan shall have been given by Parent hereunder (any of the events referred to in this clause (a) being called a "***Breakage Event***") or (b) any default in the making of any payment or prepayment required to be made hereunder. In the case of any Breakage Event, such loss shall include an amount equal to the excess, as reasonably determined by such Lender, of (i) its cost of obtaining funds for the Eurocurrency Loan that is the subject of such Breakage Event for the period from the date of such Breakage Event to the last day of the Interest Period in effect (or that would have been in effect) for such Loan over (ii) the amount of interest likely to be realized by such Lender in redeploying the funds released or not utilized by reason of such Breakage Event for such period. A certificate of any Lender setting forth any amount or amounts which such Lender is entitled to receive pursuant to this Section 2.16, together with a reasonably detailed calculation thereof, shall be delivered to Parent and shall be conclusive absent manifest error.

SECTION 2.17. ***Pro Rata Treatment***. Except as required under Section 2.15, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on a Borrowing and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type shall be allocated pro rata among the Lenders in accordance with their respective applicable Commitments (or, if such Commitments shall have expired or been terminated, in accordance with the respective principal amounts of their outstanding Loans). Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar.

SECTION 2.18. ***Sharing of Setoffs***. Each Lender agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against the Borrower or any other Loan Party, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, judicial management, insolvency, examinership or

other similar law or otherwise, or by any other means, obtain payment (voluntary or involuntary) in respect of any of its Loans as a result of which the unpaid principal portion of its Loans and accrued interest thereon shall be proportionately less than the unpaid portion of the Loans and accrued interest thereon of any other Lender, it shall be deemed simultaneously to have purchased from such other Lender at face value, and shall promptly pay to such other Lender the purchase price for, a participation in the Loans and interest thereon of such other Lender, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of the principal of and accrued interest on their respective Loans; *provided* that (a) if any such purchase or purchases or adjustments shall be made pursuant to this Section 2.18 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustment restored without interest, and (b) the provisions of this Section 2.18 shall not be construed to apply to any payment made by any Loan Party pursuant to and in accordance with the express terms of this Agreement (including any payment received pursuant to Section 2.15). The Borrower expressly consents to the foregoing arrangements and agrees that any Lender holding a participation in a Loan deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by the Borrower to such Lender by reason thereof as fully as if such Lender had made a Loan directly to the Borrower in the amount of such participation.

SECTION 2.19. ***Payments.*** (a) The Borrower shall make each payment hereunder and under any other Loan Document prior to 1:00 p.m., New York City time, on the date when due in immediately available funds, without setoff, defense or counterclaim. Each such payment shall be made to such account as shall from time to time be specified in a writing delivered to Parent and the Borrower by the Administrative Agent. All Loans hereunder shall be denominated and made, and all payments of principal and interest, Fees or otherwise hereunder or under any other Loan Document in respect thereof shall be made, in dollars. Unless otherwise agreed by Parent and each Lender to receive any such payment, all other amounts due hereunder or under any other Loan Document shall be payable in dollars.

(b) Whenever any payment (including principal of or interest on any Borrowing or any Fees or other amounts) hereunder or under any other Loan Document shall become due, or otherwise would occur, on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or Fees, if applicable.

(c) Any prepayment of a Loan shall be accompanied by all accrued and unpaid interest on the amount prepaid, the Exit Fee in accordance with Section 2.05(c) and, in the case of a prepayment of a Eurocurrency Loan only, any additional amounts required pursuant to Section 2.16. Subject to the Carve-Out, each prepayment of Loans pursuant to Sections 2.11, 2.12 and 2.13 shall be applied by Administrative Agent, in accordance with Section 7.02 unless otherwise specified in the Orders.

SECTION 2.20. ***Taxes.*** For purposes of this Section, (x) the term "Lender" shall include any Transferee of a Lender and (y) the term "Administrative Agent" shall include any Transferee of the Administrative Agent and, other than for purposes of clauses (e) and (f) below, each other Agent or any Transferee thereof.

(a) Any and all payments by or on behalf of any Loan Party hereunder and under any other Loan Document shall be made, in accordance with Section 2.19, free and clear of and without deduction for any Taxes imposed by any Governmental Authority, except as required by applicable law. If any Loan Party shall be required under applicable law to deduct any Taxes from or in respect of any sum payable hereunder or under any other Loan Document to the Administrative Agent or any Lender, (i) if such Taxes are Indemnified Taxes, the applicable Loan Party shall pay an additional amount (an "***additional amount***") as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.20) the Administrative Agent or any Lender shall receive an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) such Loan Party shall make such deductions and (iii) such Loan Party shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Each Loan Party will indemnify the Administrative Agent and each Lender for the full amount of Indemnified Taxes attributable to it (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Administrative Agent or such Lender, as the case may be, and any liability (including penalties, interest and expenses (including reasonable attorney's fees and expenses)) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability prepared by the Administrative Agent or a Lender, or the Administrative Agent on its behalf, absent manifest error, shall be final, conclusive and binding for all purposes. Such indemnification shall be made within twenty (20) days after the date the Administrative Agent or any Lender makes written demand therefor.

(d) Each Lender shall severally indemnify the Administrative Agent, within ten (10) Business Days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(f)(ii) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (d).

(e) As soon as practicable after the date of any payment of Indemnified Taxes or Other Taxes by the Borrower or any other Loan Party to the relevant Governmental Authority,

the Borrower or such other Loan Party will deliver to the Administrative Agent, at its address referred to in Section 9.01, the original or a certified copy of a receipt issued by such Governmental Authority evidencing payment thereof.

(f) (i) Each Lender that is entitled to an exemption from, or reduction of, withholding Tax with respect to payments by the Borrower under this Agreement and the other Loan Documents shall deliver to Parent (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by Parent (including, for the avoidance of doubt, applicable Australian law, which documentation shall include such Lender's Australian Business Number or Tax File Number or details of a relevant exemption) as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if reasonably requested by Parent or the Administrative Agent, shall deliver such other documentation prescribed by applicable law (including, for the avoidance of doubt, applicable Australian law) or reasonably requested by Parent or the Administrative Agent as will enable Parent or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Parent and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary in this Section 2.20(f), the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person holding a Loan or Commitment extended to the Borrower shall deliver to Parent and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Non-U.S. Lender holding a Loan or Commitment extended to the Borrower shall, to the extent it is legally entitled to do so, deliver to Parent and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to

the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-4 on behalf of each such direct and indirect partner; and

(C) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to Parent and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Parent or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Parent or the Administrative Agent to determine the withholding or deduction required to be made.

(g) If a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the applicable Loan Party or Administrative Agent (such applicable party a "***Withholding Agent***"), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed

by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Nothing contained in this Section 2.20 or in Section 2.21 shall require any Lender or the Administrative Agent to make available any of its Tax returns (or any other information that it deems to be confidential or proprietary).

(i) Each party's obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) If any party determines, in its sole discretion exercised in good faith, that it has received a refund or a credit in respect of any Taxes as to which it has been indemnified pursuant to this Section 2.20 (including by the payment of additional amounts pursuant to such sections), it shall reduce the additional amount owed to such party pursuant to Section 2.20(a) by such credit or it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund or credit, as applicable), net of all out of pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund or credit, as applicable). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (j) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund or credit, as applicable, to such Governmental Authority. Notwithstanding anything to the contrary in this clause (j), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (j) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund or credit, as applicable, had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This clause (j) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

SECTION 2.21. [Reserved].

SECTION 2.22. ***Assignment of Loans Under Certain Circumstances; Duty to Mitigate***. (a) In the event (i) any Lender delivers a certificate requesting compensation pursuant to Section 2.14, (ii) any Lender delivers a notice described in Section 2.15, (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender pursuant to Section 2.20, (iv) any Lender becomes a Defaulting Lender or (v) any Lender refuses to consent to a proposed amendment, waiver, consent or other modification of

this Agreement or any other Loan Documents which has been approved by the Required Lenders, as applicable, and which additionally requires the consent of such Lender for approval pursuant to Section 9.08(b), Parent may, at its sole expense and effort (including with respect to the processing and recordation fee referred to in Section 9.04(b)), upon notice to such Lender and the Administrative Agent, require such Lender to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or Section 2.20) and obligations under this Agreement to an assignee (other than any Ineligible Assignee) that shall assume such assigned obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (A) such assignment shall not conflict with any law, rule or regulation or order of any court or other Governmental Authority having jurisdiction, (B) Parent shall have received the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld and (C) the Borrower or such assignee shall have paid to the affected Lender in immediately available funds an amount equal to the sum of the principal of and interest accrued to the date of such payment on the outstanding Loans of such Lender, plus all Fees and other amounts accrued for the account of such Lender hereunder (including any amounts under Sections 2.05, 2.14 and 2.16), in each case with respect to the Loans subject to such assignment; *provided, further,* that, if prior to any such transfer and assignment the circumstances or event that resulted in such Lender's claim for compensation under Section 2.14 or notice under Section 2.15 or the amounts paid pursuant to Section 2.20, as the case may be, cease to cause such Lender to suffer increased costs or reductions in amounts received or receivable or reduction in return on capital, or cease to have the consequences specified in Section 2.15, or cease to result in amounts being payable under Section 2.20, as the case may be (including as a result of any action taken by such Lender pursuant to clause (b) below), or if such Lender shall waive its right to claim further compensation under Section 2.14 in respect of such circumstances or event or shall withdraw its notice under Section 2.15 or shall waive its right to further payments under Section 2.20 in respect of such circumstances or event or shall consent to the proposed amendment, waiver, consent or other modification, as the case may be, then such Lender shall not thereafter be required to make any such transfer and assignment hereunder. Any such Lender shall be deemed to have consented to an assignment under this Section 2.22(a) if it does not execute and deliver an Assignment and Acceptance to the Administrative Agent within two Business Days after having received a request therefor.

(b) If (i) any Lender shall request compensation under Section 2.14, (ii) any Lender delivers a notice described in Section 2.15 or (iii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority on account of any Lender, pursuant to Section 2.20, then such Lender shall use reasonable efforts (which shall not require such Lender to incur an unreimbursed loss or unreimbursed cost or expense or otherwise take any action inconsistent with its internal policies or legal or regulatory restrictions or suffer any disadvantage or burden deemed by it to be significant) (A) to file any certificate or document reasonably requested in writing by Parent or (B) to assign its rights and delegate and transfer its obligations hereunder to another of its offices, branches or Affiliates, if such filing or assignment would materially reduce its claims for compensation under Section 2.14 or enable it to withdraw its notice pursuant to Section 2.15 or would materially reduce amounts payable pursuant to Section 2.20, as the case may be, in the future. Parent hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such filing or assignment, delegation and transfer.

SECTION 2.23. [Reserved].

SECTION 2.24. ***Parent as Borrower Agent***.

(a) The Borrower hereby appoints Parent as its agent, attorney-in- fact and representative for purposes of (i) making any borrowing requests or other requests required under this Agreement and the other Loan Documents, including requests for disbursement from the Escrow Account, (ii) the giving and receipt of notices by and to the Borrower under this Agreement and the other Loan Documents, (iii) the delivery of any documents, agreements, instruments, requests, consents, approvals, certificates, reports, statements or written materials required to be delivered by the Borrower under this Agreement and the other Loan Documents, (iv) making any determination, selection, designation or judgment, including, without limitation, those requiring the satisfaction or the discretion of the Borrower, under this Agreement or the other Loan Documents and (v) all other purposes incidental to any of the foregoing.

(b) The Borrower agrees that any action taken by Parent as the agent, attorney-in-fact and representative of the Borrower shall be binding upon the Borrower to the same extent as if directly taken by the Borrower and that each Agent and each Lender shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, approval, report, statement, instrument, agreement, document or other writing believed by it to be genuine and to have been signed or sent by Parent.

(c) The Borrower and each party hereto agrees that, notwithstanding any implication to the contrary, payments of principal, interest, fees, charges and other amounts designated by this Agreement or the terms of any other Loan Document to be made by the Borrower may be paid to the recipient by Parent directly in each case.

SECTION 2.25. ***Disbursement of Funds from the Escrow Account***.

(a) Subject to Section 2.25(b) below and the terms of the Escrow Agreement, from and after the Closing Date, Parent shall have the right to request disbursement of the funds on deposit in the Escrow Account from time to time (but not more frequently than four times in any four week period) by delivering a written notice to the Administrative Agent in the form attached as Exhibit K hereto (each such notice, a "***Notice of Disbursement***") no later than the time required pursuant to Section 4.03(a). Each Notice of Disbursement shall be irrevocable and shall specify the following information (i) the amount of such Disbursement, (ii) the Disbursement Date (which shall be a Business Day complying with this Section 2.25 and Section 4.03), (iii) the intended use of proceeds of such Disbursement in reasonable detail, (iv) that as of the date of such Disbursement, the conditions set forth in the Escrow Agreement, this Section 2.25 and in Section 4.03 are satisfied and (v) the wiring instructions of the applicable Operating Account to which the proceeds of such Disbursement are to be disbursed. Following receipt of each Notice of Disbursement, the Administrative Agent shall submit a draw notice to the Escrow Account Deposit Bank in accordance with the terms of the Escrow Agreement, authorizing the release of the Disbursement from the Escrow Account into the applicable Operating Account identified in the Notice of Disbursement. If the Administrative Agent has received a written Disbursement Termination Instruction from the Required Lenders prior to 5:00 p.m., New York City time one Business Day prior to the proposed Disbursement Date (the "***Termination Cutoff***

Time") and such Disbursement Termination Instruction has not been withdrawn by the Required Lenders prior to Termination Cutoff Time, then the Administrative Agent shall use commercially reasonable efforts to rescind the draw notice previously delivered to the Escrow Account Deposit Bank in accordance with the terms of the Escrow Agreement. Promptly after receipt by the Administrative Agent of a Notice of Disbursement pursuant to this Section 2.25, the Administrative Agent will notify each Lender of the proposed Disbursement.

(b) On and after the date of receipt by the Administrative Agent of a written direction from the Required Lenders (which may be by email) instructing the Administrative Agent that it may no longer honor any instruction from Parent with respect to the Escrow Account due to any of the conditions set forth in this Section 2.25 or Section 4.03 being unsatisfied or incapable of satisfaction (a "***Disbursement Termination Instruction***"), Parent shall have no right to request any such withdrawal from the Escrow Account and the Administrative Agent shall not honor any such request from the Parent except as provided below and in the following sentence; *provided* that (a) for each proposed Disbursement, the Administrative Agent may honor any such request from the Parent for such Disbursement to the extent that a Disbursement Termination Instruction is received at or after the Termination Cutoff Time for such Disbursement, and (b) the Agents shall not be liable for (i) any action or failure to act under the Escrow Agreement or this Section 2.25 that arises directly or indirectly from following the direction or other instructions of the Required Lenders or (ii) any Disbursements, or any actions or inactions related thereto, to the extent that a Disbursement Termination Instruction was received by the Administrative Agent after the Termination Cutoff Time in respect of such Disbursement, including any electronic funds or wire transfers processed or initiated in connection with such proposed Disbursement (whether or not such transfer was processed or initiated prior to or after such Termination Cutoff Time). Any Disbursement Termination Instruction received by the Administrative Agent from the Required Lenders shall remain in effect until such time, if any, as the Administrative Agent shall have received a written termination of such Disbursement Termination Instruction from the Required Lenders.

(c) With respect to any Disbursement from the Escrow Account hereunder, the Administrative Agent shall be entitled to conclusively rely upon, and shall be fully protected in relying upon, (i) any Notice of Disbursement submitted by Parent as evidence that all conditions precedent to a Disbursement from the Escrow Account have been satisfied and (ii) any Disbursement Termination Instruction received by it. Notwithstanding anything herein to the contrary, the Administrative Agent shall have no obligation to direct the Escrow Account Deposit Bank to disburse any amount from the Escrow Account in excess of the amounts then held in the Escrow Account. The Agents shall have no duty to inquire or investigate whether any condition precedent to a withdrawal from the Escrow Account has been satisfied.

(d) For the avoidance of doubt, all proceeds of Loans held in the Escrow Account shall be Loans for all purposes hereunder and, notwithstanding that the proceeds of such Loans are held in the Escrow Account, shall bear interest in accordance with this Agreement and shall be subject to all other terms and provisions of this Agreement and the other Loan Documents to the same extent as all other Loans.

SECTION 2.26. ***Defaulting Lenders***. (a) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 7.01 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made at a time when the conditions set forth in Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the applicable Lenders on a *pro rata* basis. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.26(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(b) If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held *pro rata* by the Lenders in accordance with their applicable Commitments, whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees

accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender having been a Defaulting Lender.

SECTION 2.27. ***Payments to Administrative Agent for Fronting Exposure***. Notwithstanding anything in this Agreement or any other Loan Document to the contrary, but subject to the Orders, until the date that the Fronting Lender (as defined below) has been paid in full in cash for all accrued and unpaid interest and Fees in respect of the Commitments and Loans from time to time held by the Administrative Agent or any of its Affiliates, in its capacity as a Lender, in connection with facilitating the funding of any of the New Money Loans (the "***Fronting Lender***"; such accrued amounts, the "***Fronting Exposure***"), (i) at all times on and after the Closing Date, an amount equal to the Fronting Exposure at such time shall be maintained in the Escrow Account, which amount shall not be permitted to be disbursed for any purpose other than to pay such amount to the Fronting Lender (or the Administrative Agent on its behalf) in cash and (ii) at any time that an Event of Default shall have occurred and be continuing, the Administrative Agent is authorized, in its sole discretion, to withdraw an amount equal to the Fronting Exposure at such time from the Escrow Account without any further action by any Loan Party or any Lender; the Borrower is deemed to have delivered a Notice of Disbursement in furtherance of the foregoing; and each Lender hereby consents to such disbursement irrespective of whether a Disbursement Termination Instruction is then in effect or the conditions precedent to a Disbursement have been otherwise satisfied.

ARTICLE III

Representations and Warranties

Each of Parent and the Borrower represents and warrants to each Agent, the Collateral Agent and each of the Lenders that:

SECTION 3.01. ***Organization; Powers***. Except as set forth on Schedule 3.01, Parent and each of the Subsidiaries (including the Borrower) (a) is a corporation, partnership, limited liability company or other entity, duly incorporated or formed, as the case may be, validly existing and in good standing (other than with respect to any Subsidiary organized in a jurisdiction that does not have a concept of good standing) under the laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure to so qualify could not reasonably be expected to result in a Material Adverse Effect, and (d) subject to the entry of the Orders and the terms thereof, has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrower, to borrow hereunder. The Borrower is a wholly owned Subsidiary.

SECTION 3.02. ***Authorization***. Each of the Transactions will, at the time it occurs, (a) subject to the entry of the Orders and the terms thereof, have been duly authorized by all requisite corporate, limited liability company, limited partnership, other organizational action (including, if required, stockholders', members' or partners' action), as applicable, of each Loan Party and (b) not (i) violate (A) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, any provision of law, statute, rule or regulation in any material respect, (B) the Organization Documents of any Loan Party or Subsidiary or (C) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, any order of any Governmental Authority applicable to any Loan Party or Subsidiary, (ii) other than violations arising as a result of the commencement of the Cases and except as otherwise excused by the Bankruptcy Code, violate any provision of, be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any indenture, agreement or other instrument to which Parent or any Subsidiary is a party or by which any of them or any of their property is or may be bound, except, in the case of this clause (ii), where such violation, conflict, breach or default could not reasonably be expected to result in a Material Adverse Effect or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower, Parent or any Subsidiary Guarantor (other than any Lien created hereunder or under the Security Documents).

SECTION 3.03. ***Enforceability***. Subject to the Orders and the terms thereof, this Agreement has been duly executed and delivered by each Loan Party hereto and constitutes, and subject to the Orders and the terms thereof, each other Loan Document has either been duly executed and delivered by each Loan Party thereto and constitutes (or, when executed and delivered by each Loan Party thereto, will have been duly executed and delivered and constitute) a legal, valid and binding obligation of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, judicial management, insolvency, examinership, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law (in each case other than with respect to the Debtors).

SECTION 3.04. ***Governmental Approvals***. Subject to the Orders and the terms thereof, no material action, consent or approval of, registration or filing with or any other action by any Governmental Authority (other than the entry of the Orders) is or will be required in connection with the Transactions, except for (a) the filing of Uniform Commercial Code financing statements or PPSA financing statements, as applicable, (b) other approvals and filings in respect of any Collateral made or obtained in accordance with the Agreed Security Principles and that are in full force and effect (except to the extent not required to have been made or obtained or be in full force and effect at such time pursuant to the express terms of the Agreed Security Principles), (c) a notification to the Defense Security Service ("***DSS***") of the U.S. Department of Defense of the security being granted in respect of Equity Interests in and assets of UltiSat Inc. and the submission of a SF 328 Certificate Pertaining to Foreign Interests to the DSS in respect of this Agreement and the security being granted in respect of Equity Interests in and assets of UltiSat Inc. (the submission of such SF 328 Certificate to occur as promptly as reasonably practicable after the Closing Date), and (d) such as have been made or obtained and are in full force and effect.

SECTION 3.05. ***Financial Statements.***

(a) Parent has heretofore furnished to the Lenders its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows as of and [for the fiscal year ended December 31, 2018], audited by and accompanied by the opinion of PricewaterhouseCoopers LLP, independent public accountants and the unaudited half-year consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows for the fiscal half-year ended June 30, 2019 and the fiscal year ended December 31, 2019. Such financial statements present fairly in all material respects the financial condition and results of operations and cash flows of Parent and its consolidated Subsidiaries as of such dates and for such periods. Such statements of financial position and the notes thereto disclose all material liabilities, direct or contingent, of Parent and its consolidated Subsidiaries as of the dates thereof required to be reflected in accordance with GAAP. Such financial statements were prepared in accordance with GAAP applied on a consistent basis except as otherwise noted therein. As of the Closing Date, neither Parent nor any Subsidiary has any contingent liability or liability for Taxes, long-term lease or unusual forward or long-term commitment that is not reflected in such financial statements or the notes thereto and that, in any such case, is material in relation to the business, operations, assets or financial condition of Parent and the Subsidiaries, taken as a whole.

(b) The Initial DIP Budget, which was delivered to the Administrative Agent and the Lenders on or prior to the Closing Date, and each subsequent DIP Budget was prepared in good faith based upon assumptions Parent believed to be reasonable assumptions on the date of delivery of such DIP Budget. To the knowledge of Parent, no facts exist that (individually or in the aggregate) would result in any material change in the then-applicable Approved Budget. The Borrower shall deliver to the Administrative Agent updates to the DIP Budget in accordance with Section 5.04(j).

SECTION 3.06. ***No Material Adverse Change.*** Since the Petition Date, no event, change, circumstance or condition has occurred that, individually or in the aggregate, has had, or could reasonably be expected to have, a Material Adverse Effect.

SECTION 3.07. ***Title to Properties; Possession Under Leases.*** (a) Each of Parent and its Subsidiaries has good and marketable title to, or valid leasehold interests in, or valid license to use, all its material properties and assets (including all Mortgaged Property), except for defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes. All such material properties and assets are free and clear of Liens, other than Liens expressly permitted by Section 6.02.

(b) Each of Parent and its Subsidiaries has complied in all material respects with all obligations under all material leases and licenses to which it is a party and all such leases are in full force and effect. Each of Parent and its Subsidiaries enjoys peaceful and undisturbed possession under all such material leases and licenses.

(c) No Borrower has received any written notice of, nor has any knowledge of, any pending or contemplated condemnation proceeding affecting the Mortgaged Properties or any sale or disposition thereof in lieu of condemnation.

(d) Neither Parent nor any of its Subsidiaries is obligated under any right of first refusal, option or other contractual right to sell, assign or otherwise dispose of any Mortgaged Property or any interest therein, in any such case, except to the extent disclosed in writing to the Administrative Agent and permitted by Article VI.

SECTION 3.08. ***Subsidiaries***. Schedule 3.08 sets forth as of the Closing Date a list of all Subsidiaries and the percentage ownership interest of the applicable owner therein. The Equity Interests or other ownership interests so indicated on Schedule 3.08 are fully paid and non-assessable and are owned by Parent, directly or indirectly through its Subsidiaries (other than with respect to Equity Interests or other ownership interests that have been sold or otherwise disposed of in accordance with Section 6.05), free and clear of all Liens, except for (i) as of the Closing Date, Liens created under the Pre-Petition First Lien Security Documents and the Security Documents and (ii) after the Closing Date, Liens permitted by Section 6.02.

SECTION 3.09. ***Litigation; Compliance with Laws***. (a) Except for the Cases or as set forth on Schedule 3.09, there are not any actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of Parent or the Borrower, threatened against or affecting Parent or any of its Subsidiaries or any business, property or rights of any such person (i) that involve any Loan Document or the Transactions or (ii) as to which there is a reasonable probability of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. Since the Closing Date, there has been no change in the status of the matters disclosed on Schedule 3.09 that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

(b) Except as excused by the Bankruptcy Code, none of Parent or any of its Subsidiaries or any of their respective material properties or assets is in violation of, nor will the continued operation of their material properties and assets as currently conducted violate, any law, rule or regulation (including the USA PATRIOT Act, any zoning, building, Environmental Law, ordinance, code or approval or any building permits) or any restrictions of record or agreements affecting the Mortgaged Property, or is in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority, where such violation or default could reasonably be expected to result in a Material Adverse Effect.

(c) Certificates of occupancy and required permits are in effect for each Mortgaged Property as currently constructed, except where the failure to have the same could not reasonably be expected to result in a Material Adverse Effect.

(d) [Reserved].

SECTION 3.10. ***Agreements***. (a) Neither Parent nor any of its Subsidiaries is a party to any agreement or instrument or subject to any corporate restriction that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Except as set forth on Schedule 3.10(b), neither Parent nor any of its Subsidiaries is in default in any manner under any provision of any indenture or other agreement or instrument evidencing Indebtedness, or any other material agreement or instrument to which it is a party or by which it or any of its properties or assets are or may be bound, where such default could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. ***Federal Reserve Regulations.*** (a) Neither Parent nor any of its Subsidiaries is engaged, or will engage, principally, or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying Margin Stock. None of Parent or any of its Subsidiaries owns Margin Stock as of the Closing Date.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation T, U or X.

SECTION 3.12. ***Investment Company Act.*** Neither Parent nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.13. ***Use of Proceeds.*** The proceeds of the Loans will be used solely in accordance with the Orders and the Approved Budget, (a) to pay fees and expenses in connection with the Transactions, (b) for working capital and other general corporate purposes of the Debtors (and, to the extent permitted hereunder, by way of intercompany loans to the Subsidiaries of Parent that are not Debtors) following the commencement of the Cases, (c) to pay payments in respect of Adequate Protection (as defined in the Interim Order or Final Order, as applicable) as authorized by the Bankruptcy Court in the applicable Order, (d) to pay obligations arising from or related to the Carve-Out and (e) for other purposes upon the prior written consent of the Required IC Lenders, in each case, not in contravention of any applicable law and not in violation of this Agreement or the other Loan Documents; *provided* that in no event shall any part of the proceeds of Loans or Cash Collateral be used to prosecute, investigate or for proceedings to, contest the claims of the Agents, Lenders, Pre-Petition First Lien Agents or Pre-Petition First Lien Lenders or the liens in favor of the Secured Parties or the secured parties under the Pre-Petition First Lien Loan Documents that secure the Obligations or Pre-Petition First Lien Obligations, or prevent, hinder or delay any of the Agents' or the Pre-Petition First Lien Agents' enforcement or realization upon any of the Collateral or collateral securing the Pre-Petition First Lien Obligations, other than with respect to seeking a determination of whether an Event of Default has not occurred or is not continuing; *provided* that up to $50,000 in the aggregate of the proceeds of Loans, the Collateral, the collateral securing any Pre-Petition First Lien Obligations and the Carve-Out shall be made available to the Committee for investigation costs in respect of any pre-petition Indebtedness and liens in accordance with the Interim Order (or the Final Order, as applicable).

SECTION 3.14. ***Tax Returns.*** Each of Parent and its Subsidiaries has filed or caused to be filed all federal and material state, local and non-U.S. Tax returns required to have been filed by it and has paid or caused to be paid all Taxes shown as due on such Tax returns and

all assessments received by it (in each case giving effect to applicable extensions), except (i) Taxes that are being contested in good faith by appropriate proceedings diligently conducted and for which Parent or such Subsidiary, as applicable, shall have set aside on its books adequate reserves in accordance with GAAP or (ii) Taxes that need not be paid pursuant to an order of the Bankruptcy Court or pursuant to the Bankruptcy Code. There is no tax assessment proposed in writing against Parent or the Subsidiaries that would, if made, have a Material Adverse Effect. Neither Parent nor any Subsidiary is party to any tax sharing agreement or tax funding agreement except as contemplated in and in accordance with Section 3.25 and as otherwise reviewed and approved by the Administrative Agent in its reasonable discretion.

SECTION 3.15. ***No Material Misstatements.*** All information, reports, financial statements, exhibits and schedules (other than any forecast, projection or information of a general economic or industry specific nature), including any DIP Budget, furnished by or on behalf of any Loan Party in writing to any Agent or any Lender in connection with the negotiation of any Loan Document or included therein or delivered pursuant thereto (including and together with all information furnished by or on behalf of any Loan Party to any Agent or any Lender in writing after the Closing Date in connection with any Loan Document) is or will be, when furnished, complete and correct in all material respects when taken as a whole and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not materially misleading, in the light of the circumstances under which they were, are or will be made (after giving effect to all supplements and updates thereto); *provided* that to the extent any such information, report, financial statement, exhibit or schedule was based upon or constitutes a forecast or projection, Parent and the Borrower represent only that (i) it acted in good faith and upon assumptions believed by management of Parent and the Borrower to be reasonable at the time such assumption was made and at the time such information, report, financial statement, exhibit or schedule was so furnished and exercised due care in the preparation of such information, report, financial statement, exhibit or schedule and (ii) such forecast or projection was based upon accounting principles consistent with the historical audited financial statements of Parent and its consolidated Subsidiaries (it being recognized that actual results during the period or periods covered by such projections may differ from the projected results and that such differences may be material).

SECTION 3.16. ***Employee Benefit Plans.*** (a) Each of the Loan Parties and their respective ERISA Affiliates are in compliance in all material respects with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2019, exceed the fair market value of the assets of each Plan, and the present value of all benefit liabilities of all underfunded Plans (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2019, exceed the fair market value of the assets of all such underfunded Plans, in each case, by an amount that could reasonably be expected to result in a Material Adverse Effect.

(b) Each Non-U.S. Pension Plan is in compliance in all respects with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except for instances of non-compliance which could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, none of the Loan Parties, their respective Subsidiaries or any of their respective directors, officers, employees or agents have engaged in a transaction which would subject any Loan Party or any of its Subsidiaries, directly or indirectly, to a tax, assessment or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, reserves have been established in the financial statements furnished to Lenders in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Non-U.S. Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Non-U.S. Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Non-U.S. Pension Plans (based on those assumptions used to fund each such Non-U.S. Pension Plan) did not, as of December 31, 2019, exceed the fair market value of the assets of all such Non-U.S. Pension Plans, by an amount that could reasonably be expected to result in a Material Adverse Effect. There are no actions, suits or claims (other than routine claims for benefits) pending or threatened against any Loan Party or any of its Subsidiaries with respect to any Non-U.S. Pension Plan which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 3.17. ***Environmental Matters***. Except as set forth in Schedule 3.17:

(a) the properties owned, leased or operated by each of Parent and its Subsidiaries (the "***Properties***") do not contain any Hazardous Materials in amounts or concentrations which (i) constitute, or constituted a violation of, (ii) require Remedial Action under, or (iii) could give rise to liability under, Environmental Laws, which violations, Remedial Actions and liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(b) the Properties and all operations of each of Parent and its Subsidiaries are in compliance in all respects, and in the last five years have been in compliance, with all Environmental Laws, and all necessary Environmental Permits have been obtained and are in effect, except to the extent that such non-compliance or failure to obtain any necessary permits, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect;

(c) there have been no Releases or threatened Releases at, from, under or proximate to the Properties or otherwise in connection with the current or former operations of Parent or its Subsidiaries, which Releases or threatened Releases, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(d) neither Parent nor any of its Subsidiaries has received any notice of an Environmental Claim in connection with the Properties or the current or former operations of Parent or such Subsidiaries or with regard to any person whose liabilities for environmental matters Parent or such Subsidiaries has retained or assumed, in whole or in part, contractually, by

operation of law or otherwise, which, in the aggregate, could reasonably be expected to result in a Material Adverse Effect, nor do Parent or its Subsidiaries have reason to believe that any such notice will be received or is being threatened; and

(e) Hazardous Materials have not been transported from the Properties, nor have Hazardous Materials been generated, treated, stored or disposed of at, on or under any of the Properties in a manner that could give rise to liability under any Environmental Law, nor have Parent or its Subsidiaries retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of Hazardous Materials, which liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.18. ***Insurance***. Schedule 3.18 sets forth a true, complete and correct description of all material insurance maintained by Parent or any of its Subsidiaries as of the Closing Date. As of the Closing Date, such insurance is in full force and effect and all premiums that were due and payable have been duly paid. Each of Parent and its Subsidiaries has insurance in such amounts and covering such risks and liabilities as are in accordance with normal industry practice.

SECTION 3.19. ***Security Documents***. Subject to the entry of the Orders and the terms thereof, each Security Document, (a) upon execution and delivery thereof by the parties thereto and (b) the satisfaction of those additional requirements, as set forth on Schedule 3.19, imposed by the jurisdiction under the laws of which such Security Document is governed, will create in favor of the Collateral Agent or the Security Trustee, as the case may be, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral (as defined in such Security Document) and the proceeds thereof.

SECTION 3.20. ***Location of Material Owned Real Property***. Except set forth on Schedule 3.20, as of the Closing Date, none of the Loan Parties own any Material Owned Real Property.

SECTION 3.21. ***Labor Matters***. Except as set forth on Schedule 3.21, as of the Closing Date, there are no strikes, lockouts or slowdowns against Parent or any of its Subsidiaries pending or, to the knowledge of Parent or the Borrower, threatened. Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the hours worked by and payments made to employees of Parent and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or non-U.S. law dealing with such matters and (ii) all payments due from Parent or any of its Subsidiaries, or for which any claim may be made against Parent or any such Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of Parent or such Subsidiary. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Parent or any of its Subsidiaries is bound.

SECTION 3.22. [Reserved].

SECTION 3.23. ***Sanctions, Anti-Terrorism and Anti-Bribery Laws***.

(a) None of Parent, any of its Subsidiaries or any of their respective directors or officers nor, to the knowledge of Parent or any of its Subsidiaries, any agent, employee or Affiliate of any of the foregoing is a Sanctioned Person. Each of Parent and its Subsidiaries, and each of their respective directors and officers and, to the knowledge of Parent and its Subsidiaries, their respective employees, agents, and Affiliates, are in compliance with applicable Sanctions. The Borrower will not directly or, to its knowledge, indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any person, for the purpose of financing the activities of any person, in any country, region or territory, that is subject to any country-, region- or territory-wide Sanctions or for any other purpose or in any other manner that will result in a violation of Sanctions by any person (including any person participating in the Loans, whether as underwriter, advisor, investor or otherwise).

(b) Parent, its Subsidiaries and their respective directors, officers and employees and, to the knowledge of Parent or any of its Subsidiaries, the agents of Parent and its Subsidiaries, are in compliance with the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "***FCPA***") and any other applicable anti-corruption or anti-bribery law, rules and regulations of any jurisdiction (collectively, "***Anti-Bribery Laws***") in all material respects. The Borrower will not directly or, to its knowledge, indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any person for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or any other person, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any applicable Anti-Bribery Laws.

(c) Each of Parent and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by Parent and its Subsidiaries, and each of their respective directors, officers, agents, employees and Affiliates, with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 3.24. ***Senior Indebtedness***. To the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to the DIP Intercreditor Agreement, the Pre-Petition First Lien Obligations) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto.

SECTION 3.25. ***Australian Tax Consolidation***. Each Loan Party is either not a member of a Tax Consolidated Group or a member of a Tax Consolidated Group for which the Head Company is Parent and all members of the Tax Consolidated Group are at all times parties to:

(a) A Tax Sharing Agreement, which is in full force and effect and at all times covers all Group Liabilities of such Tax Consolidated Group from the date that the Tax Sharing Agreement is signed.

(b) A Tax Funding Agreement which includes:

(i) reasonably appropriate arrangements for the funding of tax payments by the Head Company having regard to the position of each member of such Tax Consolidated Group;

(ii) an undertaking from the Head Company of such Tax Consolidated Group to compensate each other member adequately for loss of tax attributes (including tax losses and tax offsets) as a result of being a member of such Tax Consolidated Group; and

(iii) reasonably appropriate arrangements to ensure payments by members of such Tax Consolidated Group to the Head Company under the Tax Funding Agreement are used to discharge relevant Group Liabilities of such Tax Consolidated Group.

SECTION 3.26. ***Trustee; Benefit; Financial Assistance; Etc.***

(a) No Loan Party is the trustee of any trust or settlement, other than disclosed to the Administrative Agent prior to the date on which it became a Loan Party.

(b) Each Loan Party will receive reasonable commercial benefits from entering into the Loan Documents to which it is a party, in each case to the extent relevant in the jurisdiction in which such Loan Party is domiciled.

(c) No Loan Party has contravened or will contravene Chapter 2E or 2J of the Australian Corporations Act (or any equivalent legislation under the law of any jurisdiction other than the Commonwealth of Australia) by entering into any Loan Document or participating in any transaction in connection with any Loan Document.

(d) No Loan Party is subject to regulation under any other federal, provincial or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

SECTION 3.27. ***Beneficial Ownership***. As of the Closing Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

SECTION 3.28. ***Cases; Orders***.

(a) The Cases were commenced on the Petition Date in accordance with applicable Laws and proper notice thereof was given for (i) the motion seeking approval of the Loan Documents and the Interim Order and, when applicable, Final Order, (ii) the hearing for the entry of the Interim Order, and (iii) the hearing for the entry of the Final Order (*provided* that notice of the final hearing will be given as soon as reasonably practicable after such hearing has been scheduled).

(b) After the entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed

administrative expense claims in the Cases having priority over all administrative expense claims and unsecured claims against the Debtors now existing or hereafter arising, of any kind whatsoever, including all administrative expense claims of the kind specified in sections 105, 326, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under section 364(c)(l) of the Bankruptcy Code, subject to (i) the Carve-Out and (ii) the priorities set forth in the Interim Order or Final Order, as applicable.

(c) After the entry of the Interim Order and pursuant to and to the extent provided in the Interim Order, the Final Order and the DIP Intercreditor Agreement, the Obligations will be secured by a valid and perfected Lien on all of the Collateral and with the priority set forth in the Interim Order or the Final Order and the DIP Intercreditor Agreement.

(d) The Interim Order (with respect to the period on and after entry of the Interim Order and prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), vacated, or, without the Administrative Agent's, the Required IC Lenders' and Required Lenders' consent, modified or amended. The Loan Parties are in compliance in all material respects with the Interim Order (with respect to the period on and after entry of the Interim Order and prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order).

(e) Notwithstanding the provisions of section 362 of the Bankruptcy Code, and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Termination Date (whether by acceleration or otherwise) of any of the Obligations, the Administrative Agent, the Collateral Agent, the Security Trustee and Lenders shall be entitled to immediate payment of such Obligations and, subject to Section 7.01, to enforce the remedies provided for hereunder or under applicable Laws, without further notice, motion or application to, hearing before, or order from, the Bankruptcy Court.

ARTICLE IV

Conditions

SECTION 4.01. ***Credit Event.*** The effectiveness of this Agreement and the obligation of each Lender to make Initial Loans hereunder on the Closing Date are subject to the satisfaction of the following conditions:

(a) The Administrative Agent shall have received duly executed counterparts of (i) this Agreement that, when taken together, bear the signatures of Parent, the Borrower and each Lender, (ii) the Guarantee Agreement that, when taken together, bear the signatures of Parent and each of its Subsidiaries identified on Schedule 1.01(d), (iii) the DIP Intercreditor Agreement that, when taken together, bear the signatures of the Collateral Agent, the Security Trustee, the Pre-Petition First Lien Security Agents, the Borrower and Parent and each of its Subsidiaries identified on Schedule 1.01(d), (iv) the Fee Letter that, when taken together, bear the signatures of the Borrower and (iv) the Intercompany Note.

(b) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by a Responsible Officer of Parent, in form and substance satisfactory to the Administrative Agent, (i) confirming that (A) the representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the date of Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date and (B) at the time of and immediately after the Closing Date and the making of the Initial Loans hereunder, no Event of Default or Default shall have occurred and be continuing and (ii) certifying as to such other matters as may be reasonably requested by the Administrative Agent.

(c) The Borrower shall have paid (or caused to have been paid), when and as due (or, in the case of amounts due on the Closing Date, shall substantially contemporaneously with the making of the Initial Loans to be made on the Closing Date, pay), all fees that under the terms hereof or of the Fee Letter are due and payable on or prior to such date, as well as all out-of-pocket expenses (including the fees, disbursements and other charges of the Ad Hoc Lender Advisors, Skadden, each other counsel to each Agent, the advisors to the Pre-Petition First Lien Agents and the advisors to the ad hoc group of Pre-Petition First Lien Lenders) in connection with the Transactions required to be reimbursed or paid by the Borrower under the terms hereof or of the Fee Letter (to the extent that reasonably detailed statements therefor have been delivered to Parent at least one (1) Business Day in advance of the Closing Date).

(d) The Security Documents set forth in Part I of Schedule 4.01(d) shall have been duly executed by each Loan Party that is to be a party thereto and shall be in full force and effect, and (other than any such filings set out in Schedule 5.14) all filings and recordations with respect thereto required pursuant to the Agreed Security Principles shall have been made and be in full force and effect (or arrangements reasonably satisfactory to the Agents to make such filings and recordations shall have been made). The Collateral Agent or the Security Trustee, as the case may be, on behalf of the Secured Parties, shall (subject to such perfection actions set out in Schedule 5.14) have a perfected security interest in the Collateral of the type and the priority described in each such Security Document. To the extent not delivered to the Pre-Petition First Lien Administrative Agent prior to the Closing Date, the Collateral Agent or the Security Trustee, as the case may be, shall have received all possessory Collateral required to be delivered to such Agent on the Closing Date pursuant to the Agreed Security Principles and the Security Documents, together with duly executed undated blank stock powers, or other equivalent instruments of transfer reasonably acceptable to such Agent. With respect to any Subsidiary Guarantor incorporated or registered in Singapore, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(e) The Administrative Agent shall have received the results of a search of the Uniform Commercial Code filings (or equivalent filings), judgment filings and tax filings made with respect to the Loan Parties in the states (or other jurisdictions) of formation of such persons

and in which the chief executive office of each such person is located (including the PPSR in respect of each Loan Party incorporated in Australia), in each case as indicated on Part II of Schedule 4.01(d), and in such other jurisdictions as may be reasonably required by the Agents, together with copies of the financing statements (or similar documents) disclosed by such search, and the results of such other Lien searches listed on Part II of Schedule 4.01(d), and accompanied by evidence satisfactory to the Administrative Agent that the Liens indicated in any such financing statement (or similar document or such other search results) are permitted under Section 6.02 or have been or will be contemporaneously released or terminated pursuant to arrangements reasonably satisfactory to the Agents.

(f) The Administrative Agent shall have received, subject to Section 5.14, a copy of, or a certificate as to coverage under, the insurance policies required by Section 5.02 and the applicable provisions of the Agreed Security Principles and the Security Documents, together with such endorsements, loss payee provisions or similar amendments required by the applicable provisions of the Agreed Security Principles and the Security Documents, all in form and substance reasonably satisfactory to the Administrative Agent.

(g) The Administrative Agent shall have received (i) a certificate as to the good standing of each Loan Party (except for CapRock UK Limited, HCT Acquisition, LLC and Cosmos Holdings Acquisition Corp.) as of a recent date, from the Secretary of State of the State (or comparably entity) of the state (or comparable jurisdiction) of its organization (or, if such jurisdiction does not issue such certificates, a comparable document or the results of searches of official registries demonstrating good standing or lack of insolvency proceedings against such Loan Party, as available) (or, in the case of a Loan Party that is incorporated in France, an electronic version of its Kbis extract, an electronic version of its non-bankruptcy certificate (*certificat négatif de recherche en matière de procédures collectives*)) and an electronic version of its *état des inscriptions et des privilèges* in relation to such Loan Party incorporated in France, each dated no earlier than fifteen (15) calendar days before the Closing Date); (ii) a certificate of the Secretary, Assistant Secretary, President, Director or other Responsible Officer, as applicable, of each Loan Party dated the Closing Date and certifying (A) that attached thereto are true and complete copies of the Organization Documents, including all amendments thereto, certified as of a recent date by such Secretary of State (or comparable entity) (or, if no such certification is available, comparable certification or an extract of such documents filed with any official registry, as available), in each case, of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in clause (B) below, (B) that attached thereto is a true and complete copy of resolutions (or in the case of a Loan Party that is incorporated in Australia, extracts of resolutions) duly adopted by the Board of Directors (or comparable governing body, and including any applicable shareholder resolutions) of such Loan Party authorizing the execution, delivery and performance of the Loan Documents to which such Loan Party is a party and, in the case of the Borrower, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect, and (C) as to the incumbency and specimen signature of each officer or other authorized signatory executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party; (iii) a certificate of another officer or authorized signatory as to the incumbency and specimen signature of the Secretary, Assistant Secretary or director executing the certificate pursuant to clause (ii) above; (iv) a certificate signed by a director or secretary of each Loan Party that is an Australian incorporated company, certifying that (A) before entering

into any Loan Document to which it is a party, has, in connection with the execution, delivery and performance of each such Loan Document, complied with chapter 2E of the Australian Corporations Act, and (B) it is in compliance with section 260A of the Australian Corporations Act; and (v) each of the other deliverables listed on Part III of Schedule 4.01(d) and such other documents as the Administrative Agent may reasonably request.

(h) The Administrative Agent shall have received, on behalf of the Agents and the Lenders, a favorable written opinion of each counsel listed on Part IV of Schedule 4.01(d), in each case, in form and substance reasonably satisfactory to the Required Lenders and the Administrative Agent and (A) dated the Closing Date, (B) addressed to the Agents and the Lenders (where permissible under local law) and (C) covering such matters as the Administrative Agent shall reasonably request, and the Loan Parties hereby request such counsel to deliver such opinions.

(i) The Lenders and the Administrative Agent shall have received, at least five Business Days prior to the Closing Date, to the extent reasonably requested in advance, all documentation and other information required by regulatory authorities under the Beneficial Ownership Regulation and applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(j) Immediately after giving effect to the Transactions and the other transactions contemplated hereby, Parent and the Subsidiaries shall have no outstanding Indebtedness for borrowed money or preferred stock other than (i) Indebtedness outstanding under this Agreement, (ii) Indebtedness incurred and outstanding under the Pre-Petition First Lien Loan Documents and (iii) Indebtedness described on Schedule 4.01(j).

(k) The Administrative Agent shall have received the financial statements and opinion referred to in Section 3.05.

(l) All requisite Governmental Authorities and third parties shall have approved or consented to the Transactions and the other transactions contemplated hereby to the extent required, all applicable appeal periods shall have expired and except for the Cases, there shall not be any pending or threatened litigation, governmental, administrative or judicial action that could reasonably be expected to restrain, prevent or impose burdensome conditions on the Transactions or the other transactions contemplated hereby.

(m) The Petition Date shall have occurred, and the Borrower, Parent and each other Guarantor (other than the Government Business Subsidiaries and each other Subsidiary as agreed to by the Required Lenders and the Required IC Lenders) shall be a debtor and a debtor-in-possession in the Cases.

(n) The Administrative Agent and the Lenders shall have received a copy of the DIP Budget in form and substance satisfactory to the Required IC Lenders and the Required Lenders (the "***Initial DIP Budget***").

(o) (x) The Escrow Account shall have been opened, (y) the Escrow Agreement (in form and substance satisfactory to the Administrative Agent, the Required IC Lenders and the Required Lenders) shall have been entered into and be effective and (z) the

proceeds of the Initial Loans funded on the Closing Date (net of the fees described in Section 2.05) shall be deposited into the Escrow Account concurrently with the making of such Initial Loans.

(p) The Administrative Agent shall have received a duly executed Borrowing Request.

(q) The representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date.

(r) At the time of and immediately after giving effect to the Closing Date and the making of the Initial Loans hereunder, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

(s) The Cases of any of the Debtors shall not have been dismissed or converted into cases under chapter 7 of the Bankruptcy Code.

(t) A motion, in form and substance satisfactory to the Lenders (and with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent), seeking approval of the DIP Term Facility, shall have been filed in each of the Cases within one (1) day of the Petition Date.

(u) All "first day" orders and all related pleadings intended to be entered on or prior to the Interim Order Entry Date shall have been entered by the Bankruptcy Court and shall be in form and substance acceptable to the Required IC Lenders, the Required Lenders, the Administrative Agent and the Pre-Petition First Lien Administrative Agent, it being understood that drafts approved by Ad Hoc Lender Advisors, the Administrative Agent and the Pre-Petition First Lien Administrative Agent prior to the Petition Date are acceptable.

(v) None of the Borrowers (as defined in the Pre-Petition First Lien Credit Agreement) shall have made any payments after the Petition Date on account of any Indebtedness arising prior to the Petition Date unless such payment is expressly authorized by the "first day" orders or the Orders and is made with the consent of the Required IC Lenders and the Required Lenders in their sole discretion.

(w) No trustee under chapter 7 or chapter 11 of the Bankruptcy Code or examiner with expanded powers shall have been appointed in any of the Cases.

(x) The Interim Order Entry Date shall have occurred not later than five (5) calendar days following the Petition Date, and the Interim Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC

Lender, the Required Lenders and the Administrative Agent, and the Administrative Agent shall have received a certified copy of the Interim Order entered by the Bankruptcy Court.

(y) Each Intelsat Agreement shall be in full force and effect (and shall not have been rejected or terminated by Intelsat in any insolvency proceeding).

(z) The release of all claims and causes of action against the Lenders, the Agents, the agents and issuing banks under the Pre-Petition First Lien Credit Agreement and the Pre-Petition First Lien Lenders, in each case in form and substance satisfactory to the Required IC Lenders, the Administrative Agent and the Pre-Petition First Lien Administrative Agent.

(aa) None of the Pre-Petition First Lien Lenders shall have exercised any remedies under the Pre-Petition First Lien Loan Documents against any Non-Debtor Subsidiary.

By delivering the Borrowing Request required pursuant to Section 4.01(p), on the Closing Date, the Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (q), (r) and (y) above have been satisfied.

SECTION 4.02. ***Delayed Draw Borrowing***. The obligations of the Lenders to make the Delayed Draw Loan hereunder shall not become effective until the date on which each of the following conditions is satisfied:

(a) The Closing Date shall have occurred.

(b) Parent shall have paid (or caused to have been paid), when and as due (or, in the case of amounts due on the Delayed Draw Borrowing Date, shall substantially contemporaneously with the making of the Delayed Draw Loans to be made on the Delayed Draw Borrowing Date, pay), all fees that under the terms hereof or of the Fee Letter are due and payable on or prior to such date, as well as all out-of-pocket expenses (including the fees, disbursements and other charges of the Ad Hoc Lender Advisors, Skadden, each other counsel to each Agent, the advisors to the Pre-Petition First Lien Agents, and the advisors to the ad hoc group of Pre-Petition First Lien Lenders) in connection with the Transactions required to be reimbursed or paid by the Borrower under the terms hereof or of the Fee Letter (to the extent that reasonably detailed statements therefor have been delivered to Parent at least one (1) Business Day in advance of the Delayed Draw Borrowing Date); *provided* that, in the case of each Lender, such Lender's accrued and unpaid Delayed Draw Commitment Fee may be offset against the proceeds of the Delayed Draw Loans.

(c) The Administrative Agent shall have received a duly executed Borrowing Request.

(d) The representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the Delayed Draw Borrowing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by

materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date.

(e) At the time of and immediately after giving effect to the making of the Delayed Draw Loans, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

(f) At any time prior to the Delayed Draw Borrowing Date, the Interim Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC Lenders, the Required Lenders and Administrative Agent.

(g) The Final Order Entry Date shall have occurred and the Final Order shall be in full force and effect, shall not have been vacated or reversed, and shall not be subject to any stay (*provided* that, for the avoidance of doubt, no Lender holding Delayed Draw Commitments shall be required to fund any Delayed Draw Loans to the extent that the Final Order does not approve the Roll-Up that is to be consummated on the Delayed Draw Borrowing Date pursuant to Section 2.01(b)).

(h) Each Intelsat Agreement shall be in full force and effect (and shall not have been rejected or terminated by Intelsat in any insolvency proceeding).

(i) Parent shall have delivered an updated DIP Budget in accordance with Section 5.04(j) and such updated DIP Budget shall have become an Approved Budget in accordance therewith.

(j) An additional Milestone that is acceptable to the Required Lenders and the Required IC Lenders shall have been added and shall be effective in accordance with the terms of Section 5.16 setting forth the deadline by which an Approved Restructuring must be consummated (including, as applicable, the effective date of an Acceptable Plan and/or the closing of an Acceptable Sale Transaction), which milestone shall be no sooner than fourteen days after the entry of the order confirming an Acceptable Plan or the order approving an Acceptable Sale Transaction.

By delivering the Borrowing Request required pursuant to Section 4.02(c), on the Delayed Draw Borrowing Date, the Borrower shall be deemed to have represented and warranted that the conditions specified in Sections paragraphs (e), (f), (g) and (h) above have been satisfied.

SECTION 4.03. ***Disbursements***. The obligation of the Administrative Agent to authorize the release of funds from the Escrow Account in connection with a Disbursement is subject solely to the prior or concurrent satisfaction or waiver of the following conditions:

(a) The Administrative Agent shall have received by not later than 10:00 a.m., New York City time, (i) in the case of any Disbursement made on the Closing Date, on the date that is one (1) Business Days prior to such Disbursement Date and (ii) in the case of any other Disbursement, on the date that is five (5) Business Days prior to such Disbursement Date, a duly executed Notice of Disbursement signed by a Responsible Officer of Parent.

(b) The Administrative Agent shall have received a certificate, dated the Disbursement Date and signed by a Responsible Officer of Parent, in form and substance satisfactory to the Administrative Agent, confirming that (i) the representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of such Disbursement Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date, (ii) at the time of and immediately after the Disbursement Date, no Event of Default or Default shall have occurred and be continuing and (iii) if the requested Disbursement Date shall occur on or prior to the date that is thirty days after the Closing Date, the requirements in clause (d) below are satisfied after giving effect to the applicable Disbursement.

(c) The Administrative Agent shall have received written confirmation from Greenhill (which may take direction from the Required Lenders) that such Disbursement is consistent with the Approved Budget in all respects and does not exceed an amount equal to the lesser of (x) the aggregate disbursements projected to be made in the Approved Budget within the immediately succeeding seven days and (y) an amount equal to $15,000,000 less the amount of Liquidity as of such Disbursement Date after giving effect to such disbursement.

(d) (i) Parent shall, concurrently with the applicable Disbursement Notice, provide a liquidity forecast, in a form substantially consistent with the Approved Budget, certified by the chief financial officer of Parent, demonstrating, to the satisfaction of the Required Lenders or their advisors, that the Debtors' lowest projected Liquidity over the two-week period after such withdrawal (after giving effect thereto) will not exceed $15,000,000.

(e) As of each Disbursement Date, the Interim Order or, following the Final Order Entry Date, the Final Order shall be in full force and effect and shall not have been vacated or reversed, shall not be subject to a stay, and shall not have been modified or amended in any respect without the prior written consent of the Required IC Lenders, the Required Lenders and Administrative Agent.

Each Lender, by becoming a party to this Agreement, hereby authorizes and directs the Administrative Agent to (i) conclusively rely, without further action or verification, on each Notice of Disbursement and each certificate and written confirmation received by it in connection with this Section 4.03 or that purports to be delivered pursuant to this Section 4.03, and (ii) release funds from the Escrow Account on each Disbursement Date.

ARTICLE V

Affirmative Covenants

Parent and the Borrower each covenants and agrees with each Lender that so long as this Agreement shall remain in effect and until the Commitments have been terminated and the

principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document shall have been paid in full in cash (other than contingent indemnification obligations not then due and payable), it will, and will cause each of its Subsidiaries to:

SECTION 5.01. ***Existence; Businesses and Properties***. (a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except as otherwise expressly permitted under Section 6.05.

(b) Do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises, authorizations, patents, copyrights, trademarks and trade names (and all other intellectual property) material to the conduct of its business; maintain and operate such business in substantially the manner in which it is presently conducted and operated or in an otherwise prudent manner; except as otherwise excused by the Bankruptcy Code, comply in all material respects with all applicable laws, rules, regulations (including any zoning, building, Environmental Law, ordinance, code or approval or any building permits or any restrictions of record or agreements affecting the Mortgaged Properties, ERISA, Sanctions, the FCPA, other Anti-Bribery Laws, the USA PATRIOT Act and other Anti-Terrorism Laws) and decrees and orders of any Governmental Authority, whether now in effect or hereafter enacted unless failure to comply could not reasonably be expected to result in a Material Adverse Effect; and at all times maintain and preserve all property material to the conduct of such business and keep such property in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be conducted at all times in a commercially reasonable manner.

(c) (i) Maintain in effect and enforce policies and procedures reasonably designed to ensure compliance by Parent, its subsidiaries, and each of their respective directors, officers, employees, agents and Affiliates, with applicable Sanctions, and (ii) conduct its business in compliance with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 5.02. ***Insurance***. (a) Keep its insurable properties adequately insured at all times by financially sound and reputable insurers; maintain such other insurance (including self-insurance), to such extent and against such risks, including fire and other risks insured against by extended coverage, as is customary with companies in the same or similar businesses operating in the same or similar locations and of same or similar size, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it; and maintain such other insurance as may be required by law.

(b) If at any time the area in which any of the Mortgaged Property is located is designated (i) a "flood hazard area" in any Flood Insurance Rate Map published by the United States Federal Emergency Management Agency (or any successor agency), obtain flood insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require, and otherwise comply with the National Flood Insurance Program as set forth in the United States Flood Disaster Protection Act of 1973, as it may be

amended from time to time, and other applicable flood laws, or (ii) a "Zone 1" area, obtain earthquake insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require.

(c) Notify the Agents immediately whenever any separate insurance is taken out by any Loan Party concurrent in form or contributing in the event of loss with that required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles; and promptly deliver to the Agents a duplicate original copy of such policy or policies (including, for the avoidance of doubt, any required flood or earthquake policy or policies).

(d) In connection with the covenants set forth in this Section 5.02 and any covenants with respect to insurance set forth in the Agreed Security Principles, it is understood and agreed that:

(i) none of the Agents, the Lenders or their respective agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles, it being understood that (A) the Borrower and the other Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Agents, the Lenders or their agents or employees. If, however, the insurance policies do not provide waiver of subrogation rights against such parties, as required above, then Parent and the Borrower each hereby agrees, to the extent permitted by law, to waive its right of recovery, if any, against the Agents, the Lenders and their agents and employees; and

(ii) the designation of any form, type or amount of insurance coverage by any Agent or the Required Lenders under this Section 5.02 or the Agreed Security Principles shall in no event be deemed a representation, warranty or advice by any Agent or the Lenders that such insurance is adequate for the purposes of the business of Parent and its Subsidiaries or the protection of their properties and the Agents and the Required Lenders shall have the right from time to time to require the Borrower and the other Loan Parties to keep other insurance in such form and amount as any Agent or the Required Lenders may reasonably request; *provided* that such insurance shall be obtainable on commercially reasonable terms.

SECTION 5.03. ***Obligations and Taxes.*** In accordance with the Bankruptcy Code and subject to any required approval by the Bankruptcy Court in the case of the Debtors (it being understood that no Debtor shall be obligated to make any payments hereunder that may, in its reasonable judgment, result in a violation of any applicable law, including the Bankruptcy Code, without an order of the Bankruptcy Court authorizing such payments), pay its Indebtedness and other obligations promptly and in accordance with their terms and pay and discharge promptly when due all material Taxes (in the case of any Debtor, solely to the extent arising after the Petition Date) imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, could reasonably be expected to give rise to a Lien upon such properties or any part thereof; *provided* that such payment and discharge

shall not be required with respect to any such obligation or Taxes so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings diligently conducted and Parent or Subsidiary shall have set aside on its books adequate reserves with respect thereto in accordance with GAAP and such contest operates to suspend collection of the contested obligation or Taxes and enforcement of a Lien and, in the case of a Mortgaged Property, there is no risk of forfeiture of such property.

SECTION 5.04. ***Financial Statements, Reports, etc***. In the case of Parent, furnish to the Administrative Agent (for distribution by the Administrative Agent to each Lender) and the Ad Hoc Lender Advisors, in each case as provided below:

(a) within ninety days after the end of the first fiscal half-year period of each fiscal year, its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal half-year period and the results of its operations and the operations of such Subsidiaries during such fiscal half-year period and the then elapsed portion of the fiscal year, and comparative figures for the same periods in the immediately preceding fiscal year, accompanied by a narrative report, all certified by the chief financial officer and chief restructuring officer as fairly presenting in all material respects the financial condition and results of operations of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), subject to normal year-end audit adjustments;

(b) within thirty days after the end of each fiscal month of Parent and its consolidated Subsidiaries (or, in the case of the fiscal month of Parent and its consolidated Subsidiaries ended March 31, 2020, within forty-five days after the end of such fiscal month) its unaudited consolidated monthly financial statements as of the close of such fiscal month, which shall include its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows, all certified by the chief financial officer and chief restructuring officer as fairly presenting in all material respects the financial condition and results of operation of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), subject to normal year-end adjustments;

(c) concurrently with any delivery of financial statements under Section 5.04(a) and (b) above, a Compliance Certificate, certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by Parent or any Subsidiary with the SEC, the Australian Securities and Investments Commission, ASX or any other securities exchange, or distributed to its shareholders (or any class of them) or its creditors generally (or any class of them), as the case may be;

(e) promptly after the request by any Agent or by any Lender (acting through the Administrative Agent), all documentation and other information that such Agent or Lender

reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation;

(f) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of Parent or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request;

(g) promptly, notice of any change in (i) authorized signatories of Parent or the Borrower, which notice shall be certified by a Responsible Officer of Parent or the Borrower, as applicable, and accompanied by specimen signatures of any new authorized signatories or (ii) the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of the Beneficial Ownership Certification;

(h) not less than five Business Days prior to the holding thereof, in the case of semi-annual earnings conference calls, and promptly after notice to shareholders with respect to any other conference call, notice of each conference call to be held by Parent for its shareholders (or any class of them);

(i) not later than five Business Days following the end of each fiscal month (beginning with the fiscal month ending April 30, 2020), a Liquidity Certificate;

(j) on or prior to the Closing Date, the Initial DIP Budget. The Initial DIP Budget may be updated from time to time upon the request of the Required IC Lenders, the Required Lenders or Parent; *provided* that (i) in the case of a request by Parent, the Lenders have received not less than three Business Days' prior written notice of the delivery of such updated DIP Budget, (ii) in the case of a request by the Required IC Lenders or the Required Lenders, such updated DIP Budget shall be delivered to the Administrative Agent and the Lenders not later than three Business Days following the date of such request, (iii) any such updated DIP Budget must be approved by the Required IC Lenders and the Required Lenders in their sole discretion and (iv) to the extent any such updated DIP Budget is approved by the Required IC Lenders and the Required Lenders, the line item amounts set forth therein shall only be used to calculate the projected line items commencing with the week in which such updated DIP Budget is so approved and for subsequent weeks set forth therein, and any prior weeks tested as part of any then applicable Test Period shall be calculated using the projected line items set forth in the applicable previously Approved Budget; *provided*, *further*, that not later than ten Business Days prior to the Delayed Draw Borrowing Date, Parent shall deliver to the Administrative Agent and the Lenders an updated DIP Budget with refined and updated estimates and assumptions, which such updated DIP Budget shall be approved by the Required IC Lenders and the Required Lenders in their sole discretion. Upon delivery on the Closing Date, in the case of the Initial DIP Budget, and upon such approval by the Required IC Lenders and the Required Lenders pursuant to this Section 5.04(j) with respect to a DIP Budget required to be approved pursuant to this Section 5.04(j), such DIP Budget shall constitute, together with the Initial DIP Budget, the "***Approved Budget***";

(k) not later than by the end of Monday of every week (or, to the extent such Monday is not a Business Day, the next Business Day thereafter), a Budget Variance Report. Each such report shall be certified by the chief financial officer and chief restructuring officer of Parent as being prepared in good faith and fairly presenting in all material respects the information set forth therein;

(l) not later than by the end of Monday of every week (or to the extent such Monday is not a Business Day, the next Business Day thereafter), a report, in a form reasonably acceptable to Greenhill, specifying (A) the aggregate bank and book cash balances of Parent and its consolidated Subsidiaries (the "***Consolidated Cash Balances***") and (B) the book Consolidated Cash Balance, net of all (I) restricted cash, (II) cash subject to a Lien other than Liens securing the Obligations, Liens pursuant to the Pre-Petition First Lien Loan Documents and customary Liens in favor of depository banks permitted under this Agreement, (III) cash segregated or set aside as a deposit, for the purpose of being held in escrow or for any other purpose in connection with the payment or support of obligations to third parties and (IV) all "Government/Proxy Cash" (as such term is used in the presentation made by the Loan Parties to certain lenders under the Pre-Petition First Lien Credit Agreement on March 23, 2020) (the "***Consolidated Available Cash Balance***"), in each case as of the close of business on each Business Day during the week ended on Friday of the prior week;

(m) promptly after the receipt or delivery thereof (but in no event later than one Business Day of a Responsible Officer of Parent or the Borrower being made aware of the receipt or delivery thereof), the Loan Parties shall deliver to Greenhill and the Administrative Agent copies of all material communications received by or delivered to any of the Loan Parties' or any other Subsidiaries' customers, vendors or suppliers (including, for the avoidance of doubt, communications received from or delivered to Intelsat, Inmarsat plc, Telesat, European Organisation of Telecommunications by Satellite S.A., SES S.A. and any affiliates or representatives of the foregoing (collectively, the "***Key Suppliers***"));

(n) upon the request of any Ad Hoc Lender Advisor, the Loan Parties shall use reasonable best efforts to cause direct contact (including through the arrangement of virtual or telephonic conferences) with (i) members of senior management of each of the Key Suppliers and (ii) internal personnel and outside consultants and advisors working on, or engaged with respect to, Parent's transformation plan, in each case at reasonable times and locations (if applicable) to be mutually agreed; *provided* that Parent's and the Borrower's advisors and members of senior management of Parent and the Borrower shall be entitled to participate in or otherwise receive any communications in connection with the foregoing;

(o) not later than by the end of Monday of every week (or to the extent such Monday is not a Business Day, the next Business Day thereafter), a written statement setting forth the amount of cash and Investments made pursuant and the current amount outstanding in respect of the Intercompany Note;

(p) not later than the Monday of every other week (or to the extent such Monday is not a Business Day, the next Business Day thereafter) commencing with the first Monday following the Petition Date, a rolling 13-week cash flow forecast commencing with the

week in which the immediately preceding Monday occurs (with such supporting detail as the Ad Hoc Lender Advisors may request);

(q) promptly upon request by the Administrative Agent and otherwise on the first Business Day of each calendar month, with respect to each Australian Employee Benefit Account, details of the relevant financial institution with which such account is held, the account details and details of the amount standing to the credit of each such account; and

(r) promptly upon request by the Administrative Agent or any Lender, any Weekly Statement (as defined in the Orders) delivered the Debtors pursuant to the terms of the Orders.

SECTION 5.05. ***Litigation and Other Notices.*** Furnish to the Administrative Agent and each Lender, promptly after obtaining knowledge thereof, written notice of the following:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the filing or commencement of, or any threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, against Parent or any Affiliate thereof that could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence or reasonable expectation of an occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, or is reasonably expected to occur, could reasonably be expected to result in (i) the imposition of a Lien on Parent or any Subsidiary that is not permitted by Section 6.02 or (ii) a Material Adverse Effect, in any such case, together with a statement of a Financial Officer of Parent setting forth details as to such ERISA Event and the action, if any, that Parent and/or any relevant Subsidiary proposes to take with respect thereto;

(d) any development with respect to Parent or any Subsidiary that has resulted in, or could reasonably be expected to result in, a Material Adverse Effect;

(e) Parent being removed from the official list of the ASX, or any class of securities in Parent being suspended from trading on the ASX for a continuous period of ten (10) Business Days or longer (for reasons other than there being an imminent announcement of a major acquisition or merger transaction); and

(f) within fifteen days after the end of each fiscal month of Parent and its consolidated Subsidiaries, unaudited summary consolidated income statement and balances of key working capital accounts.

SECTION 5.06. ***Employee Benefits.*** Comply in all material respects with the applicable provisions of ERISA and the Code and the laws applicable to any Non-U.S. Pension Plan and (b) furnish to the Administrative Agent, promptly upon request of the Administrative

Agent or a Lender, deliver to the Administrative Agent copies of the most recent Annual Report (Form 5500 Series), including all Schedules thereto, with respect to each Plan.

SECTION 5.07. ***Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings***. (a) Keep proper books of record and account in which full, true and correct entries in conformity in all material respects with GAAP and all requirements of law are made of all dealings and transactions in relation to its business and activities. Each Loan Party will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender to visit and inspect the financial records and the properties of Parent or any Subsidiary at reasonable times and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances and condition of Parent or any Subsidiary with the officers thereof and (provided that a representative of Parent is given the opportunity to be present) independent accountants therefor; *provided* that, so long as no Event of Default has occurred and is continuing, any such visit and inspection by the Administrative Agent in excess of one per calendar year shall be at the expense of the Administrative Agent and any such visit and inspection by a Lender shall be at the expense of such Lender (unless the Administrative Agent is not conducting a visit and/or inspection during such year and the Borrower has not reimbursed (and is not obligated to reimburse) another Lender for any such visit and/or inspection during such year).

(b) In the case of the Borrower, use commercially reasonable best efforts to cause the New Money Loans and the Roll-Up Loans provided for hereunder, from and after the date that is forty-five days after the Petition Date, to be continuously publicly rated (but no specific rating) by S&P and Moody's.

SECTION 5.08. ***Use of Proceeds***. Use the proceeds of the Loans only for the purposes described in Section 3.13, and ensure that no proceeds of the Loans will be used, advanced or otherwise made available, directly or indirectly, by Parent, the Borrower or any Subsidiary (i) to any person conducting activities that would constitute a violation of Sanctions, (ii) for the purposes of funding any activity, business, or transaction with a Sanctioned Person or in a Sanctioned Country, (iii) that would result in the violation of any applicable Sanctions or (iv) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of the FCPA or any other applicable Anti-Bribery Law.

SECTION 5.09. ***Compliance with Environmental Laws***. Comply, and cause all lessees and other persons occupying its Properties to comply, in all material respects with all Environmental Laws and Environmental Permits applicable to its operations and Properties; obtain and renew all material Environmental Permits necessary for its operations and Properties; and conduct any Remedial Action required by Environmental Law in accordance with Environmental Laws in all material respects; *provided* that no Borrower nor any of the Subsidiaries shall be required to undertake any Remedial Action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

SECTION 5.10. ***Preparation of Environmental Reports***. If an Event of Default caused by reason of a breach of Section 3.17 or 5.09 shall have occurred and be continuing, at the request of the Required Lenders through the Administrative Agent, provide to the Lenders within 45 days after such request, at the expense of the Loan Parties, an environmental site assessment report or environmental compliance report (as the case may be) regarding the matters which are the subject of such default, prepared by an environmental consulting firm reasonably acceptable to the Administrative Agent and identifying, to the extent relevant to the subject of such default, the likely presence or absence of a Release of Hazardous Materials and the likely extent of such Release, or the nature and details regarding the non- compliance with applicable Environmental Law, and the estimated cost of any Remedial Action or any other activity required to bring the Properties into compliance with Environmental Laws in connection with such default.

SECTION 5.11. ***Guarantors; Further Assurances; Etc.***

(a) Take, or cause to be taken, all actions necessary or reasonably requested by any Agent to ensure that the Guarantee requirements set forth below are satisfied when required to be satisfied, subject to any applicable limitations set forth in the Agreed Security Principles and Section 5.14 and Section 6.18 in all respects:

(i) Notwithstanding anything to the contrary in Section 5.11(a)(ii), (x) Parent and each "Subsidiary Borrower" and each "Guarantor" under and as defined in the Pre-Petition First Lien Credit Agreement shall at all times be required to be Guarantors and (y) in no event shall any Subsidiary become a guarantor under the Pre-Petition First Lien Loan Documents or any other Indebtedness in excess of the Threshold Amount unless such Subsidiary shall have become an additional Subsidiary Guarantor in accordance with this Section 5.11.

(ii) Parent will ensure that, on an after the Closing Date, each Subsidiary of Parent (other than an Excluded Subsidiary) is a Subsidiary Guarantor.

(iii) Failure to satisfy the requirements of Section 5.11(a)(i) or (ii) will not constitute a Default or Event of Default if, as promptly as practicable (but in any event within twenty (20) days after the date on which any Subsidiary is required to become a Subsidiary Guarantor (or such later date as the Administrative Agent shall approve in its sole discretion)), any such Subsidiary shall have become additional Subsidiary Guarantors by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement. Additional Subsidiary Guarantors pursuant to this clause (iii) may include, to the extent in consultation with and reasonably acceptable to the Administrative Agent, Subsidiaries incorporated, organized or formed under the laws of a jurisdiction in which none of the existing Guarantors are incorporated, organized or formed. In the event any additional Subsidiary Guarantors are required to be joined pursuant to this clause (iii), Parent shall use commercially reasonable efforts to identify the proposed additional Subsidiary Guarantor(s) in the Compliance Certificate for the relevant Test Period.

(iv) In addition to complying with the requirements of Section 5.02(a)(i) and (ii) and any joinder requirements set forth in clause (iii) above, each wholly owned U.S. Subsidiary and each wholly owned Subsidiary that is incorporated, organized or formed under the laws of Australia, to the extent not already a Subsidiary Guarantor, shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, in any such case, within twenty (20) days after the date on which such person became a wholly owned Subsidiary (or such later date as the Administrative Agent shall approve in its sole discretion).

(v) In the event any Subsidiary that is not a Guarantor directly or indirectly owns any Equity Interests in any Subsidiary Guarantor (or other person that is required to become a Subsidiary Guarantor pursuant to this Section 5.11(a) or the Agreed Security Principles), such Subsidiary shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, as promptly as practicable (but in any event no later than the date applicable to the relevant Subsidiary Guarantor (or other relevant person) whose Equity Interests are directly or indirectly owned by such Subsidiary, or such later date as the Administrative Agent shall approve in its sole discretion).

(vi) [Reserved].

(vii) In connection with any joinder or supplement to the Guarantee Agreement or other additional Guarantee pursuant to this Section, each Subsidiary that becomes a Subsidiary Guarantor after the Closing Date shall have delivered to the Administrative Agent such corporate documentation (including all applicable "know your customer" documentation and information required to comply with the Beneficial Ownership Regulation), charter documents, by-laws, resolutions and legal opinions, in each case, consistent with those provided or required to be provided by the Loan Parties under Section 4.01 on the Closing Date, modified as appropriate for the jurisdiction of incorporation or organization of such Subsidiary or otherwise as may be agreed to by the Administrative Agent.

(b) Take, or cause to be taken, all actions (limited to commercially reasonable actions, where so stated in the Agreed Security Principles and in the Security Documents) necessary or reasonably requested by any Agent to ensure that the requirements set forth in the Agreed Security Principles are satisfied when required to be satisfied. Subject to any applicable limitations set forth in the Agreed Security Principles, execute any and all further documents, financing statements, agreements and instruments, and take all further action (including filing Uniform Commercial Code, PPSR and other financing statements, mortgages and deeds of trust) that may be required under the Agreed Security Principles, under Schedule 5.14 or under applicable law, or that the Required Lenders or any Agent may reasonably request, in order to effectuate the transactions contemplated by the Loan Documents and in order to grant, preserve, protect and perfect the validity and first priority of the security interests created or intended to be created by the Security Documents. In addition, from time to time, Parent and the other Loan Parties will, at their cost and expense, promptly secure the Obligations by pledging or creating, or causing to be pledged or created, perfected security interests with respect to such of their assets and properties acquired after the Closing Date as would constitute Collateral under any

Security Document or is required to constitute Collateral pursuant to the Agreed Security Principles (it being understood that it is the intent of the parties that the Obligations shall be secured by, among other things, substantially all the assets of the Loan Parties (including assets acquired subsequent to the Closing Date but excluding (i) any assets as to which the Administrative Agent shall determine in its reasonable discretion, in consultation with Parent, that the costs of obtaining a security interest in the same are excessive in relation to the benefit to the Lenders of the security intended to be afforded thereby, and (ii) any assets of a type specifically excluded as Collateral in accordance with the Agreed Security Principles). All such after-acquired assets shall automatically constitute fully perfected first priority Liens on, and security interest in, all right, title and interest of the Loan Parties, pursuant to and as described in Section 5.20 and the Interim Order or the Final Order, as applicable. Such security interests and Liens will be created under and as required by the Security Documents and other security agreements, mortgages, deeds of trust and other instruments and documents in form and substance reasonably satisfactory to the Collateral Agent or the Security Trustee, as the context may require, and Parent shall deliver or cause to be delivered to the Lenders all such instruments and documents (including legal opinions, flood hazard determination forms, evidence of any insurance required by Section 5.02 or pursuant to the Agreed Security Principles (including flood or earthquake insurance), surveys, title insurance policies (including any endorsements thereto) and lien searches (including, applicable, UCC and PPSR searches)) as any Agent shall reasonably request to evidence compliance with this Section. In furtherance of the foregoing, Parent will give prior written notice to the Administrative Agent of (A) the acquisition by it or any other Loan Party of any Material Owned Real Property, and (B) any Subsidiary that is not a Loan Party being required to become a Guarantor pursuant to the Agreed Security Principles. With respect to any Subsidiary incorporated or registered in Singapore that becomes a Subsidiary Guarantor after the Closing Date, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(c) Unless Parent has given the Agents at least ten days' prior written notice, neither Parent nor any other Loan Party will change (i) its legal name, (ii) its jurisdiction of organization, (iii) its chief executive office, (iv) its corporate or legal structure or (v) its Federal Taxpayer Identification Number. Parent and each other Loan Party agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code, PPSA or otherwise that are required in order for the Collateral Agent and/or the Security Trustee to continue at all times following such change to have a valid, legal and perfected first priority security interest in all the Collateral. Parent and each other Loan Party agrees promptly to notify the Agents if any material portion of the Collateral owned or held by such Loan Party is damaged or destroyed.

SECTION 5.12. ***Senior Indebtedness.*** Provide that to the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to the DIP Intercreditor Agreement, the Pre-Petition First Lien Obligations) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto [and the Liens securing the Obligations benefit from the

lien subordination and other related provisions running to the benefit of the Secured Parties under the relevant Intercreditor Agreement].

SECTION 5.13. ***Compliance with Tax Sharing Agreement and Tax Funding Agreement.*** In relation to any Tax Consolidated Group of which it is or becomes a member:

(a) take all action available to it to ensure that each member of the Tax Consolidated Group:

(i) becomes a party to a Tax Sharing Agreement which covers all Group Liabilities of such Tax Consolidated Group and a Tax Funding Agreement for such Tax Consolidated Group at the time it becomes a member of such Tax Consolidated Group; and

(ii) fully complies with the Tax Sharing Agreement and the Tax Funding Agreement;

(b) take all action available to it to ensure that the Tax Sharing Agreement and the Tax Funding Agreement remain valid, binding and enforceable;

(c) ensure that it gives the Australian Taxation Office a copy of the Tax Sharing Agreement within the period required by section 721-25(3)(b) of the Australian Tax Act if the Australian Taxation Office gives a notice requiring it to do so;

(d) enforce all of its material rights under the Tax Sharing Agreement and the Tax Funding Agreement in a manner consistent to that which a reasonable prudent person in its position would act as if the other parties to those agreements were independent persons with whom it had dealt with at arm's length;

(e) notify the Administrative Agent of any material breach of a term of the Tax Sharing Agreement or the Tax Funding Agreement to the extent that the breach impacts the Lenders (or any of them) promptly after its occurrence; and

(f) seek the consent of the Administrative Agent before making any amendment or other modification to the Tax Sharing Agreement or Tax Funding Agreement, in any such case, other than with respect to such amendments or modifications that are not materially adverse to the interests of the Lenders (in their capacities as such).

SECTION 5.14. ***Post-Closing Matters.*** Satisfy the requirements set forth in Schedule 5.14 on or before the date specified for such requirements, in each case as such date may be extended at the sole discretion of the Administrative Agent so long as the relevant Loan Parties are working diligently to complete, or cause the applicable Subsidiary to complete, the applicable requirement, as determined by the Administrative Agent in its sole discretion.

SECTION 5.15. ***Federal Reserve Regulations.*** If at any time a Loan Party or any of its Subsidiaries owns any Margin Stock, promptly notify the Administrative Agent and, if requested by the Administrative Agent, each Loan Party will furnish to the Administrative Agent

and each Lender a statement in conformity with the requirements of FR Form G 3 or FR Form U 1, as applicable, referred to in Regulation U.

SECTION 5.16. ***Milestones***. The Loan Parties shall ensure the satisfaction of the following milestones (collectively, the "***Milestones***" and each a "***Milestone***"), unless waived or extended with the consent of either the Required IC Lenders or the Required Lenders (in each case, in their sole discretion) (which may be by email)):

(a) by no later than the date that is five days following the Petition Date, entry by the Bankruptcy Court of the Interim Order;

(b) by no later than the date that is forty days following the Petition Date, entry by the Bankruptcy Court of the Final Order;

(c) by no later than the date that is seven days following the Petition Date, the Loan Parties shall have delivered to the Secured Parties and the Ad Hoc Lender Group an initial analysis in respect of the tax and regulatory consequences and requirements in connection with both an Acceptable Plan and an Acceptable Sale Transaction, in each case that are reasonably acceptable to the Required IC Lenders, and:

(i) unless a Plan Election has occurred, then:

(A) by no later than the date that is fourteen days following the date on which the Loan Parties have determined the structure and material terms of the Approved Restructuring pursuant to Section 5.16(c) above, the filing with the Bankruptcy Court of a motion to approve bid procedures in respect of such Acceptable Sale Transaction (the "***Bid Procedures Motion***");

(B) by no later than the date that is twenty-four days following the filing of the Bid Procedures Motion, the entry by the Bankruptcy Court of an order approving such Bid Procedures Motion (the "***Bid Procedures Order***");

(C) by no later than the date that is thirty-five days following the entry by the Bankruptcy Court of the Bid Procedures Order, the commencement of an auction in connection with such Acceptable Sale (the "***Auction***"), unless, in accordance with the Bid Procedures Order, no Auction is required; and

(D) by no later than the date that is five days following earlier of (1) the date of conclusion of the Auction and (2) the date on which it is determined, pursuant to the terms of the Bid Procedures Order, that no auction is required to be held, the entry by the Bankruptcy Court of an order approving such Acceptable Sale Transaction, if applicable (the "***Sale Order***");

(ii) following the occurrence of a Plan Election:

(A) by no later than the date that is fourteen days following the date of such Plan Election, the filing with the Bankruptcy Court of such Acceptable Plan, along with a disclosure statement in connection with such Acceptable Plan, a

motion seeking approval to solicit votes in respect of such Acceptable Plan and solicitation materials in connection therewith (collectively, the "***Disclosure and Solicitation Documents***");

(B) by no later than the date that is seventeen days following the filing with the Bankruptcy Court of the Disclosure and Solicitation Documents, entry by the Bankruptcy Court of an order (which order may be a conditional order) approving the disclosure statement and solicitation of votes in respect of such Acceptable Plan (the "***Disclosure Statement Order***"); and

(C) by no later than the date that is fifty-five days following the entry by the Bankruptcy Court of the Disclosure Statement Order, entry by the Bankruptcy Court of an order approving such Acceptable Plan (the "***Confirmation Order***"); and

provided that, for the avoidance of doubt (x) the Approved Restructuring and all terms, conditions and documentation in respect thereof, including, without limitation, any Acceptable Plan, Disclosure and Solicitation Documents, Disclosure Statement Order, Confirmation Order, Bid Procedures Order, Sale Order and/or other documentation in connection with an Acceptable Plan or Acceptable Sale Transaction shall be subject to the consent requirements set forth in the definition of "Approved Restructuring", (y) the Bid Procedures Motion and Procedures Order shall be consistent with the definition of "Acceptable Sale Transaction" and (z) notwithstanding the foregoing, the deadlines set forth in this Section 5.16(c) may be extended by the Required IC Lenders or the Required Lenders (in each case, in their sole discretion), in accordance with the initial paragraph of Section 5.16 and (z) the Bid Procedures Motion;

(d) by no later than May 8, 2020, the Administrative Agent and the Ad Hoc Lender Advisors shall have received a phase two report from the Independent Network Review, which such phase two report shall be in scope as is set forth in that certain engagement letter, dated as of April 20, 2020, between Parent and Northern Sky Research, and such other scope of analysis as is acceptable to Greenhill (which may seek direction from the Required IC Lenders) to the Required IC Lenders (including the delivery of such other information related to Parent's and its Subsidiaries' customers and suppliers following delivery of such phase two report as is reasonably requested by the Required IC Lender);

(e) by no later than May 15, 2020, the Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors, a draft long-term business plan in form and scope as required by clause (g) below;

(f) by no later than May 15, 2020, Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors a separation analysis for the Government Businesses Subsidiaries in a form satisfactory to the Required IC Lenders (in their sole discretion); and

(g) by no later than May 29, 2020, the Parent shall have delivered to the Administrative Agent and the Ad Hoc Lender Advisors, in each case in a form that has been approved by the board of directors (or similar governing body) of the Parent and in form and

substance satisfactory to the Required IC Lenders (in their sole discretion), an updated long-term business plan (which shall cover, among other things, cost reductions, bandwidth capacity and teleport consolidation) that includes pro forma balance sheets and statements of profit (and loss) and cash flows for the Parent and its Subsidiaries on a consolidated basis for the fiscal years ending December 31, 2020, December 31, 2021, December 31, 2022 and December 31, 2023, which such consolidated pro forma financial statements shall be prepared on a month-by-month basis for the fiscal years ending December 31, 2020 and December 31, 2021 and on a quarterly basis thereafter.

SECTION 5.17. ***Lender Conference Calls***. Host a conference call with representatives of the Administrative Agent (which, for the avoidance of doubt, shall not be obligated to join such call) and the Lenders (including the Ad Hoc Lender Advisors) not more than once per week upon reasonable prior notice to be held at such time as reasonably designated by Parent (in consultation with the Administrative Agent and the Ad Hoc Lender Advisors), at which conference call Parent shall make available the executive management team (including the chief restructuring officer) and their advisors and there shall be discussed the DIP Budget and the Budget Variance Reports for the prior week related thereto, the Loan Parties' financial condition, business operations, liquidity, business plan and projections.

SECTION 5.18. ***Chief Restructuring Officer***. Parent will at all times from and after the Closing Date engage Michael Healy or another Person acceptable to the Required IC Lenders as chief restructuring officer, which officer shall have such powers and authority as is reasonably acceptable to the Required IC Lenders.

SECTION 5.19. ***Priority of Liens***. Each Loan Party that is a Debtor hereby covenants, represents and warrants that, upon entry of the Interim Order (and when applicable, the Final Order), its Obligations hereunder and under the other Loan Documents:

(a) pursuant to section 364(c)(1) of the Bankruptcy Code, shall at all times constitute an allowed Superpriority Claim against each of the Loan Parties that are Debtors on a joint and several basis, which will be payable from and have recourse to all pre- and post-petition property of the Loan Parties and all proceeds thereof (excluding Avoidance Actions but including, subject to entry of a Final Order, Avoidance Proceeds), subject only to the Carve-Out to the extent provided in the Interim Order or the Final Order, as applicable and any payments or proceeds on account of such Superpriority Claim shall be distributed in accordance with Section 7.02;

(b) pursuant to section 364(c)(2) of the Bankruptcy Code and subject to the Carve-Out to the extent provided in the Interim Order or Final Order, as applicable, shall be secured by a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest and Lien on all of the assets of the Loan Parties that are Debtors, whether currently existing or thereafter acquired, of the same nature, scope and type as the Collateral that are not subject to (x) valid, perfected and non-avoidable liens as of the Petition Date or (y) valid Liens in existence as of the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, excluding Avoidance Actions but including, subject to entry of the Final Order, Avoidance Proceeds;

(c) pursuant to section 364(d)(1) of the Bankruptcy Code and subject only to the Carve-Out to the extent provided in the applicable Order, shall at all times be secured by (i) a valid, binding, continuing, enforceable, fully-perfected first priority priming security interest in and Lien upon the property of the Loan Parties that are Debtors of the same nature, scope and type as the Collateral to the extent that such Collateral is subject to existing Liens that secure the Pre-Petition First Lien Obligations and (ii) such priming liens shall be senior in all respects to any [Adequate Protection Liens] (as defined in the Orders);

(d) pursuant to section 364(c)(3) of the Bankruptcy Code, subject only to the Carve-Out to the extent provided in the applicable Order and except as provided in clause (c) above, shall be secured by a valid, binding, continuing, enforceable, fully-perfected junior security interest in and Lien on the Collateral, which is subject to (A) valid, perfected and non-avoidable senior Liens in existence at the time of the commencement of the Cases (other than Liens securing the Pre-Petition First Lien Obligations) and (B) valid senior Liens (other than Liens securing the obligations under the Pre-Petition First Lien Credit Agreement) in existence at the time of such commencement that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, with the priority of the Liens in respect of the DIP Term Facility as set forth in the Orders;

(e) shall not be subject or subordinate to (i) any Lien or security interest that is avoided and preserved for the benefit of the Loan Parties that are Debtors and their estates under section 551 of the Bankruptcy Code or (ii) unless otherwise provided for in the Loan Documents, any Liens arising after the Petition Date including, without limitation, any Liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the Loan Parties that are Debtors;

(f) each Loan Party hereby confirms and acknowledges that, pursuant to the Interim Order (and, when entered, the Final Order), the Liens in favor of the Collateral Agent or Security Trustee on behalf of and for the benefit of the Secured Parties in all of the assets of the Loan Parties shall be created and perfected without the recordation or filing in any land records or filing offices of any Mortgage, assignment or similar instrument (in each case (other than with respect to Debtors that are U.S. Loan Parties) to the extent the Interim Order (and, when entered, the Final Order) is effective to create and perfect under local law);

(g) each Loan Party further agrees that, upon the request of the Administrative Agent, in the exercise of the Required Lenders' reasonable business judgment and subject to the Agreed Security Principles, such Loan Party shall execute and deliver to the Administrative Agent, as soon as reasonably practicable following such request but in any event within thirty days following such request (as may be extended by the Administrative Agent, acting on the prior written instruction of the Required Lenders), Mortgages in recordable form with respect to any real property constituting Material Owned Real Property and identified by the Administrative Agent (acting at the direction of the Required Lenders) on terms reasonably satisfactory to the Administrative Agent and the Required Lenders, including any ancillary deliverables described in the Agreed Security Principles;

(h) for the avoidance of doubt, the Collateral shall exclude Avoidance Actions, but shall, subject to entry of the Final Order, include Avoidance Proceeds;

(i) Subject to and effective only upon entry of the Final Order, except to the extent of the Carve-Out, no costs or expenses of administration of the Cases or any future proceeding that may result therefrom, including a case under chapter 7 of the Bankruptcy Code, shall be charged against or recovered from the Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, the enhancement of collateral provisions of section 552 of the Bankruptcy Code, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) or any similar principle of Law, without the prior written consent of Administrative Agent and the Required Lenders, as the case may be with respect to their respective interests, and no consent shall be implied from any action, inaction or acquiescence by Administrative Agent or the Lenders. In no event shall any Agent or the Lenders be subject to (i) the "equities of the case" exception contained in section 552(b) of the Bankruptcy Code (subject only to and effective upon entry of the Final Order), or (ii) the equitable doctrine of "marshaling" or any other similar doctrine with respect to the Collateral; and

(j) Except for the Carve-Out, the Superpriority Claims shall at all times be senior to the rights of any Loan Party, any chapter 11 trustee and, subject to section 726 of the Bankruptcy Code, any chapter 7 trustee, or any other creditor (including, without limitation, Post-Petition counterparties and other Post-Petition creditors) in the Cases or any subsequent proceedings under the Bankruptcy Code, including, without limitation, any chapter 7 cases (if any of the Cases are converted to cases under chapter 7 of the Bankruptcy Code).

SECTION 5.20. ***Bankruptcy Related Matters***. Parent shall, and shall cause each of its Subsidiaries to:

(a) cause all proposed (i) "first day" orders, (ii) "second day" orders, (iii) orders related to or affecting the Loans, the Loan Documents and the Pre-Petition First Lien Loan Documents, any other financing or use of Cash Collateral, any sale or other disposition of Collateral outside the ordinary course, cash management, adequate protection, any plan of reorganization and/or any disclosure statement related thereto, (iv) orders concerning the financial condition of Parent or any of its Subsidiaries or other Indebtedness of the Loan Parties or seeking relief under section 363, 365, 1113 or 1114 of the Bankruptcy Code or section 9019 of the Federal Rules of Bankruptcy Procedure, (v) orders authorizing additional payments to critical vendors and (vi) orders establishing procedures for administration of the Cases or approving significant transactions submitted to the Bankruptcy Court, in each case, proposed by the Debtors to be in accordance with and permitted by the terms of this Agreement and acceptable to the Required IC Lenders in their sole discretion (and (x) with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent and (y) with respect to any orders described in clause (v) above, acceptable to the Required IC Lenders in their sole discretion) in all respects, it being understood and agreed that the forms of orders approved by the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the Administrative Agent) prior to the Petition Date are in accordance with and permitted by the terms of this Agreement and are acceptable in all respects;

(b) comply in all material respects with each order entered by the Bankruptcy Court in connection with the Cases;

(c) comply in a timely manner with their obligations and responsibilities as debtors-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the Interim Order and the Final Order, as applicable, and any other order of the Bankruptcy Court;

(d) promptly upon the Administrative Agent's written request (acting at the direction of the Required IC Lenders or the Required Lenders), each Loan Party shall provide the Administrative Agent with copies of any informational packages provided to potential bidders, draft agency agreements, purchase agreements, status reports, and updated information related to the sale or any other transaction and copies of any such bids and any updates, modifications or supplements to such information and materials; *provided* that any Lender that is a potential bidder shall not receive such information and materials;

(e) provide the Administrative Agent and the Lenders with reasonable access to non-privileged information (including historical information) and relevant personnel regarding strategic planning, cash and liquidity management, operational and restructuring activities, in each case subject to customary confidentiality restrictions;

(f) deliver to counsel to the Ad Hoc Lender Advisors and to counsel to the Administrative Agent (to the extent practicable) promptly as soon as available but no later than two Business Days prior to filing, copies of all proposed non-ministerial or administrative pleadings, motions, applications, orders, financial information and other documents to be filed by or on behalf of the Loan Parties with the Bankruptcy Court in the Cases, or distributed by or on behalf of the Loan Parties to any official or unofficial committee appointed or appearing in the Cases or any other party in interest, and shall consult in good faith with the Required Lenders' advisors regarding the form and substance of any such document;

(g) if not otherwise filed on the Bankruptcy Court's electronic docketing system, as soon as available, deliver to the Administrative Agent (for distribution to the Lenders), the Ad Hoc Lender Advisors and to counsel to the Administrative Agent promptly as soon as available, copies of all final pleadings, motions, applications, orders, financial information and other documents filed by or on behalf of the Loan Parties with the Bankruptcy Court in the Cases, or distributed by or on behalf of the Loan Parties to any official or unofficial committee appointed or appearing in the Cases, in each case subject to any confidentiality provisions; and

(h) Parent shall provide at least seven Business Days' (or such shorter notice acceptable to the Required IC Lenders in their sole discretion) prior written notice to the Required Lenders prior to any assumption or rejection of any Loan Party's or any other Subsidiary's material contracts or material non-residential real property leases pursuant to section 365 of the Bankruptcy Code, and no such contract or lease shall be assumed or rejected without the consent if the Required IC Lenders inform the Borrower in writing within three (3) Business Days of receipt of the notice from the Borrower referenced above that it objects to such assumption or rejection, as applicable.

ARTICLE VI

Negative Covenants

Each of Parent and the Borrower covenants and agrees with each Lender that, so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document have been paid in full in cash (other than contingent indemnification obligations not then due and payable), unless the Required Lenders shall otherwise consent in writing, Parent will not, and will not cause or permit any of the Subsidiaries to:

SECTION 6.01. ***Indebtedness.*** Incur, create, assume or permit to exist any Indebtedness, except that Parent and any Subsidiary may incur, create, assume or permit to exist:

(a) Indebtedness existing on the Closing Date; provided that Indebtedness pursuant to this subclause in an aggregate outstanding amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.01;

(b) Indebtedness pursuant to those certain Hedging Agreements (as in effect on the Closing Date) with ING Bank N.V. and Credit Agricole CIB; *provided* the notional value of such Hedging Agreements shall not, in the aggregate, exceed the aggregate notional value as of the date hereof;

(c) (x) Indebtedness created under this Agreement and the other Loan Documents and (y) Indebtedness outstanding on the Closing Date under the Pre-Petition First Lien Credit Agreement and the other Pre-Petition First Lien Loan Documents as in effect on the Closing Date, *plus* accrued and unpaid interest thereunder;

(d) [Reserved];

(e) Indebtedness under transactional banking facilities or local lines of credit provided by any bank or financial institution that are used as part of the ordinary operation of the business of Parent or any Restricted Subsidiary; *provided* that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not exceed $1,000,000 at any time and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(f) intercompany Indebtedness of Parent and the Subsidiaries to the extent permitted by Section 6.04(b) or 6.04(c); *provided* that any such Indebtedness of a Loan Party or any other Debtor shall be unsecured and subordinated in right of payment to the Obligations and evidenced by the Intercompany Note;

(g) Indebtedness (i) arising in connection with endorsement of instruments for deposit and (ii) consisting of the financing of insurance premiums, in each case in the ordinary course of business;

(h) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to any Agent mortgagee title insurance policies;

(i) Indebtedness of Parent or any Subsidiary that may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments, earn-outs and similar obligations in connection with acquisitions or sales of assets and/or businesses permitted by this Agreement;

(j) Indebtedness with respect to performance bonds, bid bonds, appeal bonds, surety bonds, commercial guarantees (tender, advance payment, performance, completion and warranty period guarantees) and similar obligations (other than in respect of other Indebtedness) or with respect to workers' compensation, unemployment insurance and other social security legislation, in each case (i) consistent with the Approved Budget and (ii) incurred in the ordinary course of business and reimbursement obligations in respect of any of the foregoing;

(k) Indebtedness consisting of Purchase Money Indebtedness or Capital Lease Obligations; *provided* that (i) the incurrence of any such Indebtedness pursuant to this clause shall be consistent with the Approved Budget and (ii) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed $750,000;

(l) [Reserved];

(m) [Reserved];

(n) Indebtedness (other than Indebtedness for borrowed money) of Parent or any Subsidiary; *provided* that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed $300,000 and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(o) [Reserved];

(p) [Reserved];

(q) [Reserved];

(r) Indebtedness of Parent or any Subsidiary arising under any cash pooling, netting or set-off arrangement entered into by Parent or any Subsidiary in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Parent and its Subsidiaries.

(s) Indebtedness arising under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Subsidiary is a party or is subject to; *provided* that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13;

(t) [Reserved];

(u) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued pursuant to arrangements other than under this Agreement on behalf of or to support obligations of Parent or any Restricted Subsidiary that are not prohibited under this Agreement; provided that the aggregate amount of all Indebtedness incurred following the

Closing Date outstanding pursuant to this clause (including contingent reimbursement obligations) shall not at any time exceed $1,600,000;

(v) any Indebtedness arising by operation of law as a result of the existence of a fiscal unity (*fiscale eenheid*) of which any Subsidiary incorporated or organized under the laws of The Netherlands is a member;

(w) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within ten Business Days of incurrence and (ii) with respect to credit cards, credit card processing services, debit cards, stored value cards and purchase cards incurred in the ordinary course of business;

(x) [Reserved];

(y) [Reserved]; and

(z) any guarantee entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision).

SECTION 6.02. ***Liens.*** Create, incur, assume or permit to exist any Lien on any property or assets (including Equity Interests or other securities of any person, including any Subsidiary) now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except:

(a) Liens on property or assets of Parent and its Subsidiaries existing on the Closing Date; *provided* that (i) Liens pursuant to this clause securing obligations in an aggregate outstanding amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.02 and (ii) such Liens shall secure only those obligations which they secure on the Closing Date and extensions, renewals and replacements thereof permitted hereunder; *provided* that clauses (i) and (ii) shall not apply to Liens securing Indebtedness permitted under Section 6.01(b) and (c)(y);

(b) (x) any Lien created under the Loan Documents and (y) any Lien created under the Pre-Petition First Lien Loan Documents;

(c) [Reserved];

(d) Liens for Taxes arising Post-Petition not yet due or which are being contested in compliance with Section 5.03;

(e) carriers', warehousemen's, mechanics', materialmen's, workmen's; repairmen's, landlord's, suppliers' or other like Liens and other Liens (not securing Indebtedness) arising by operation of law, in any such case, arising in the ordinary course of business and securing obligations that are not due and payable or which are being contested in compliance with Section 5.03;

(f) subject to the Orders and the terms thereof, pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(g) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), payment of premiums to insurance carriers, leases (other than Capital Lease Obligations), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) zoning restrictions, easements, rights-of-way, restrictions on use of real property and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of Parent or any of its Subsidiaries;

(i) Liens on the Collateral granted to provide adequate protection pursuant to the Interim Order (and, when entered, the Final Order);

(j) Liens in favor of, or customary deposits on reserve held by, a credit card or debit card processor or service provider arising in the ordinary course of business pursuant to the standard terms and conditions of such processor or service provider and relating solely to the amounts paid or payable thereunder;

(k) purchase money security interests and other Liens securing Indebtedness permitted pursuant to Section **Error! Reference source not found.**; *provided* that (i) any such Lien shall encumber only the asset acquired, constructed, improved or repaired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section **Error! Reference source not found.** provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its Affiliates), (ii) any such Liens are incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair, (iii) the Indebtedness secured thereby does not exceed 100% of the lesser of the cost or the fair market value of such assets at the time of such acquisition or the completion of such construction, improvement or repair and, as applicable, such additional amounts permitted pursuant to Section **Error! Reference source not found.**;

(l) judgment Liens securing judgments after the Petition Date not constituting an Event of Default under Section 7.01;

(m) Liens in favor of any Loan Party (other than Liens on any Collateral);

(n) Liens provided for by one of the following transactions if the transaction does not, in substance, secure payment or performance of an obligation: (i) a transfer of an account or chattel paper, (ii) a commercial consignment or (iii) a PPS lease (each as defined in the PPSA);

(o) Liens arising from precautionary UCC filing statements regarding operating leases or consignments filed prior to the Petition Date;

(p) (i) contractual or statutory Liens of landlords, to the extent relating to the property and assets relating to any lease agreements with such landlord (so long as the rent payable under any such lease agreement is not more than 30 days past due, unless being contested in good faith and for which adequate reserves have been established in accordance with GAAP), and (ii) contractual Liens of suppliers (including sellers of goods) and customers in the ordinary course of business to the extent limited to property or assets relating to such contract;

(q) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor under any lease or license permitted by this Agreement and consistent with the Approved Budget;

(r) leases of the tangible properties of Parent or any Subsidiary, entered into in the ordinary course of business of Parent or such Subsidiary, so long as such leases do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of Parent or such Subsidiary or (ii) materially impair the use (for its intended purposes) or the value of the property subject thereto;

(s) licenses of the Intellectual Property of Parent or any Subsidiary granted in the ordinary course of business so long as such licenses do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of Parent or such Subsidiary, or (ii) materially impair the value of the Intellectual Property subject thereto;

(t) Liens on deposits, bank accounts and/or receivables forming part of an arrangement permitted pursuant to Section 6.01(r), to the extent securing claims arising in the context of such arrangement in the ordinary course of business;

(u) Liens arising under conditional sale, hire purchase or other title retention arrangement or arrangements having similar effect in respect of the sale of goods in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by Parent or any of its Subsidiaries;

(v) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties arising Post-Petition in connection with the importation of goods in the ordinary course of business and (ii) Liens on specific items of inventory or other goods and proceeds thereof of Parent or any Subsidiary securing Parent's or such Subsidiary's obligations in respect of bankers' acceptances or documentary letters of credit permitted by this Agreement and issued or created after the Petition Date for the account of Parent or such Subsidiary to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business; and

(w) (i) Liens arising after the Petition Date that are contractual rights of set-off or netting (A) relating to the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness and (B) in respect of credits or similar arrangements pursuant to agreements entered into in the ordinary course of business; provided that no Loan Party has deposited any cash or Permitted Investments with the counterparty to such agreement to secure such right of set-off, (ii) Liens arising after the Petition Date

encumbering reasonable customary initial deposits and margin deposits, and similar Liens attaching to commodity trading accounts or other brokerage accounts and (iii) customary Liens arising after the Petition Date on deposit accounts, custody accounts, other bank accounts or other clearing bank facilities held with any bank or other financial institution under the standard terms and conditions of such bank or other financial institution.

SECTION 6.03. ***Sale and Lease-Back Transactions***. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property which it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "***Sale and Leaseback***").

SECTION 6.04. ***Investments, Loans and Advances***. Purchase, hold or acquire any Equity Interests, evidences of indebtedness or other securities of, make or permit to exist any loans or advances to, or make or permit to exist any other investment or any other interest in, any other person (it being understood and agreed that "investment" shall include any purchase, lease or other acquisition (in one transaction or a series of transactions) of all or substantially all of the assets of any other person or any line of business, unit or division of any other person), except:

(a) investments by Parent and its Subsidiaries existing on the Closing Date; *provided* that, other than with respect to investments in the Equity Interests of the Subsidiaries, investments pursuant to this clause in an aggregate amount on the Closing Date in excess of $500,000 shall be set forth on Schedule 6.04;

(b) (i) investments made after the Closing Date among Loan Parties and (ii) investments made after the Closing Date by any Subsidiary that is not a Loan Party in any Loan Party or other Subsidiary; *provided* that (x) any loans or advances made to a Loan Party pursuant to this clause shall be unsecured and subordinated in right of payment to the Obligations and evidenced by the Intercompany Note and pledged to the Collateral Agent and/or the Security Trustee, for the benefit of the Secured Parties pursuant to the applicable Security Documents;

(c) investments made after the Closing Date by any Loan Party in any Subsidiary that is not a Loan Party (including any Guarantees by any Loan Party of any Indebtedness or other obligations of any Subsidiary that is not a Loan Party and any loans and advances made by any Loan Party to any Subsidiary that is not a Loan Party); *provided* that (i) at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom, (ii) the aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) of all investments outstanding pursuant to this clause shall not exceed $500,000 and shall be consistent with the Approved Budget in all respects and (iii) any loans or advances made pursuant to this clause shall be evidenced by the Intercompany Note and pledged to the Collateral Agent and/or the Security Trustee, for the benefit of the Secured Parties pursuant to the applicable Security Documents;

(d) [Reserved];

(e) [Reserved];

(f) Permitted Investments;

(g) Parent and the Subsidiaries may make loans and advances to their respective employees, officers and directors for payroll, moving, entertainment, travel and other similar expenses in the ordinary course of business in an amount not to exceed $500,000 at any time outstanding;

(h) [Reserved];

(i) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(j) [Reserved];

(k) promissory notes or other investments received as consideration, or retained, in connection with sales or other dispositions of assets, including any Asset Sale permitted pursuant to Section 6.05;

(l) investments by Parent and the Subsidiaries consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business and payable or dischargeable in accordance with customary trade terms and, in each case, consistent with the Approved Budget;

(m) Guarantees constituting Indebtedness permitted by Section 6.01 (other than Guarantees by any Loan Party of any obligations of any person that is not a Loan Party);

(n) [Reserved];

(o) [Reserved];

(p) Hedging Agreements to the extent permitted by Section 6.01(b);

(q) investments resulting from pledges or deposits described in Sections 6.02(f) and 6.02(g);

(r) any Guarantee (i) entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision), (ii) under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Subsidiary is a party or is subject to; provided that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13, and/or (iii) given in order to comply with obligations under workers' compensation, unemployment insurance and other social security legislation, in each case incurred in the ordinary course of business; and

(s) any declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in section 2:403 of the Dutch Civil Code.

SECTION 6.05. ***Mergers, Consolidations and Sales of Assets***. (a) Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of Parent and the Subsidiaries (whether now owned or hereafter acquired) or less than all the Equity Interests of any Subsidiary (in each case including by LLC Division), except that:

(i) Parent and any Subsidiary may purchase and sell inventory in the ordinary course of business; and

(ii) if at the time thereof and immediately after giving effect thereto no Event of Default or Default shall have occurred and be continuing and consistent with the Approved Budget, (A) any Subsidiary may merge into the Borrower in a transaction in which the Borrower is the surviving corporation and the Borrower's jurisdiction of incorporation shall remain the same as immediately prior to such merger and (B) any Subsidiary may sell, transfer, lease or otherwise dispose of all or substantially all of its assets (including upon a voluntary liquidation or dissolution of such Subsidiary) to the Borrower.

(b) Engage in any Asset Sale (including any LLC Division) not otherwise prohibited by Section 6.05(a), except for any dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of Parent or any Subsidiary.

SECTION 6.06. ***Dividends and Distributions; Restrictions on Ability of Subsidiaries to Pay Dividends***.

(a) Declare or pay, directly or indirectly, any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any Equity Interests of Parent or any Subsidiary or directly or indirectly make any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of (or permit any Subsidiary to purchase or acquire) any Equity Interests of Parent or any Subsidiary or set aside any amount for any such purpose or incur any obligation (contingent or otherwise) to do so (any of the foregoing, a "***Restricted Payment***"); *provided* that any Subsidiary may declare and pay dividends or make other distributions ratably to its equity holders.

(b) Enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (i) the ability of any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure any Obligation, or (ii) the ability of any Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to Parent or any other Subsidiary or to Guarantee any Obligation of Parent or any other Subsidiary; *provided* that (A) the foregoing shall not apply to restrictions and conditions imposed by law, the Orders or by any Loan Document, (B) the foregoing shall not apply to restrictions and conditions in any Pre-Petition First Lien Loan Document as in effect on the date hereof, (C) the foregoing shall not apply to

restrictions and conditions imposed on any Subsidiary that is not a Loan Party by the terms of any Indebtedness of such Subsidiary permitted to be incurred hereunder, (D) clause (i) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (E) clause (i) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (F) the foregoing shall not apply to customary restrictions on cash or other deposits or net worth required by customers under contracts entered into in the ordinary course of business and consistent with the Approved Budget if such provisions apply only to the Person (and the equity interests in such Person) that is the subject thereof and (G) the foregoing shall not apply to customary restrictions and conditions contained in any agreement relating to any Asset Sale (or other disposition of assets) permitted under this Agreement pending the consummation of such Asset Sale (or other disposition of assets).

SECTION 6.07. ***Transactions with Affiliates***. Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates other than (a) transactions on terms and conditions (taken as a whole) not materially less favorable to Parent or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties; provided that such restriction shall not apply to any transaction between or among Loan Parties, and (b) to the extent constituting transactions with Affiliates that would otherwise be prohibited under this Section 6.07: (i) transactions between or among Subsidiaries that are not Loan Parties, to the extent otherwise permitted under Section 6.04 and not involving another Affiliate, (ii) loans or advances to employees, officers and directors permitted under Section 6.04(g), (iii) the payment of reasonable fees to directors of Parent or any Subsidiary who are not employees of Parent or any Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of Parent or the Subsidiaries in the ordinary course of business and consistent with the Approved Budget, (iv) Parent may issue and sell Qualified Capital Stock to its Affiliates (other than the Borrower and the Subsidiaries), (v) transactions permitted under Sections 6.01 and 6.06 and (vi) Parent and the Subsidiaries may perform their respective obligations under the arrangements existing on the Closing Date and specified in Schedule 6.07.

SECTION 6.08. ***Business of Parent and Subsidiaries***. Engage at any time in any business or business activity other than the Related Business.

SECTION 6.09. ***Other Indebtedness and Agreements***. (a) Permit any (i) waiver, supplement, modification, amendment, termination or release of any indenture, instrument or agreement pursuant to which any Indebtedness of Parent or any Subsidiary is outstanding if the effect of such waiver, supplement, modification, amendment, termination or release would materially increase the obligations of the obligor or confer additional material rights on the holder of such Indebtedness in a manner adverse to Parent, any Subsidiary, any Agent or the Lenders (it being understood that any amendment to the Pre-Petition First Lien Credit Agreement or any other loan document in respect thereof shall be deemed to be adverse to Parent, any Subsidiary, any Agent or any Lender for purposes of this clause (a)(i) unless such amendments are permitted under the terms of the DIP Intercreditor Agreement or any Order); *provided* that nothing herein shall prohibit any supplement, modification or amendment of any indenture, instrument or agreement solely in relation to, or solely for the purpose of, issuing or

otherwise incurring new Indebtedness that is not prohibited under Section 6.01, (ii) waiver, supplement, modification, amendment, termination or release of any Subordinated Loan Document that (x) results in the Subordinated Indebtedness provided or evidenced thereby no longer complying with the definition of "Subordinated Indebtedness", or (y) would materially increase the obligations of the obligor or obligors thereunder or confer additional material rights on the holder or holders of such Subordinated Indebtedness in a manner materially adverse to Parent, any of the Subsidiaries or the Lenders, (iii) amendment or modification of any Pre-Petition First Lien Loan Document in contravention of the DIP Intercreditor Agreement, (iv) waiver, supplement, modification or amendment of Organization Documents, to the extent any such waiver, supplement, modification or amendment under this clause (iv) would be adverse to the Lenders in any material respect (as determined in good faith by Parent and reasonably acceptable to the Administrative Agent), (v) waiver, supplement, modification or amendment to any Intelsat Agreement without the consent of the Required IC Lenders (in their sole discretion), (vi) without the consent of Greenhill (who (A) shall have been provided not less than two Business Days' prior written notice (it being understood that Greenhill shall have no obligation to consent to any such request and any failure to respond shall not be deemed to be a consent thereof), (B) shall have been kept reasonably apprised by the Borrower's financial advisors of the material events and circumstances leading up to such request and (C) may solicit direction in connection therewith from the Required IC Lenders), enter into any payment plans and/or settlements (including the extension of any time periods for payment) with respect to past due amounts owed to any suppliers or owing from customers, or any other restructuring of any supplier or customer relationship (including any amendment, waiver or modification of any supplier or customer contract), in each case, outside the ordinary course of business; *provided* that the foregoing clause (vi) shall apply only with respect to agreements or transactions involving (I) the top twenty customers based on total revenues during the trailing twelve month period ending as of the most recently ended fiscal month, (II) payment plans and/or settlements that shall create a variance in receipts in excess of $500,000 for the forecast period ending December 31, 2020 or December 31, 2021, (III) the top ten (10) bandwidth and service providers during the trailing twelve month period ending as of the most recently ended fiscal month and (IV) vendors with outstanding amounts greater than $750,000 for Parent and its Subsidiaries taken as a whole, (vii) modify any obligations owed by any Loan Party or any Subsidiary to any supplier, service provider or other vendor in a manner that causes such obligations to constitute Indebtedness that would be pari passu with or senior to (including with respect to lien, payment and structural priority) the Obligations or the Pre-Petition First Lien Obligations, except as expressly consented to in writing (including by email) by the Required Lenders and the Required IC Lenders or (viii) make, enter into or implement any amendment, waiver, supplement or other modification to any employment agreement or employee compensation plan, in each case solely to the extent such agreement or compensation plan relates to a Key Employee or Director, or the payment of any amount contemplated by such agreements or plans before the date on which such amount becomes due and payable pursuant to the terms of the such agreements or plans, as applicable, or the payment of any bonus, incentive, retention, severance, change of control or termination payments pursuant to the terms of such agreements or plans, as applicable, or the entry into any new employment agreement or employee compensation plan with any such Key Employee or Director.

(b) Make any distribution, whether in cash, property, securities or a combination thereof, in respect of, or pay, or commit to pay, or directly or indirectly redeem,

repurchase, retire or otherwise acquire for consideration, or set apart any sum for the aforesaid purposes, any Indebtedness that is unsecured or that is secured by Liens on any Collateral that are junior to the Liens securing the other Obligations or any Subordinated Indebtedness.

(c) Make any voluntary or optional payment or prepayment of any Indebtedness under the Pre-Petition First Lien Loan Documents.

(d) Permit any waiver, supplement, modification, amendment, termination or release of any agreement with any material customer or vendor.

SECTION 6.10. [Reserved]

SECTION 6.11. ***Fiscal Year***. Permit the fiscal year of any Loan Party to end on a day other than December 31.

SECTION 6.12. [Reserved].

SECTION 6.13. ***Certain Issuances of Equity Interests***. Issue any Equity Interest, except that (a) Parent may issue Equity Interests, to the extent not otherwise prohibited by or in violation of this Agreement; (b) with respect to any Subsidiary (and subject to any applicable requirements in Section 5.11 and the Agreed Security Principles), such Subsidiary may issue Equity Interests for stock splits, stock dividends and additional issuances of Equity Interests which do not decrease the percentage ownership in any class of Equity Interests of such issuing Subsidiary owned by any Loan Party or any other Subsidiary that owns Equity Interests in such issuing Subsidiary; provided that this clause (b) shall permit any such decrease in such percentage ownership in any class of Equity Interests of such issuing Subsidiary solely to the extent that such decrease is accompanied by a corresponding increase in the percentage ownership in such class of Equity Interests of such issuing Subsidiary owned by a Loan Party, which Equity Interests are pledged to secure the Obligations; (c) [reserved]; and (d) with respect to any Subsidiary that is not a Loan Party and none of the Equity Interests in which are owned by a Loan Party, such Subsidiary may issue Equity Interests to Parent or any other wholly owned Subsidiary.

SECTION 6.14. ***Sanctions-Compliant Repayment of Obligations***. Use, directly or indirectly, any funds or assets derived from or used in any activity, business, or transaction with a Sanctioned Person, in a Sanctioned Country, or that otherwise violates Sanctions, to repay or discharge any Obligations or any portion thereof, except to the extent that such activity, business, or transaction and such use of funds or assets would be lawful for a person required to comply with Sanctions.

SECTION 6.15. ***Budget Variance***. Parent will not permit with respect to each Budget Test Period as of the last day thereof, in each case as depicted in the Approved Budget (i) the negative variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual cash receipts received by the Loan Parties and the other Subsidiaries that corresponds to the line items in the Approved Budget under the headings "Customer receipts" (excluding dividends from the Government Business and "Total Receipts," in each case, to exceed 10%, (ii) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other

Subsidiaries that correspond to the line items in the Approved Budget under the heading "Bandwidth payments" to exceed 10%, (iii) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Total Disbursements" (excluding "Bandwidth Payments" and "Capex") to exceed 10%, (iv) the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Capex" to exceed 10% and (v) solely for the Cumulative Budget Test Period, the positive variance (as compared to the budgeted amounts set forth in the Approved Budget) of the aggregate actual disbursements made by the Loan Parties and the other Subsidiaries that correspond to the line items in the Approved Budget under the heading "Professional Fees" to exceed 10%.

SECTION 6.16. ***Liquidity***. Commencing with the fiscal month ending April 30, 2020, permit Liquidity to be less than $10,000,000 (a) as of the last day of each fiscal month of Parent or (b) for a period of 3 consecutive days or more in any fiscal month.

SECTION 6.17. ***Subsidiaries***. Parent shall not and will not permit any of its Subsidiaries to form, create or acquire any Subsidiary without the prior written consent of the Required Lenders.

SECTION 6.18. ***Additional Bankruptcy Matters***. Parent shall not, and will not permit any of its Subsidiaries to:

(a) assert or prosecute any claim or cause of action against any of the Secured Parties (in their capacities as such), unless such claim or cause of action is in connection with the enforcement of the Loan Documents against the Administrative Agent or the Lenders;

(b) subject to the terms of the Interim Order or the Final Order, as applicable, object to, contest, delay, prevent or interfere with in any material manner the exercise of rights and remedies by the Administrative Agent, the Collateral Agent, the Security Trustee or the Lenders with respect to the Collateral following the occurrence of an Event of Default (provided that any Loan Party may contest or dispute whether an Event of Default has occurred); or

(c) make any payment or distribution on account of any Pre-Petition First Lien Obligations or any other Indebtedness or obligation arising prior to the Petition Date except (x) as (i) expressly provided or permitted hereunder (including to the extent pursuant to any "first day" or "second day" orders complying with the terms of this Agreement) or (ii) provided pursuant to any other order of the Bankruptcy Court acceptable to the Required IC Lenders and the Required Lenders and (y) in each case with the prior consent of the Required IC Lenders and the Required Lenders in their sole discretion following delivery of a report covering such payments in form and scope reasonably satisfactory to the Required IC Lenders.

ARTICLE VII

Events of Default

SECTION 7.01. ***Events of Default.*** In case of the happening of any of the following events ("***Events of Default***"):

(a) any representation or warranty made or deemed made in or in connection with any Loan Document or the borrowings, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished in connection with or pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(b) default shall be made in the payment of any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on (or premium with respect to) any Loan or any other amount (other than an amount referred to in (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of two (2) Business Days;

(d) default shall be made in the due observance or performance by Parent or any Subsidiary of any covenant, condition or agreement contained in Section 2.25, 5.01(a), 5.04(i), 5.04(j), 5.04(k), 5.04(l), 5.04(m), 5.05, 5.08, 5.12, 5.14, 5.16 or 5.19 or in Article VI;

(e) default shall be made in the due observance or performance by Parent or any Subsidiary of any covenant, condition or agreement contained in any Loan Document (other than those specified in (b), (c) or (d) above) and such default shall continue unremedied for a period of fifteen days (or, in the case of Sections 5.04(a) and **Error! Reference source not found.**, five days) after the earlier of (i) notice thereof from the Administrative Agent or the Required Lenders to Parent and (ii) any Loan Party becoming aware of such default;

(f) the Borrower, Parent or any Subsidiary shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness in a principal amount in excess of the Threshold Amount, when and as the same shall become due and payable (other than the Obligations and any Indebtedness of any Debtor that was incurred prior to the Petition Date that is (A) required to be paid under the Bankruptcy Code or pursuant to an Order of the Bankruptcy Court and (B) subject to the automatic stay applicable under section 362 of the Bankruptcy Code) or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness or any other event or condition occurs, in any such case of this clause (ii), if the effect thereof is to cause, or to enable or permit the holder or holders of such Indebtedness or a trustee or other agent or representative on its or their behalf (with or without the giving of notice, the lapse of time or both) to cause, such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity; *provided* that subclause (ii) above shall not apply to secured Indebtedness that becomes due as a result of the

voluntary sale or transfer of the property or assets securing such Indebtedness in a transaction expressly permitted by the Loan Documents;

(g) other than the Cases, an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of Parent or any Subsidiary, or of a substantial part of the property or assets of Parent or a Subsidiary, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management or similar law (including under the laws of Australia), (ii) the appointment of a receiver, judicial manager, trustee, examiner, administrator, custodian, sequestrator, conservator, liquidator, manager or similar official for Parent or any Subsidiary or for a substantial part of the property or assets of Parent or any Subsidiary, (iii) the winding-up, dissolution or liquidation of Parent or any Subsidiary; and such proceeding or petition shall continue undismissed for sixty days or an order or decree approving or ordering any of the foregoing shall be entered, or (iv) a composition, assignment or arrangement with any creditor of any member of the Group;

(h) other than the Cases, Parent or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management, scheme of arrangement or similar law (including under the laws of Australia), (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in (g) above, (iii) apply for or consent to the appointment of a receiver, judicial manager, administrator, examiner, trustee, custodian, sequestrator, conservator, liquidator, manager or similar official for Parent or any Subsidiary or for a substantial part of the property or assets of Parent or any Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due or (vi) take any action for the purpose of effecting any of the foregoing;

(i) other than as a result of the commencement of the Cases, Parent or any Subsidiary incorporated or organized under the laws of Australia (x) is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due; or (y) suspends making payments on any of its debts (other than any debts in respect of the Indebtedness of any Debtor that was incurred prior to the Petition Date and subject to the automatic stay applicable under section 362 of the Bankruptcy Code);

(j) one or more judgments arising after the Petition Date for the payment of money the aggregate amount is in excess of the Threshold Amount (to the extent not covered by insurance provided by an insurer that is not an Affiliate of Parent, with respect to which coverage has been acknowledged by such insurer) shall be rendered against Parent, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of forty-five consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of Parent or any Subsidiary to enforce any such judgment;

(k) a moratorium shall have taken effect by operation of law or shall have been declared in respect of any Indebtedness of any Loan Party incorporated or registered in Singapore;

(l) any Loan Party shall have been declared by the Minister of Finance of Singapore to be a company to which Part IX of the Singapore Companies Act applies;

(m) an ERISA Event shall have occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, has had or could reasonably be expected to result in a Material Adverse Effect;

(n) (i) any Loan Document or any Guarantee under any of the Loan Documents for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall deny in writing that it has any further liability under any Loan Document to which it is a party (other than as a result of the discharge of such Guarantor in accordance with the terms of the Loan Documents) or (ii) any Loan Party shall fail to comply with the terms of any Intercreditor Agreement in any material respect or any such document for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall so assert;

(o) any security interest purported to be created by any Security Document shall cease to be, or shall be asserted by the Borrower or any other Loan Party not to be, a valid, perfected, first priority (except as otherwise expressly provided in this Agreement or such Security Document or the Orders) security interest in the securities, assets or properties covered thereby with a fair market value in excess of $500,000, except as a result of the release of a Loan Party or the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents;

(p) there shall have occurred a Change of Control;

(q) any subordinated Indebtedness of Parent or any Subsidiary (including any Subordinated Indebtedness) shall cease (or any Loan Party or an Affiliate of any Loan Party shall so assert), for any reason, to be validly subordinated to the Obligations as required pursuant to the Loan Documents and as provided, to the extent applicable, in the Subordinated Indebtedness Documents related thereto or other definitive documents evidencing such subordinated Indebtedness;

(r) any of the following shall occur:

(i) any of the Cases of the Loan Parties shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code;

(ii) (A) a trustee, responsible officer or an examiner having expanded powers (beyond those set forth under sections 1106(a)(3) and (4) of the Bankruptcy Code) (other than a fee examiner) is appointed or elected in the any of the Cases, (B) any Loan Party applies for, consents to, supports, acquiesces in or fails to promptly oppose, any such appointment or (C) the Bankruptcy Court shall have entered an order providing for such appointment;

(iii) an order of the Bankruptcy Court shall be entered denying or terminating use of Cash Collateral by the Loan Parties and the Loan Parties shall have not obtained use of Cash Collateral pursuant to an order consented to by, and in form and substance acceptable to, the Required IC Lenders and the Required Lenders;

(iv) any Pre-Petition First Lien Lender shall have exercised any remedy under the Pre-Petition First Lien Loan Documents;

(v) any Loan Party, or any person on behalf of any Loan Party, shall file a motion or other pleading seeking, or otherwise consenting to, any of the matters set forth in clauses (i) through (iii) above or the granting of any other relief that if granted would give rise to an Event of Default;

(vi) any Loan Party or any of its Subsidiaries, or any person claiming by or through any Loan Party or any of its Subsidiaries shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding against (A) the Administrative Agent or any of the Lenders relating to the DIP Term Facility, or (B) the Pre-Petition First Lien Agents or any Pre-Petition First Lien Lender, in each case other than, with respect to a Loan Party, in the case of a Person that has obtained an order from the Bankruptcy Court, over the objection of the Loan parties, granting such Person derivative standing to commence, join in, assist or otherwise participate as an adverse party;

(s) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court authorizing (i) any claims or charges, other than in respect of the DIP Term Facility and the Carve-Out or as otherwise permitted under the applicable Loan Documents or the Orders, entitled to superpriority administrative expense claim status in any chapter 11 case pursuant to section 364(c)(1) of the Bankruptcy Code that are pari passu with or senior to the claims of the Administrative Agent and the Lenders under the DIP Term Facility, or there shall arise or be granted by the Bankruptcy Court any claim having priority over any or all administrative expenses of the kind specified in clause (b) of section 503 or clause (b) of section 507 of the Bankruptcy Code (other than the Carve-Out), or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Loan Documents or in the Order then in effect (but only in the event specifically consented to by the Administrative Agent and the Required IC Lenders), whichever is in effect;

(t) the Bankruptcy Court shall enter an order or orders granting relief from any stay of proceeding (including, the automatic stay applicable under section 362 of the Bankruptcy Code to the holder or holders of any security interest) to (i) permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of any of the Loan Parties or (ii) permit other actions that would have a Material Adverse Effect on the Loan Parties or their estates (taken as a whole);

(u) an order of the Bankruptcy Court shall be entered reversing, amending, supplementing, staying, vacating or otherwise amending, supplementing or modifying the Interim Order or the Final Order, or a Loan Party files an application, motion or other pleading

seeking such entry of such an order or supports or fails to promptly oppose such an order, in each case without the prior written consent of the Required IC Lenders or the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent);

(v) the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date) shall cease to create a valid and perfected Lien on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment (and subject to Section 9.08), without prior written consent of the Required IC Lenders and the Required Lenders (and with respect to any provision that affects the rights or duties of any Agent, the applicable Agent);

(w) an order shall have been entered by the Bankruptcy Court avoiding or requiring disgorgement by any of the Agents or any of the Lenders of any amounts received in respect of the Obligations;

(x) an order shall have been entered by the Bankruptcy Court terminating or modifying the exclusive right of any Loan Party to file a chapter 11 plan pursuant to section 1121 of the Bankruptcy Code, without the prior written consent of the Required IC Lenders and the Required Lenders;

(y) any of the Loan Parties shall fail to comply with a material provision of the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date);

(z) an order in the Cases shall be entered charging any of the Collateral (as defined herein and in the Pre-Petition First Lien Credit Agreement) under section 506(c) of the Bankruptcy Code against the Lenders or the Pre-Petition First Lien Lenders, or the commencement of other actions in any of the Cases that are (x) materially adverse to Agents or the Lenders or inconsistent with any of the Loan Documents or (y) materially adverse to Pre-Petition Agents or Pre-Petition First Lien Lenders or inconsistent with any of the Pre-Petition First Lien Loan Documents;

(aa) any order shall be entered which dismisses any of the Cases of the Loan Parties and which order does not provide for payment in full in cash of the Obligations under the Loan Documents (other than contingent indemnification obligations not yet due and payable), or any of the Loan Parties and their Subsidiaries shall seek, support or fail to contest in good faith the entry of any such order;

(bb) failure to satisfy any of the Milestones in accordance with the terms relating to such Milestone (unless waived or extended with the consent of the Required IC Lenders);

(cc) any Loan Party or any Subsidiary thereof shall take any action in support of any matter set forth in this Section 7.01 or any other Person shall do so and such action is not contested in good faith by the Loan Parties and the relief requested is granted in an order that is not stayed pending appeal;

(dd) any Loan Party or any Subsidiary thereof shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding seeking, or otherwise consenting to (i) the invalidation, subordination or other challenging of the Superpriority Claims and Liens granted to secure the Obligations or any other rights granted to the Agents and the Lenders in the Orders or this Agreement or (ii) any relief under section 506(c) of the Bankruptcy Code with respect to any Collateral;

(ee) any Loan Party shall challenge, support or encourage a challenge of any payments made to any Agent or any Lender with respect to the Obligations or any Pre-Petition First Lien Agent or any Pre-Petition First Lien Lender with respect to the Pre-Petition First Lien Obligations, other than to challenge the occurrence of a Default or Event of Default;

(ff) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the filing of any motion by the Loan Parties seeking approval of (or the entry of an order by the Bankruptcy Court approving) adequate protection to any pre-petition agent, trustee or lender that is inconsistent with the Interim Order (prior to the Final Order Entry Date) or the Final Order (on and after the Final Order Entry Date);

(gg) without Administrative Agent's, the Required IC Lenders' and the Required Lenders' consent, the entry of any order by the Bankruptcy Court granting, or the filing by any Loan Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court (in each case, other than the Orders and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's, the Required IC Lenders' and the Required Lenders' consent or to obtain any financing under section 364 of the Bankruptcy Code other than the facility hereunder unless such motion or order contemplates payment in full in cash of the Obligations immediately upon consummation of the transactions contemplated thereby;

(hh) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the filing of any motion by the Loan Parties or any person on behalf of any Loan Party seeking authority to consummate a sale of assets of the Loan Parties or the Collateral outside the ordinary course of business and not otherwise permitted hereunder;

(ii) if any Loan Party or any of its Subsidiaries is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any part of the business affairs of the Loan Parties and their Subsidiaries, taken as a whole, which could reasonably be expected to have a Material Adverse Effect; *provided* that the Loan Parties shall have two Business Days after the entry of such an order to obtain a court order vacating, staying or otherwise obtaining relief from the Bankruptcy Court or another court to address any such court order;

(jj) without the consent of the Administrative Agent, the Required IC Lenders and the Required Lenders, the making by any Loan Party of any payment (whether by way of adequate protection or otherwise) of principal or interest or otherwise on account of any pre-petition Indebtedness or payables other than payments permitted under this Agreement to the extent authorized by one or more "first day" orders, the Interim Order or the Final Order,

consistent with the Approved Budget and approved by the Required IC Lenders in their sole discretion;

(kk) if, unless otherwise approved by the Administrative Agent, the Required IC Lenders and the Required Lenders, an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Cases and such order shall not be reversed or vacated within ten days;

(ll) without the Required IC Lenders' and the Required Lenders' consent, any Loan Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court seeking (i) to grant or impose, under section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior, equal or subordinate to the Agents' liens and security interests; (ii) to use, or seek to use, Cash Collateral; or (iii) to modify or affect any of the rights of the Agents, or the Lenders under the Orders or the Loan Documents, by any order entered in the Cases;

(mm) without the Required IC Lenders' and the Required Lenders' consent, any Loan Party shall file a motion seeking or take any action supporting a motion seeking, or the Bankruptcy Court shall enter an order in any of the Cases authorizing the sale of all or substantially all of the Loan Parties' assets (unless such order contemplates payment in full in cash of the Obligations upon the closing of such financing or consummation of such sale, whether pursuant to a plan of reorganization or otherwise);

(nn) the Borrower or other debtor in a chapter 11 case proposes or otherwise supports any plan of reorganization or sale process that is not permitted by the Approved Restructuring, without the Required IC Lenders' and the Required Lenders' consent; or

(oo) Any termination or rejection in any insolvency proceeding of any Intelsat Agreement without the consent of the Required IC Lenders;

then, and in every such event, and at any time thereafter during the continuance of such event, the Administrative Agent, with the consent of the Required Lenders may, and at the request of the Required Lenders shall, by notice to Parent, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower and the other Loan Parties accrued hereunder and under any other Loan Document, shall become forthwith due and payable and (iii) exercise on behalf of itself and the other Secured Parties all rights and remedies available to it and the Secured Parties under the Loan Documents, in each case, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by Parent and the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding.

Notwithstanding anything to the contrary herein, subject to the provisions of the Interim Order (and, when entered, the Final Order), (x) with respect to enforcement of Liens or remedies with respect to Collateral, the Administrative Agent shall provide the Borrower [five] Business Days'

notice prior to taking such action (in any hearing after the giving of such notice, the only issue that may be raised by any party in opposition thereto being whether, in fact, an Event of Default has occurred and is continuing (the "***Remedies Notice Period***")), and (y) after expiration of the Remedies Notice Period, the Administrative Agent shall, at the direction of the Required Lenders, (x) terminate the consensual use of Cash Collateral and (y) exercise all other rights and remedies provided for in this Agreement, the Security Documents, the Orders and under applicable law; *provided* that no such notice shall be required for any exercise of rights or remedies (A) to block or limit withdrawals from any bank accounts that are a part of the Collateral (including, without limitation, by sending any control activation notices to depositary banks pursuant to any control agreement or the equivalent action in any foreign jurisdiction) and (B) in the event of Obligations that have not been paid in full in cash (other than contingent indemnification obligations for which no claim has yet been made) on the applicable termination of the Loan Documents. During the Remedies Notice Period, the Debtors may continue to use Cash Collateral solely to fund (A) payroll and other expenses critical to keeping the business of the Loan Parties operating in accordance with the Approved Budget and (B) the Carve-Out. During the Remedies Notice Period, any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court, for the sole purpose of contesting whether an Event of Default has occurred and/or is continuing and cash collateral may be used for this purpose during the Remedies Notice Period.

SECTION 7.02. ***Application of Proceeds***. Subject to the DIP Intercreditor Agreement and the Orders, the Agents shall apply (a) the proceeds of any collection, sale, foreclosure or other realization upon any Collateral, including any Collateral consisting of cash, (b) any amounts received in respect of the Obligations following the termination of the Commitments and any of the Loans becoming due and payable pursuant to Section 7.01 and (c) subject to the Carve-Outs, each prepayment of Loans pursuant to Sections 2.11, 2.12 and 2.13, in each case as follows:

FIRST, to the payment of all costs and expenses incurred by the Agents (in their respective capacities as such hereunder or under any other Loan Document) in connection with any collection, sale, foreclosure or realization or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by any Agent hereunder or under any other Loan Document on behalf of any Loan Party, any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document, any amounts for which any Agent (including for this purpose, the Pre-Petition First Lien Agents as provided in Section 8.01 and Section 9.05(b)) is entitled to indemnification, fees (including Agent Fees), or reimbursement of costs or expenses under the terms of any Loan Document, and any other Obligations owed to any of the Agents, in their respective capacities as such hereunder or under any other Loan Document;

SECOND, to the payment in full of all Obligations consisting of accrued and unpaid fees, indemnities and other amounts (other than principal and interest) payable to the Lenders;

THIRD, to the payment in full of all Obligations consisting of accrued and unpaid interest on the Loans (other than the Roll-Up Loans) ratably among the Lenders (other than Defaulting Lenders);

FOURTH, to the payment in full of all Obligations consisting of unpaid principal amount of the Loans (other than the Roll-Up Loans) and any premium thereon or breakage or termination fees, costs or expenses related thereto ratably among the Lenders (other than Defaulting Lenders);

FIFTH, to the payment in full of all Obligations consisting of accrued and unpaid interest on the Roll-Up Loans ratably among the Lenders (other than Defaulting Lenders);

SIXTH, to the payment in full of all Obligations consisting of unpaid principal amount of the Roll-Up Loans and any premium thereon or breakage or termination fees, costs or expenses related thereto ratably among the Lenders (other than Defaulting Lenders);

SEVENTH, ratably to the payment in full of all Obligations owing to the Defaulting Lenders;

EIGHTH, to the payment in full of all other Obligations;

NINTH, ratably to payment of any superpriority adequate protection claims of the Pre-Petition First Lien Agents;

TENTH, to the payment of the Pre-Petition First Lien Obligations in accordance with the terms of the Pre-Petition First Lien Loan Documents; and

ELEVENTH, to the Borrower, its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Agents shall have absolute discretion as to the time of application of any such proceeds, moneys, balances or amounts in accordance with this Agreement and the other Loan Documents. Upon any sale of Collateral by any Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of any Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to any Agent or such officer or be answerable in any way for the misapplication thereof.

ARTICLE VIII

The Agents, Etc.; Certain ERISA Matters

SECTION 8.01. ***The Administrative Agent, the Collateral Agent and the Security Trustee, Etc.***

In order to expedite the transactions contemplated by this Agreement, Credit Suisse AG, Cayman Islands Branch, is hereby irrevocably appointed to act as Administrative Agent, Collateral Agent and Security Trustee on behalf of each of the Lenders (for purposes of this Article VIII, the Administrative Agent, the Collateral Agent and the Security Trustee are referred to collectively as the "***Agents***"). Each of the Lenders and each assignee of any such Lender hereby irrevocably authorizes each of the Agents to take such actions on behalf of such Lender or assignee and to exercise such powers as are delegated to such Agent by the terms and provisions hereof and of the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including to negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement will be binding upon each Lender. Without limiting the generality of the foregoing, the Agents are hereby expressly authorized to (i) execute any and all documents (including releases) with respect to the Collateral, the Guarantees of the Obligations and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Security Documents, and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement will be binding upon each Lender.

It is understood and agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent, Collateral Agent or Security Trustee is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

None of the Agents shall have any duties or obligations except those expressly set forth in the Loan Documents, and each Agent's duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, (a) none of the Agents shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) none of the Agents shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08) and in the absence of such direction or consent, may refrain from taking any such discretionary actions or exercising such discretionary power; provided that none of the Agents shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law, and (c) except as expressly set forth in the Loan Documents, none of the Agents shall have any duty to disclose, nor shall it be liable for the failure to disclose, any information relating to Parent or any of the Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent, Collateral Agent and/or Security Trustee or any of its Affiliates in any capacity. None of the Agents shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary

under the circumstances as provided in Section 9.08) or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment. None of the Agents shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by Parent or a Lender. No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent. Each party to this Agreement acknowledges and agrees that the Agents may from time to time use one or more outside service providers for the tracking of all UCC or PPSA financing statements (and/or other collateral related filings and registrations from time to time) required to be filed or recorded pursuant to the Loan Documents and the notification to the Agents, of, among other things, the upcoming lapse or expiration thereof or (vi) any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of any Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith. No Agent shall be responsible or liable to the Secured Parties for any failure to monitor or maintain any portion of the Collateral. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless each Agent shall have received written notice to the contrary from such Lender prior to the making of such Loan.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper person. Each Agent may also rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Security Trustee's liability under this Agreement and the other Loan Documents is limited in the manner set out in the Security Trust Deed.

Each Agent may perform any and all its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by it. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. None of the Agents shall be responsible for the negligence or misconduct of any sub-agents, or any Related Parties of any sub-agents, except to the extent that a court of competent

jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Subject to the elapsing of the 30-day period for the appointment and acceptance of a successor Agent as provided below, any Agent may resign at any time by notifying the Lenders and Parent. Upon any such resignation, the Required IC Lenders and the Required Lenders shall have the right to appoint a successor, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval). If no successor shall have been so appointed by the Required IC Lenders and the Required Lenders as provided above and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the other Secured Parties, and with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), appoint a successor Agent. If no successor Agent has been appointed pursuant to the immediately preceding sentence by the 30th day after the date such notice of resignation was given by such Agent, such Agent's resignation shall become effective and the Required IC Lenders and the Required Lenders shall thereafter perform all the duties of such Agent hereunder and/or under any other Loan Document until such time, if any, as the Required IC Lenders and the Required Lenders appoint, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), a successor Administrative Agent, Collateral Agent and/or Security Trustee, as the case may be. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; *provided* that if no successor agent has been appointed pursuant to this paragraph by the 30th day after the date of such notice of resignation was given by such Agent, such resignation shall nonetheless become effective in accordance with such resignation notice, and the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by such Agent on behalf of the Secured Parties under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After an Agent's resignation hereunder, the provisions of this Article and Section 9.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while acting as Agent. Furthermore, notwithstanding anything to the contrary herein, (i) each successor Agent appointed pursuant to this paragraph shall be a nationally recognized commercial bank with an office in New York, New York and (ii) the consent of the Required Lenders under this paragraph shall require the consent of two or more unaffiliated Lenders if at any time there are three or more Lenders.

With respect to the Loans, each institution serving as an Agent hereunder (in its individual capacity and not as Agent) shall have the same rights and powers as any other Lender, and may exercise the same as though it were not an Agent, and the Agents and their Affiliates may accept deposits from, lend money to, act as financial advisor or in any other advisory capacity for, and generally engage in any kind of business with Parent or any Subsidiary or other Affiliate thereof as if it were not an Agent. The term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the person serving as an Agent hereunder in its individual capacity.

Each Lender agrees (a) to reimburse the Agents, on demand, in the amount of its pro rata share (based on its share of the sum of the outstanding Loans and unused Commitments at the time (in each case, determined as if no Lender were a Defaulting Lender)) of any costs and expenses incurred by the Agents in connection with the Loan Documents, the Escrow Agreement and the transactions contemplated by each of the foregoing, including reasonable counsel fees and compensation of agents and employees paid for services rendered on behalf of the Lenders, that shall not have been reimbursed by any Loan Party (and without limiting any such Loan Party's obligation to do so) and (b) to indemnify and hold harmless each Agent, each Pre-Petition First Lien Agent and any of their respective Related Parties, on demand, in the amount of such pro rata share thereof, from and against any and all liabilities, taxes, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by or asserted against it in its capacity as Agent or as Pre-Petition First Lien Agent or any of them in any way relating to or arising out of the Escrow Agreement, this Agreement or any other Loan Document or any action taken or omitted by it or any of them under the Escrow Agreement, this Agreement or any other Loan Document, to the extent the same shall not have been reimbursed by the Borrower or any other Loan Party (and without limiting the Borrower's or any such Loan Party's obligation to do so) (including the syndication of the credit facilities provided for herein and including, with respect to each Pre-Petition First Lien Agent, entry into, and actions taken in connection with, the Roll-Up, any Order, the DIP Documents, the DIP Intercreditor Agreement, and actions taken (or not taken) at the direction of Pre-Petition First Lien Lenders constituting at least the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement in connection with any of the foregoing); *provided* that no Lender shall be liable to an Agent or any such other indemnified person for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent or any of its directors, officers, employees or agents.

Each Lender acknowledges that it has, independently and without reliance upon the Agents or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement or any other Loan Document, any related agreement or any document furnished hereunder or thereunder.

Without limiting the foregoing, no Secured Party (other than the Agents) shall (i) have any right individually to realize upon or commence any remedial procedures with respect to any of the Collateral or to enforce any Guarantee of the Obligations or (ii) take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help) or with respect to any property of any Loan Party, unless expressly provided for herein or in any other Loan Document, without the prior written consent of the Administrative Agent; it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Agents on behalf of the Secured Parties in accordance with the terms thereof.

The Secured Parties hereby irrevocably authorize each Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) any Agent (whether by judicial action or otherwise) in accordance with any applicable law; *provided* that the Obligations of any regulated Lender may not be credit bid if such regulated Lender cannot comply with such applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase); *provided* that none of the Secured Parties shall be allowed to credit bid any of the Obligations independently and all such credit bids shall have to be submitted through, and administered by, an Agent (at the direction of the Required Lenders), as set forth herein. In connection with any such bid (i) each Agent shall be authorized to (x) form one or more acquisition vehicles to make a bid and (y) adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by any Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.08 of this Agreement) and (ii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relating to the Loan Documents relative to any Loan Party, each of the Agents (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on any Loan Party) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise: (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agents and their respective agents and counsel and all other amounts due the Lenders and the Agents under Sections 2.05 and 9.05) allowed in such judicial proceeding; and (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same. Any custodian, receiver, judicial manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, the Security Trustee and the Collateral Agent to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Security Trustee and the Collateral Agent, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.05 and 9.05. Nothing contained herein shall be deemed to authorize any Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize any Agent to vote in respect of the claim of any Lender in any such proceeding.

Each Agent is authorized and directed by each Lender to enter into each Intercreditor Agreement and any intercreditor, subordination, collateral trust or similar agreement (including any Intercreditor Agreement) contemplated hereby with respect to any Indebtedness (a) that is (i) required or permitted to be subordinated hereunder or (ii) secured by Liens pari passu with or junior to the Liens securing the Obligations and (b) which contemplates an intercreditor, subordination or collateral trust agreement (any such other intercreditor agreement, an "Additional Agreement"), and the Secured Parties party hereto acknowledge that any Intercreditor Agreement and any Additional Agreement is binding upon them. Each Secured Party hereto hereby (a) agrees that they will be bound by, and will not take any action contrary to, the provisions of any Intercreditor Agreement or any Additional Agreement and (b) authorizes and instructs each Agent to enter into any Intercreditor Agreement and any other Additional Agreement and to subject the Liens on the Collateral securing the Obligations and, as applicable, Guarantees of the Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrower, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Intercreditor Agreement and any other Additional Agreement.

Without limiting the general application of any other provision of this Section 8.01, upon the execution of the Security Trust Deed by the Security Trustee, each Secured Party, by its acceptance of any of the benefits of the Security Trust Deed and any Transaction Security Interest (as defined in the Security Trust Deed): (i) appoints the Security Trustee under the terms

of the Security Trust Deed to act as its agent and/or trustee under and in relation to any Transaction Security Interest (as defined in the Security Trust Deed) and to hold the assets subject to the security thereby created as agent and/or trustee for the Secured Parties on trust and on the terms contained in the Security Trust Deed and other applicable Loan Documents, (ii) authorizes the Security Trustee under the terms of the Security Trust Deed to exercise such rights, remedies, powers and discretions as are specifically delegated to Security Trustee by the terms of the Security Trust Deed and other applicable Loan Documents, together with all such rights, remedies, powers and discretions as are incidental thereto, and the Security Trustee hereby accepts that appointment, (iii) acknowledges that it has received a copy of, and is aware of and consents to the terms of, the Security Trust Deed, (iv) agrees to comply with and be bound by the Security Trust Deed as a Beneficiary (as defined in the Security Trust Deed), (v) acknowledges and agrees as specified in clause 3.12 (Independent investigation of credit) of the Security Trust Deed, and (vi) for consideration received, irrevocably appoints as its attorney each person who under the terms of the Security Trust Deed is appointed an attorney of a Beneficiary (as defined in the Security Trust Deed) on the same terms and for the same purposes as contained in the Security Trust Deed. This paragraph is executed as a deed poll in favor of Security Trustee and each Beneficiary (as defined in the Security Trust Deed) from time to time.

Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the foregoing provisions.

The provisions of this Section 8.01 are for the sole benefit of the Agents and their Related Parties and the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party (subject to any consent right of Parent expressly set forth in this Section 8.01 in connection with the resignation of any Agent with respect to the selection of any successor Agent).

SECTION 8.02. ***Certain ERISA Matters***.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans or the Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers),

is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless Section 8.02(a)(i) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in 8.02(a)(iv), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that:

(i) none of the Agents or any of its respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by any Agent under this Agreement, any Loan Document or any documents related to hereto or thereto);

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21, as amended from time to time) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least $50,000,000, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E);

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the obligations);

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder; and

(v) no fee or other compensation is being paid directly to the Administrative Agent or any of its respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Commitments or this Agreement.

(c) Each Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, arrangement fees, commitment fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE IX

Miscellaneous

SECTION 9.01. ***Notices***. Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or email, as follows:

(a) if to Parent or the Borrower, both:

(i) SpeedCast International Limited
2401 & 08-11 Dorset House, Taikoo Place
979 King's Road, Quarry Bay
Hong Kong
Attention: General Counsel
Email: Dominic.gyngell@speedcast.com
Fax: +852 3919 6880

(ii) SpeedCast International Limited
Unit 4F Level 1
12 Lord Street, Botany
NSW 2019, Sydney
Australia

Attention: Chief Financial Officer
Email: peter.myers@speedcast.com

(iii) Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: David N. Griffiths; Heather A. Viets
Email: david.griffiths@weil.com; heather.viets@weil.com

(b) if to the Administrative Agent, the Collateral Agent or the Security Trustee, to

Credit Suisse AG, Cayman Islands Branch
One Madison Avenue
New York, NY, 10010
Attention: Didier Siffer, Lawrence Park and Alexis D'Aversa
Email: Didier.Siffer@credit-suisse.com; lawrence.park@credit-suisse.com; alexis.daversa@credit-suisse.com); and

Skadden, Arps, Slate, Meagher & Flom LLP
One Manhattan West
New York, NY 10001
Attention: Steven Messina and George Howard
Email: Steven.Messina@skadden.com; George.Howard@skadden.com
Fax No.: +1 917 777 3509; +1 917 777 2367; and

(c) if to a Lender to it at its address (or email or fax number) set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender shall have become a party hereto.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if such day is a Business Day, otherwise on the first Business Day after receipt) if delivered by hand or overnight courier service or sent by fax or email or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01. As agreed to among Parent, the Administrative Agent and the applicable Lenders from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person for such purpose.

Parent and the Borrower hereby agree, unless directed otherwise by the Administrative Agent or unless the electronic mail address referred to below has not been provided by the Administrative Agent to Parent, that it will, or will cause the Subsidiaries to, provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Loan Documents or to the Lenders under

Article V including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (a) is or relates to a Borrowing Request, a Notice of Disbursement or a notice pursuant to Section 2.10, (b) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (c) provides notice of any Default or Event of Default under this Agreement or any other Loan Document or (d) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Borrowing or other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as "***Communications***"), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Administrative Agent to an electronic mail address as directed by the Administrative Agent. In addition, Parent and the Borrower agree, and agree to cause their Subsidiaries, to continue to provide the Communications to the Administrative Agent, the Collateral Agent, the Security Trustee or the Lenders, as the case may be, in the manner specified in the Loan Documents but only to the extent requested by the Administrative Agent.

The Borrower and Parent each hereby acknowledges that (a) the Administrative Agent and the other Agents will make available to the Lenders (or potential lenders) materials and/or information provided by or on behalf of the Borrower and Parent hereunder (collectively, the "***Borrower Materials***") by posting the Borrower Materials on SyndTrak, Intralinks or another similar electronic system (the "***Platform***") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to Parent, any of its subsidiaries or their respective securities) (each, a "***Public Lender***"). The Borrower and Parent each hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (ii) by marking Borrower Materials "PUBLIC," the Borrower and Parent shall be deemed to have authorized the Agents and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Parent, its subsidiaries or their respective securities for purposes of foreign, United States federal and state securities laws (*provided* that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.17); (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor"; and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor". Notwithstanding the foregoing, the following Borrower Materials shall be marked "PUBLIC" (or deemed to be marked "PUBLIC"), unless Parent notifies the Administrative Agent reasonably in advance of the intended distribution that any such document contains material non-public information: (A) the Loan Documents, (B) notification of changes in the terms of the credit facilities provided for herein and (C) all financial statements, reports and certificates delivered pursuant to Sections **Error! Reference source not found.**(a), (a), and **Error! Reference source not found.** (it being understood that such financial statements, reports and certificates shall nevertheless constitute "Information").

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate,

in accordance with such Public Lender's compliance procedures and applicable law, including foreign, United States federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to Parent, its subsidiaries, or their respective securities for purposes of foreign, United States federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND, IN ANY CASE, SUBJECT TO SECTION 9.05(b).

The Administrative Agent agrees that the receipt of the Communications by it at its e-mail address set forth above shall constitute effective delivery of the Communications to it for purposes of the Loan Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address.

Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 9.02. ***Survival of Agreement.*** All covenants, agreements, representations and warranties made by Parent or the Borrower herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the making by the Lenders of the Loans, regardless of any investigation made by the

Lenders or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any Fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid and so long as the Commitments have not been terminated. The provisions of Sections 2.14, 2.16, 2.20 and 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender.

SECTION 9.03. ***Binding Effect.*** This Agreement shall become effective when it shall have been executed by each of Parent, the Borrower, the Lenders as of the Closing Date and the Agents, and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

SECTION 9.04. ***Successors and Assigns.*** (a) Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of Parent, the Borrower, the Agents or the Lenders that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

(b) Each Lender may assign to one or more assignees (other than any Ineligible Assignee) all or a portion of its interests, rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); *provided* that (x) the Administrative Agent and, after the Syndication End Date, Parent (unless an Event of Default shall have occurred and be continuing) must give their prior written consent to such assignment (which consent shall not be unreasonably withheld, delayed or conditioned (it being understood and agreed that (1) Parent's withholding of consent to any assignment to a competitor of Parent or any Subsidiary shall not be considered to be unreasonably withheld (it being understood that no Lender, Affiliate of a Lender or an Approved Fund of Lender shall be considered a competitor for purposes of this clause (1)), (2) Parent shall be deemed to have consented to any assignment of Loans unless it shall object thereto by written notice to the Administrative Agent within five Business Days after having received notice thereof) and (3) no consent of Parent or the Administrative Agent shall be required with respect to an assignment of Loans to a Lender or the Agents or an Affiliate of a Lender or the Agents or an Approved Fund of a Lender and (y) the amount of the Commitment or Loans, as applicable, of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 (and shall be in an integral multiple thereof), (i) the parties to each such assignment shall electronically execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance), and, in each case, other than assignments occurring on or prior to the Syndication End Date, shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced at the sole discretion of the Administrative Agent and waived for purposes of effectuating any master assignment and assumption agreement or similar agreement entered into in connection the

fronting any the Loans and Commitments on behalf of the Lenders), and (ii) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire (in which the assignee shall designate one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws) and all applicable tax forms. For purposes of this Section 9.04(b), the term "***Approved Fund***" shall mean, with respect to any Lender that is a fund or other investment vehicle that invests in bank loans, any other fund or other investment vehicle that invests in bank loans which is managed or advised by the same investment advisor/manager as such Lender or by an Affiliate of such investment advisor/manager. Upon acceptance and recording pursuant to clause (e) of this Section 9.04, from and after the effective date specified in each Assignment and Acceptance, which effective date shall be at least five Business Days after the execution thereof (or such earlier date to which the Administrative Agent may agree in its sole discretion), (A) the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and (B) the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.16, 2.20 and 9.05, as well as to any Fees accrued for its account and not yet paid).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim, (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of Parent or any Subsidiary or the performance or observance by Parent or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee represents and warrants that it is not an Ineligible Assignee and that it is legally authorized to enter into such Assignment and Acceptance; (iv) such assignee represents and warrants that it is not the subject of any Sanctions; (v) such assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05 or delivered pursuant to Section 5.04 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (vi) such assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, the Security Trustee, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vii) such assignee appoints and authorizes the Administrative Agent, the Collateral Agent and the Security Trustee to take such action as agent and/or trustee on its behalf and to exercise such powers under this Agreement as are delegated to

the Administrative Agent, the Collateral Agent and the Security Trustee, respectively, by the terms hereof, together with such powers as are reasonably incidental thereto; and (viii) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in The City of New York a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive absent manifest error and Parent, the Borrower, the Administrative Agent, the Collateral Agent, the Security Trustee and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Parent, the Borrower, the Collateral Agent, the Security Trustee and any Lender (but only in respect of such Lender's name and the amount of its Loans and Commitments), at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) above and, if required, the written consent of Parent and the Administrative Agent to such assignment and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective unless it has been recorded in the Register as provided in this clause (e).

(f) (i) Each Lender may without the consent of Parent or the Borrower or the Administrative Agent sell participations to one or more banks or other entities (other than any Ineligible Assignee) in all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement and the other Loan Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating banks or other entities shall be entitled to the benefit of the cost protection provisions contained in Sections 2.14, 2.16, 2.20 and 2.21 to the same extent as if they were Lenders (but, with respect to any particular participant, to no greater extent than the Lender that sold the participation to such participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the participant acquired the applicable participation) and (iv) Parent, the Borrower, the Agents and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents, and such Lender shall retain the sole right to enforce the obligations of Parent and the Borrower relating to the Loans and to approve any amendment, modification or waiver of any provision of this Agreement (other than amendments, modifications or waivers decreasing any fees payable to such participating bank or person hereunder or the amount of principal of or the rate at which interest is payable on the Loans in which such participant bank or person has an interest, extending any scheduled principal payment date or date fixed for the payment of interest on the

Loans in which such participant bank or person has an interest, changing the currency in which any amount is denominated that is required to be funded or paid under the Loan Documents (solely with respect to any Loans or Commitments in which such participant bank or person has an interest), releasing any Guarantor (other than in connection with the sale of such Guarantor in a transaction permitted by Section 6.05) or all or substantially all of the Collateral or increasing or extending the Commitments in which such participant bank or person has an interest).

(ii) Each Lender that sells a participation and each Granting Lender shall, acting solely for this purpose as a non-fiduciary agent of Parent and the Borrower, maintain a register on which it enters the name and address of each participant and SPC, as applicable, and the principal amounts (and stated interest) of each participant's and SPC's, as applicable, interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"), which entries shall be conclusive absent manifest error; *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any person except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(g) Any Lender or participant may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 9.04, disclose to the assignee or participant or proposed assignee or participant any information relating to Parent or the Borrower furnished to such Lender by or on behalf of Parent or the Borrower; *provided* that, prior to any such disclosure of Information (as defined in Section 9.17) which Information is confidential pursuant to Section 9.17, each such assignee or participant or proposed assignee or participant shall execute an agreement whereby such assignee or participant shall agree (subject to customary exceptions) to preserve the confidentiality of such confidential information on terms no less restrictive than those applicable to the Lenders pursuant to Section 9.17.

(h) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to a natural Person) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a U.S. Federal Reserve Bank or other central banking authority, *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(i) No Borrower shall assign or delegate any of its rights or duties hereunder without the prior written consent of the Administrative Agent and each Lender, and any attempted assignment without such consent shall be null and void.

(j) Notwithstanding anything to the contrary contained herein, any Lender (a "***Granting Lender***") may grant to a special purpose funding vehicle (an "***SPC***"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and Parent, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement;

provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, (i) any SPC may (x) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (y) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC, and (ii) the protections afforded to any SPC pursuant to the provisions of this Section 9.04(j) may not be amended or modified without the written consent of such SPC.

(k) [Reserved].

(l) The parties acknowledge and agree that (i) where this Agreement (including the Schedules and Exhibits thereto) or any Assignment and Acceptance Agreement would otherwise operate as an assignment of a debt due from the Borrower, there shall not be an assignment of such debt; (ii) the transaction shall for all purposes take effect as a loan under this Agreement to the Borrower made by the Lender which, but for this clause, would have been an assignee of such debt ("***Incoming Lender***") of an amount equal to the outstanding debt which would, but for this clause, have been assigned; (iii) the Borrower shall for all purposes be treated by the parties hereto as having directed the Incoming Lender to pay the amount of that loan to the Lender, which but for this clause, would have been the assignor of such debt; (iv) all references in this Agreement (including the Schedules and Exhibits hereto) and any Assignment and Acceptance Agreement will be construed accordingly; and (v) to the extent that the assignment also operates to assign any rights or interests which are not a debt due from the Borrower, the assignment shall, to that extent, take effect in accordance with its terms.

SECTION 9.05. ***Expenses; Indemnity***. (a) The Borrower agrees to pay all (i) reasonable and documented out-of-pocket expenses incurred by each Agent, the Escrow Agent, the Ad Hoc Group of Lenders, any Receiver and each Affiliate of the foregoing persons in connection with the structuring, documentation, negotiation, arrangement and syndication of the credit facilities provided for herein and the preparation and administration of the Escrow Agreement, this Agreement and the other Loan Documents, in connection with any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions hereby or thereby contemplated shall be consummated) and the transactions contemplated

thereby, including the reasonable and documented fees, charges and disbursements of (1) Davis Polk and Skadden or other primary counsel for the Lenders and the Agents, (2) KWM, or other Australian counsel for the Lenders and Agents, (3) Stroock & Stroock & Lavan LLP, or other special counsel for the Lenders and the Agents, (4) Greenhill and other Ad Hoc Lender Advisors, (5) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (6) a firm of local counsel in each other relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents and (ii) all documented out-of-pocket expenses incurred by the Ad Hoc Group of Lenders, the Administrative Agent, the Collateral Agent, the Security Trustee, the Escrow Agent, any Receiver, or any Lender in connection with the enforcement or protection of their rights in connection with the Escrow Agreement, this Agreement and the other Loan Documents or in connection with the Loans made, including the reasonable and documented fees, charges and disbursements of (1) Davis Polk and Skadden or other primary counsel for the Lenders and the Agents, (2) KWM, or other Australian counsel for the Lenders and Agents, (3) Stroock & Stroock & Lavan LLP, or other special counsel for the Lenders and the Agents, (4) Greenhill and other Ad Hoc Lender Advisors, (5) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (6) one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents.

(b) The Borrower agrees to indemnify the Ad Hoc Group of Lenders, the Administrative Agent, the Collateral Agent, the Security Trustee, the Escrow Agent, any Receiver, each Lender, each Pre-Petition First Lien Agent (solely with respect to clause (i) below), each Affiliate of any of the foregoing persons and each of their respective directors, officers, employees, agents, trustees, members, partners, representatives, advisors and successors and assigns (each such person being called an "***Indemnitee***") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented related expenses (including the reasonable and documented fees, charges and disbursements of (1) (w) Davis Polk, (x) Skadden, (y) KWM and (z) Stroock & Stroock & Lavan, LLP, as counsel for the Ad Hoc Group of Lenders and/or the Agents (or other primary counsel for the Ad Hoc Group of Lenders and the Agents), (2) Greenhill and other Ad Hoc Lender Advisors, (3) one firm of Texas local counsel for each of the Ad Hoc Group of Lenders and the Agents and (4) one firm of local counsel in each other relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Ad Hoc Group of Lenders and the Agents, and (5) one firm of counsel and one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for all of the other Indemnitees taken as a whole (and, solely in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs Parent of such conflict and thereafter retains its own counsel, of another firm of counsel for all similarly affected Indemnitees, and, if reasonably necessary, one firm of local counsel in each applicable jurisdiction for all similarly affected Indemnitees and any specialty counsel for all similarly affected Indemnitees (so long as such shared representation is consistent with and permitted by professional responsibility rules))) incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of the Escrow Agreement, this Agreement or any other Loan Document or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated thereby (including the syndication of the credit facilities provided for

herein and including, with respect to each Pre-Petition First Lien Agent, entry into, and actions taken in connection with, the Roll-Up, any Order, the DIP Documents, the DIP Intercreditor Agreement, and actions taken (or not taken) at the direction of Pre-Petition First Lien Lenders constituting at least the "Required Lenders" under and as defined in the Pre-Petition First Lien Credit Agreement in connection with any of the foregoing), (ii) the use of the proceeds of the Loans, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by a Borrower or any of their respective Affiliates or equityholders, or (iv) any actual or alleged presence, Release or threat of Release of Hazardous Materials on any Properties, or any Environmental Claim related in any way to Parent or the Subsidiaries; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment (A) to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee or any of its Related Indemnified Parties, (y) a material breach by such Indemnitee or any of its Related Indemnified Parties of its obligations under any Loan Document to which it is a party or (z) any dispute solely among Indemnitees and not arising out of any act or omission of a Borrower or any of its Affiliates (other than any proceeding against any Indemnitee to the extent acting in its capacity or in fulfilling its role as Administrative Agent, Collateral Agent, the Security Trustee or any similar role with respect to the credit facilities provided for herein). No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent the liability of any such person is found in a final ruling by a court of competent jurisdiction to have resulted primarily from such person's gross negligence or willful misconduct and, in any case, subject to the other provisions of this Section 9.05(b). This Section 9.05(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. "***Related Indemnified Party***" shall mean, as to any Indemnitee, such Indemnitee's controlled affiliates or any of its or such controlled affiliates' respective officers, directors or employees, or any agent, advisor or other representative acting at the direction of such Indemnitee or any of such Indemnitee's controlled affiliates.

(c) To the extent permitted by applicable law, none of the Loan Parties and their respective Subsidiaries and Affiliates shall assert, and Parent, on behalf of itself and its Subsidiaries and Affiliates, hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings) (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Loan Document or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof.

(d) The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender. All amounts due under this Section 9.05 shall be payable on written demand therefor.

SECTION 9.06. ***Right of Setoff***. If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, except to the extent prohibited by law and subject to the terms of the Orders and the provisions thereof, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of any Loan Party against any of and all the obligations of any Loan Party now or hereafter existing under this Agreement and other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or such other Loan Document and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.26 (to the extent applicable) and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender agrees to notify Parent and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application under this Section 9.06. The rights of each Lender under this Section 9.06 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.07. ***Applicable Law***. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK AND TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

SECTION 9.08. ***Waivers; Amendment***. (a) No failure or delay of any Agent, any Lender in exercising any power or right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent, the Security Trustee and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Except as expressly provided in the other clauses of this Section 9.08, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by each applicable Loan Party and the Required Lenders; *provided* that no such agreement shall (i) decrease the principal amount of, or extend the maturity of or any scheduled principal

payment date or date for the payment of any interest on any Loan, or waive or excuse any such payment or any part thereof, or decrease the rate of interest on any Loan without the prior written consent of each Lender directly and adversely affected thereby, (ii) increase or extend the Commitment or decrease or extend the date for payment of any Fees, premium or any other amount due and payable hereunder to any Lender without the prior written consent of such Lender, (iii) amend or modify the pro rata requirements of Section 2.17 or Section 7.02, the sharing provisions of Section **Error! Reference source not found.**, the provisions of Section 9.04(i), the provisions of this Section 9.08, or release Parent as a Guarantor, all or substantially all of the value of the Guarantees of Subsidiary Guarantors under the Loan Documents or all or substantially all of the Collateral, without the prior written consent of each Lender, (iv) modify the protections afforded to an SPC pursuant to the provisions of Section 9.04(j) without the written consent of such SPC, (v) reduce the percentage contained in the definition of the term, or otherwise amend or modify the definition of, "Required Lenders" or "Required LC Lenders" or impose additional material restrictions on the ability of the Lenders to assign their rights and obligations under the Loan Documents, without the prior written consent of each Lender (it being understood that with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Commitments on the date hereof), (vi) except as provided by operation of law and otherwise permitted hereunder, amend or modify the Superpriority Claims status of the Obligations under the Orders or under any Loan Document without the prior written consent of each Lender, (vii) change the currency in which any Commitment or Loan is denominated, without the prior written consent of each affected Lender, (viii) modify Section 2.01(b) or any of the Orders to reduce the ratio of Roll-Up Loans that are deemed funded to New Money Commitments (to less than $1.00 to $1.00) without the consent of each affected Lender, (ix) modify the restriction in Section 8.01 regarding the prohibition on Secured Parties credit bidding independently without the consent of each affected Lender or (x) modify the voting requirements set forth in the sixth paragraph of Section 8.01 in respect of the appointment of a successor Agent or the requirement that such successor Agent be a nationally recognized commercial bank with an office in New York, New York, in each case without the consent of each affected Lender; *provided*, *further*, that (1) no such agreement shall amend, modify or otherwise affect the rights (including rights to fees and other amounts) or duties of any Agent or Pre-Petition First Lien Agent hereunder or under any other Loan Document without the prior written consent of such Agent or Pre-Petition First Lien Agent and (2) any fee letter between any Agent, on the one hand, and any Loan Party, on the other hand, may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto (without the consent of any other Person),

(c) [Reserved]

(d) [Reserved]

(e) Notwithstanding anything in clause (b) or otherwise herein to the contrary, (i) guarantees, collateral security documents and related documents executed by the Loan Parties or the Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Agents and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent or other applicable Agent at the request of Parent without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (x)

to comply with local law or advice of local counsel or (y) to cause such guarantee, collateral security document or other document to be consistent with this Agreement (including the Agreed Security Principles) and the other Loan Documents, (ii) no Lender consent is required for any Agent to enter into or to effect any amendment, modification or supplement to any Intercreditor Agreement or any other arrangement permitted under this Agreement or in any document pertaining to any Indebtedness permitted hereby that is permitted to be secured by the Collateral, for the purpose of adding the holders of such Indebtedness (or their representative) as a party thereto and otherwise causing such Indebtedness to be subject thereto, in each case as contemplated by the terms of such Intercreditor Agreement or other arrangement (it being understood that any such amendment or supplement may make such other changes to any Intercreditor Agreement, as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing; *provided* that such other changes are not adverse, in any material respect (taken as a whole), to the interests of the Lenders); *provided*, *further*, that no such agreement shall amend, modify or otherwise affect the rights or duties of any Agent hereunder or under any other Loan Document without the prior written consent of such Agent and (iii) if Parent shall request (A) the release of any Collateral to be sold as part of any Asset Sale permitted under Section 6.05 and shall deliver to the Agents a certificate to the effect that such Asset Sale and the disposition of the proceeds thereof will comply with the terms of this Agreement or (B) the subordination of the Lien of any Agent, for the benefit of the Secured Parties, on any item of Collateral to any Lien permitted by Section 6.02(k) and shall deliver to the Agents a certificate to the effect that the incurrence of such other Lien on the Collateral will comply with the terms of this Agreement, then each Agent, if reasonably satisfied that the applicable certificate is correct, shall and is hereby authorized to, without the consent of any Lender, execute and deliver all such instruments as may be required to effect the release of such Collateral (in the case of an Asset Sale described in subclause (A) above) or the subordination of the Lien of any Agent, for the benefit of the Secured Parties, in such Collateral (in the case of such other Lien as described in subclause (B) above).

(f) The Administrative Agent (or any other Agent party to the applicable Loan Document) and the applicable Loan Party may amend any Loan Document to correct any errors, mistakes, omissions, defects or inconsistencies, or to effect administrative changes that are not adverse to any Lender without any further consent of any other party to such Loan Document; *provided* that no such amendment shall become effective until the fifth (5th) Business Day after it has been posted to the Lenders, and then only if the Required Lenders have not objected in writing thereto within such five (5) Business Day period.

(g) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender, (y) the date scheduled for any payment of principal (including final maturity) of the loans of any Defaulting Lender may not be postponed without the consent of such Lender and (z) any waiver, amendment or modification requiring the consent of all Lenders or each directly and adversely affected Lender that by its terms materially and adversely affects any Defaulting Lender to a greater extent than other affected Lenders shall require the consent of such Defaulting Lender.

SECTION 9.09. ***Interest Rate Limitation.*** Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "***Charges***"), shall exceed the maximum lawful rate (the "***Maximum Rate***") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan or participation in accordance with applicable law, the rate of interest payable in respect of such Loan or participation hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation but were not payable as a result of the operation of this Section 9.09 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participations or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.10. ***Entire Agreement.*** This Agreement and the other Loan Documents constitute the entire contract between the parties relative to the subject matter hereof. Any other previous agreement among the parties with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any person (other than the parties hereto and thereto, their respective successors and assigns permitted hereunder, and, to the extent expressly contemplated hereby, the Indemnitees and the Related Parties of each of the Agents) any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

SECTION 9.11. ***WAIVER OF JURY TRIAL.*** **EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.**

SECTION 9.12. ***Severability***. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 9.13. ***Counterparts***. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as provided in Section 9.03. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission, including by .PDF file, shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 9.14. ***Headings***. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 9.15. ***Jurisdiction; Consent to Service of Process; Waivers***. (a) Parent and the Borrower each hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have, or abstains from jurisdiction, of any New York State court or federal court of the United States of America sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined only in such New York State or, to the extent permitted by law, in such federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against Parent, the Borrower or their respective properties in the courts of any jurisdiction.

(b) Parent and the Borrower each hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in the Bankruptcy Court and, if the Bankruptcy Court does not have, or abstains from jurisdiction, in any New York State or federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01; *provided* that Parent hereby appoints Speedcast Communications, Inc., a Texas corporation, at 4400 S. Sam Houston Pkwy East, Houston, TX 77048, as its agent for service of process. The Borrower hereby agrees to act as agent for service of process for each other Loan Party that is organized under the laws of a jurisdiction outside the United States upon the express conditions contained herein and the other Loan Documents, as applicable. Notwithstanding the foregoing, promptly after any request by the Required Lenders, each Loan Party that is not a U.S. Person shall appoint an agent for service of process that is not

an Affiliate of the Borrower. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(d) Each party to this Agreement hereby expressly acknowledges and agrees, to the fullest extent it may lawfully do so, that (i) if the payment of the Loans is accelerated or the Loans otherwise become due and payable, in each case, including as a result of any Termination Date (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the Exit Fee with respect to the Loans will also be due and payable as though the Loans were otherwise redeemed or repaid, prepaid or mandatorily assigned, and in all cases the Exit Fee shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof, (ii) such Exit Fee (x) shall be presumed to be the liquidated damages sustained by each Lender as the result any redemption (including prior to the Stated Maturity Date) and (y) is reasonable under the circumstances currently existing, (iii) such Exit Fee shall also be payable in the event that the Loans are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by any other means, (iv) THE BORROWER EXPRESSLY WAIVES THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE EXIT FEE IN CONNECTION WITH ANY SUCH ACCELERATION INCLUDING WITH ANY VOLUNTARY OR INVOLUNTARY ACCELERATION PURSUANT TO ANY INSOLVENCY PROCEEDING PURSUANT TO ANY DEBTOR RELIEF LAW, (v) such Exit Fee is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (vi) such Exit Fee shall be payable notwithstanding the then prevailing market rates at the time payment is made, (vii) there has been a course of conduct between the Lenders and the Borrower giving specific consideration in this transaction for such agreement to pay such Exit Fee, (viii) the Borrower shall be estopped hereafter from claiming differently than as agreed to in this clause (d) and otherwise in this Agreement and (ix) the Borrower's agreement to pay the Exit Fee to Lenders as herein described is a material inducement to the Lenders to make the Loans.

SECTION 9.16. ***Conversion of Currencies***. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder or under any other Loan Document in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party to any Loan Document in respect of any sum due to any other party to any Loan Document or any holder of the obligations owing under any Loan Document (the "***Applicable Creditor***") shall, notwithstanding any judgment or order in a currency (the "***Judgment Currency***") other than the currency in which such sum is stated to be due hereunder or under any other Loan Document (the "***Agreement Currency***"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency

with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, each Loan Party agrees, as a separate obligation and notwithstanding any such judgment or order, to indemnify the Applicable Creditor against such loss and any premiums and costs of exchange payable in connection with the purchase of or conversion into any applicable currency. The obligations of the Loan Parties contained in this Section 9.16 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder, and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid.

SECTION 9.17. ***Confidentiality***. Each Agent and each of the Lenders agrees to maintain the confidentiality of the Information (as defined below) provided to such party, except that except that Information may be disclosed (a) to (i) its Affiliates (or any of its head offices, branches or representative offices) and its and such Affiliates' respective officers, directors, employees, professionals, other experts, agents and representatives, including accountants, legal counsel and other advisors, and (ii) numbering, administration and settlement or similar service providers in connection with the administration and management of this Agreement and the other Loan Documents or otherwise as need to know such Information (including to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein) and to other Persons authorized by any of the Agents and Lenders to organize, present or disseminate such Information in connection with disclosures otherwise made in accordance with this Section 9.17, (b) to the extent requested by any regulatory authority, quasi-regulatory authority or self-regulatory body (which, for the avoidance of doubt, includes any Tax Authority), (c) to the extent otherwise required pursuant to the order of any court or administrative agency, or in any pending legal or administrative proceeding or by applicable laws and regulations or by any subpoena or other compulsory process (and in each case under this clause (c), the disclosing party agrees, to the extent practicable and not prohibited by applicable law, rule or regulation, to inform Parent promptly thereof prior to such disclosure), (d) in connection with the exercise of any remedies hereunder or under the other Loan Documents or any suit, action or proceeding relating to the enforcement of its rights hereunder or thereunder, (e) subject to an agreement to be bound by the provisions of this Section 9.17 or substantially similar confidentiality undertakings, to (i) any actual or prospective assignee of or participant in any of its rights or obligations under this Agreement and the other Loan Documents or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to Parent or any Subsidiary or any of their respective obligations, (f) to Moody's and S&P and other rating agencies or to market data collectors on a confidential basis, (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.17 or (ii) becomes available to any Agent or any Lender on a non-confidential basis from a source other than Parent or the Borrower, (h) to the extent such disclosure is permitted pursuant to, and made in accordance with the terms of, Section 9.04(g), (i) for purposes of establishing a "due diligence" defense or (j) otherwise with the consent of Parent. For the purposes of this Section, "***Information***" shall mean all financial statements, certificates, reports, agreements and information that are received from or on behalf of Parent or any of its Subsidiaries pursuant to or in connection with any Loan Document or the transactions contemplated thereby and that are related to Parent or any of its Subsidiaries or their respective businesses, other than any of the foregoing that were available to any Agent or any Lender on a non-confidential basis prior to its disclosure thereto by or on behalf of Parent or any of its Subsidiaries, and which are in the case

of Information provided after the Closing Date, either financial information or clearly identified at the time of delivery as confidential. The provisions of this Section 9.17 shall remain operative and in full force and effect regardless of the expiration and term of this Agreement; provided that the provisions and obligations contained in this Section 9.17 shall terminate on the one-year anniversary of the date on which this Agreement has expired or been terminated. Any Person required to maintain the confidentiality of Information as provided in this Section 9.16 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord its own confidential information.

SECTION 9.18. [Reserved].

SECTION 9.19. [Reserved].

SECTION 9.20. ***No Advisory or Fiduciary Responsibility***. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), Parent, on behalf of itself and its Subsidiaries, acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Agents, the Ad Hoc Group of Lenders and the Lenders are arm's-length commercial transactions between Parent and its Affiliates, on the one hand, and the Agents, the Ad Hoc Group of Lenders and the Lenders, on the other hand, (ii) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate and (iii) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each Agent, member of the Ad Hoc Group of Lenders and Lender is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for Parent or any of its Affiliates, or any other person, and (ii) no Agent, member of the Ad Hoc Group of Lenders or Lender has any obligation to Parent or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Ad Hoc Group of Lenders, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Parent and its Affiliates and no Agent, member of the Ad Hoc Group of Lenders or Lender has any obligation to disclose any of such interests to Parent or any of its Affiliates. To the fullest extent permitted by law, Parent, on behalf of itself and its Subsidiaries, hereby waives and releases any claims that it may have against the Agents, the Ad Hoc Group of Lenders and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

SECTION 9.21. ***USA PATRIOT Act and Beneficial Ownership Regulation Notice***. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

SECTION 9.22. [Reserved]

SECTION 9.23. ***Acknowledgment and Consent to Bail-In of EEA Financial Institutions***. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

SECTION 9.24. ***Certain Privacy Principles and Laws***.

(a) If any personal data of any natural person (including any officer, director or employee of any Loan Party or Subsidiary) is provided by or on behalf of any Loan Party or Subsidiary to any of the Agents or Lenders as required by or pursuant to the Loan Documents, then such Loan Party, on behalf of itself and its Subsidiaries, represents and warrants to the Agents and Lenders that such Loan Party and, as applicable, its Subsidiaries have, to the extent required by applicable law (including, to the extent applicable, the Australian Privacy Principles and the Singapore Personal Data Protection Act 2012): (i) notified the relevant natural person of the purposes for which data will be collected, processed, used or disclosed, and (ii) obtained such natural person's consent for, and hereby consents on behalf of such natural person to, the collection, processing, use and disclosure of his/her personal data by the Agents and/or Lenders, in each case, in accordance with or for the purposes of the Loan Documents (including any disclosure permitted by Section 9.17) or for the purposes as set out in an Agent's or Lender's privacy notice duly served on such Loan Party. Any such consent given in connection with the Loan Documents in relation to personal data shall, subject to all applicable laws and regulations, survive death, incapacity, bankruptcy or insolvency of any such natural person and the termination or expiration of this Agreement or any other Loan Document.

(b) To the extent that any information provided by or on behalf of any Loan Party to any of the Agents or Lenders as required by or pursuant to the Loan Documents comprises personal information of any officer, director or employee of Parent or any of its Subsidiaries that are incorporated or organized under the laws of Australia, such Agent or Lender (as the case may be) agrees to hold that personal information in accordance with the Australian Privacy Principles, to the extent applicable and required thereby. If the Administrative Agent receives a request by any other Agent, Lender, the Administrative Agent will provide a privacy notice (in the form recommended by the Asia Pacific Loan Market Association (Australian Branch) or as otherwise reasonably directed by such other Agent or Lender) to a representative of the officers, directors and employees of Parent and any such Subsidiary, which details the manner in which personal information collected in connection with the Loan Documents may be used and disclosed by the Agents and/or Lenders.

(c) Each Loan Party, on behalf of itself and its Subsidiaries, agrees and undertakes to notify the Administrative Agent promptly upon such Loan Party or any of its Subsidiaries becoming aware of the withdrawal by the relevant natural person of his/her consent to the collection, processing, use and/or disclosure by any of the Agents or Lenders of any personal data of such natural person that was provided by or on behalf of any Loan Party or Subsidiary to any of the Agents or Lenders in accordance with clause (a) or (b) above.

SECTION 9.25. ***Release of Liens***. If any of the Collateral shall be sold, transferred or otherwise disposed of by the Borrower or any other Loan Party in a transaction permitted by this Agreement (including by way of merger, consolidation or in connection with the sale of a Subsidiary permitted hereunder, but excluding any such sale, transfer or other disposition to any other Loan Party or any Subsidiary required to become a Loan Party), then the Liens created by any of the Security Documents on such property shall be automatically released (without need for further action by any person). If a Subsidiary Guarantor is released from its Guarantee of the Obligations pursuant to the Guarantee Agreement, then the Liens created by any of the Security Documents on the property of such person shall be automatically released (without need for further action by any person), except to the extent such assets are sold, transferred or otherwise disposed of to any other Loan Party or any Subsidiary required to become a Loan Party. Upon the written request of Parent, any other asset may be released from any Lien created by any Security Document to the extent such release is permitted pursuant to Section 10 of the Agreed Security Principles. In connection with any release pursuant to this Section 9.25, upon receipt by the Agents of a certificate of Parent to the effect that such transaction and the disposition of the proceeds thereof will comply with the terms of this Agreement (with such supporting detail as the Agents may reasonably request), each Agent, at the request and sole expense of the Loan Parties, shall execute and deliver without recourse, representation or warranty all releases or other documents necessary or desirable to evidence the release of the Liens created by any of the Security Documents on such Collateral.

SECTION 9.26. ***Exclusion of Certain PPSA Provisions***. Each Loan Party acknowledges that none of the Agents or Lenders needs to give any notice to a Loan Party under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded. If a Loan Document (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, each party hereto agrees that, to the extent the law permits:

(a) for the purposes of sections 115(1) and 115(7) of the PPSA, none of the Agents or Lenders needs to comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and sections 142 and 143 of the PPSA are excluded;

(b) for the purposes of section 115(7) of the PPSA, none of the Agents or Lenders needs to comply with sections 132 and 137(3);

(c) if the PPSA is amended after the date of this Agreement to permit a grantor and secured party to agree to not comply with or to exclude other provisions of the PPSA, the Administrative Agent may notify the grantor of a security interest that any of these provisions is excluded, or that none of the Agents or Lenders needs to comply with any of these provisions, as notified to the grantor by the Administrative Agent; and

(d) the grantor of a security interest agrees not to exercise its rights to make any request of any of the Agents or Lenders under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

SECTION 9.27. ***DIP Orders***. The Loan Parties, the Administrative Agent, the Collateral Agent and the Lenders hereby expressly agree that in the event of any conflict or inconsistency between this Agreement (or any other Loan Document) and the Orders, the Orders shall control.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

Executed by **SPEEDCAST INTERNATIONAL LIMITED ACN 600 699 241**, as Parent in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of Director	Signature of Director/Secretary
Name of Director (print)	Name of Director/Secretary (print)

SPEEDCAST COMMUNICATIONS, INC.,
as Borrower

By: _____
Name:
Title: Authorized Signatory

[Signature Page to Speedcast Syndicated Facility Agreement]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Administrative Agent, Collateral Agent, Security Trustee and a Lender

By: _____
Name:
Title: Authorized Signatory

By: _____
Name:
Title: Authorized Signatory

[__], as a Lender

By: _____
Name:
Title: Authorized Signatory

Schedule 1

Speedcast: 13-week DIP Budget	Post Petition													
($USD in Thousands) **DIP Budget**	**Week 1 Forecast 04/24/20**	**Week 2 Forecast 05/01/20**	**Week 3 Forecast 05/08/20**	**Week 4 Forecast 05/15/20**	**Week 5 Forecast 05/22/20**	**Week 6 Forecast 05/29/20**	**Week 7 Forecast 06/05/20**	**Week 8 Forecast 06/12/20**	**Week 9 Forecast 06/19/20**	**Week 10 Forecast 06/26/20**	**Week 11 Forecast 07/03/20**	**Week 12 Forecast 07/10/20**	**Week 13 Forecast 07/17/20**	**13 Week Forecast Total**
Receipts														
Customer Receipts	$4,683	$4,342	$3,513	$4,348	$4,851	$10,255	$8,993	$8,074	$8,720	$7,953	$7,777	$9,476	$7,776	**$90,761**
Government Receipts	-	-	-	-	-	-	-	-	-	-	-	5,000	-	**5,000**
Other Receipts	-	273	-	-	-	-	556	-	-	-	-	-	-	**829**
Total Receipts	**$4,683**	**$4,615**	**$3,513**	**$4,348**	**$4,851**	**$10,255**	**$9,549**	**$8,074**	**$8,720**	**$7,953**	**$7,777**	**$14,476**	**$7,776**	$96,590
Operating Disbursements														
Bandwidth	-	(24,750)	(750)	(750)	(2,250)	(4,148)	(2,560)	(790)	(312)	(2,606)	(3,735)	(2,639)	(1,013)	**(46,303)**
Employee Related	(6,284)	-	-	(2,542)	(2,363)	(3,588)	(44)	(2,585)	(1,821)	(3,667)	(551)	(1,888)	(1,492)	**(26,827)**
Telecom/Terrestrial	-	-	-	-	-	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	(1,173)	**(9,385)**
Wholesale Voice	-	-	-	-	-	(436)	(436)	(436)	(436)	(436)	(436)	(436)	(436)	**(3,485)**
Capex	-	-	(100)	(100)	(100)	(332)	(530)	(530)	(530)	(530)	(932)	(932)	(932)	**(5,545)**
Other Disbursements	(4,211)	(704)	(776)	(1,410)	(776)	(1,360)	(1,416)	(1,360)	(2,532)	(1,360)	(3,393)	(4,250)	(2,341)	**(25,890)**
Total Operating Disbursements	**($10,495)**	**($25,454)**	**($1,626)**	**($4,802)**	**($5,489)**	**($11,038)**	**($6,159)**	**($6,873)**	**($6,804)**	**($9,771)**	**($10,220)**	**($11,318)**	**($7,387)**	($117,436)
Operating Cash Flow	**($5,812)**	**($20,838)**	**$1,887**	**($455)**	**($638)**	**($783)**	**$3,390**	**$1,201**	**$1,916**	**($1,818)**	**($2,442)**	**$3,158**	**$389**	($20,846)
Non-Operating Items	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Restructuring Related Items														
DIP Financing	35,000	-	-	-	15,000	-	-	-	-	-	10,000	-	-	**60,000**
DIP Cash Interest & Fees	(1,800)	-	-	-	-	(305)	-	-	-	-	(403)	-	-	**(2,508)**
First Day Payments	(1,500)	(2,241)	(2,041)	(2,041)	(2,041)	(2,041)	-	-	-	-	(167)	-	-	**(12,074)**
Professional Fees	(4,760)	-	-	-	-	-	(7,820)	-	-	-	(5,664)	-	-	**(18,244)**
Total Restructuring Related	**$26,940**	**($2,241)**	**($2,041)**	**($2,041)**	**$12,959**	**($2,347)**	**($7,820)**	**$ -**	**$ -**	**$ -**	**$3,767**	**$ -**	**$ -**	$27,173
Net Cash Flow	**$21,128**	**($23,080)**	**($154)**	**($2,496)**	**$12,320**	**($3,130)**	**($4,430)**	**$1,201**	**$1,916**	**($1,818)**	**$1,324**	**$3,158**	**$389**	$6,328
Beginning Unrestricted Cash	20,769	41,897	18,817	18,663	16,167	28,487	25,357	20,927	22,128	24,044	22,226	23,550	26,708	**20,769**
Net Cash Flow	21,128	(23,080)	(154)	(2,496)	12,320	(3,130)	(4,430)	1,201	1,916	(1,818)	1,324	3,158	389	**6,328**
Outstanding Checks	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ending Unrestricted Cash	**$41,897**	**$18,817**	**$18,663**	**$16,167**	**$28,487**	**$25,357**	**$20,927**	**$22,128**	**$24,044**	**$22,226**	**$23,550**	**$26,708**	**$27,097**	$27,097
Minimum Cash Requirement	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	(10,000)	**(10,000)**
Net Liquidity	**$31,897**	**$8,817**	**$8,663**	**$6,167**	**$18,487**	**$15,357**	**$10,927**	**$12,128**	**$14,044**	**$12,226**	**$13,550**	**$16,708**	**$17,097**	$17,097
Restricted/Trapped Cash	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	14,690	**14,690**
Consolidated Cash Balance	**$56,587**	**$33,507**	**$33,353**	**$30,857**	**$43,177**	**$40,047**	**$35,617**	**$36,818**	**$38,734**	**$36,916**	**$38,240**	**$41,398**	**$41,787**	$41,787

Tab 3

Transcript - Telephonic First Day Motions
[Transcript Page Nos. 1–116]

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

IN RE:	§	CASE NO. 20-32243-H1-11
	§	
SPEEDCAST INTERNATIONAL LIMITED AND SPEEDCAST COMMUNICATIONS, INC.,	§	HOUSTON, TEXAS
	§	
	§	THURSDAY,
	§	APRIL 23, 2020
DEBTORS.	§	3:40 P.M. TO 7:13 P.M.

TELEPHONIC FIRST DAY MOTIONS

BEFORE THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: (SEE NEXT PAGE)

RECORDED REMOTELY; NO LOG NOTES; DISTORTED AUDIO

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TELEPHONIC APPEARANCES:

FOR THE DEBTORS:	WEIL GOTSHAL & MANGES, LLP Alfredo R. Perez, Esq. Brenda L. Funk, Esq. Stephanie Morrison, Esq. 700 Louisiana Suite 1700 Houston, Texas 77002 713-546-5040
	WEIL GOTSHAL & MANGES, LLP Gary T. Holtzer, Esq. David N. Griffiths, Esq. Martha Martir, Esq. 767 Fifth Avenue New York, New York 10153 212-310-8463
	WEIL GOTSHAL & MANGES, LLP Amanda P. Prugh, Esq. Paul Genender, Esq. 200 Crescent Court Suite 300 Dallas, Texas 75201 214-746-7857
FOR THE US TRUSTEE:	DEPARTMENT OF JUSTICE Stephen D. Statham, Esq. Hector Duran, Jr., Esq. 515 Rusk Suite 3516 Houston, Texas 77002 713-718-4650
FOR INMARSAT GLOBAL LIMITED AND INMARSAT SOLUTIONS:	NORTON ROSE FULBRIGHT US, LLP Jason L. Boland, Esq. Fulbright Tower 1301 McKinney Street Suite 5100 Houston, Texas 77010 713-651-3769

TELEPHONIC APPEARANCES (CONTINUED):

FOR INMARSAT GLOBAL LIMITED AND INMARSAT SOLUTIONS:	STEPTOE & JOHNSON, PLLC Joshua R. Taylor, Esq. 1330 Connecticut Avenue NW Washington, DC 20036 202-429-6281
FOR INTELSAT US:	JACKSON WALKER, LLP Matthew D. Cavenaugh, Esq. 1401 McKinney Street Suite 1900 Houston, Texas 77010 713-752-4200
	KIRKLAND & ELLIS, LLP Anthony R. Grossi, Esq. 601 Lexington Avenue New York, New York 10022 212-446-6419
FOR AD HOC GROUP OF SECURED LENDERS:	RAPP & KROCK, PC Henry Flores, Esq. Two Post Oak Central 1980 Post Oak Blvd Suite 1200 Houston, Texas 77056 713-759-9977
	DAVIS POLK & WARDWELL, LLP David Schiff, Esq. Damian S. Schaible, Esq. David Bryan, Esq. 450 Lexington Avenue New York, New York 10017 212-450-3182
FOR CREDIT SUISSE:	SKADDEN ARPS SLATE MEAGHER & FLOM, LLP George R. Howard, Esq. One Manhattan West New York, New York 10001 212-735-2367

TELEPHONIC APPEARANCES (CONTINUED):

FOR AD HOC GROUP OF PREPETITION LENDERS:	(NO INFORMATION PROVIDED) Jon Peppiatt, Esq.
FOR CREDIT AGRICORE:	HAYNES & BOONE, LLP Charles Beckham, Jr., Esq. Arsalan Muhammad, Esq. 1221 McKinney Street Suite 2100 Houston, Texas 77010 713-547-2000

HOUSTON, TEXAS; THURSDAY, APRIL 23, 2020; 3:40 P.M.

(TELEPHONIC CONFERENCE; AUDIO DISTORTION CAUSED MANY INDISCERNIBLES THROUGHOUT.)

THE COURT: Mr. Perez, good afternoon.

MR. PEREZ: Good afternoon, Your Honor.

Alfredo Perez. Can you hear me?

THE COURT: I can hear you. Thank you, (indiscernible).

MR. PEREZ: Your Honor?

THE COURT: Go ahead.

MR. PEREZ: Your Honor, first of all, thank you and your court staff for accommodating us. We really, really appreciate this. As you can imagine, this is our first totally virtual case that we've ever filed. There are very, very, very few trees that have been killed as a result of this. We're not walking over with 10 bankers' boxes full of documents so it is something new.

I'd like to introduce, Your Honor, Mr. Gary Holtzer who would make some introductory remarks. Then David Griffiths will take the Court through (indiscernible) tell you what the company's about, but I think you probably -- you've had an opportunity to look at everything -- and we apologize for being so tardy -- give you basically background of the case and then Martha Martir, Brenda Funk and Stephanie Morrison will take the Court through the First

Day Orders.

But we really do thank you and appreciate all the hard work that the Court's staff has done in order to have this hearing. (Indiscernible) be back in a more normal situation in the future, but this is really very, very helpful to our client. Thank you.

THE COURT: Thank you, Mr. Perez. And I'll call on everybody's appearances and then we'll start with your case.

I should tell you, so you know where I am, you probably know I've been at a hearing all afternoon. Anything that got filed before 1:15 able to read. That included the Declaration that had been filed. The Declaration referenced for example a DIP motion and the DIP Motion had not been filed by 1:15. So anything filed after that I didn't have a chance (indiscernible). We'll take the time (indiscernible) and I'm not going to rush (indiscernible) because we're starting a little bit late. I'll just have to take (indiscernible) to get them. I appreciate how difficult this must be on you in trying to represent your clients and I'm confident that we'll get through this. I'm just not going to rush through it, but we'll take our time and we'll get it done.

So let me get the other appearances and then we'll -- I'll allow you to have your other folks press five star

on their phone and we'll get to them.

The next person names I'll call on will be the United States Trustee, Mr. Statham.

MR. STATHAM: Good afternoon, Your Honor.

Steve Statham and Hector Duran for the United States Trustee.

THE COURT: Thank you, Mr. Statham and Mr. Duran.

From 713-824 and then it's 5138, who do we have?

(Pause/Court attends another matter off record.)

THE COURT: Mr. Flores.

MR. FLORES: Good afternoon, Your Honor.

Henry Flores of Rapp and Krock, on behalf of the Ad Hoc Group of Secured Lenders. I'm joined by Mr. David Bryan, lead counsel from Davis Polk and Wardwell and then (indiscernible). Your Honor, we have filed (indiscernible) 12 through 15 pro hac vice motions to the Davis Polk (indiscernible).

THE COURT: Thank you. The Davis Polk team can appear today before we ever get those entered. That's all fine. Thank you.

Mr. Genender.

MR. GENENDER: Good afternoon, Your Honor.

Paul Genender, Weil Gotshal and Manges for the SpeedCast International Limited Debtors. Thank you.

THE COURT: Thank you. From 212-310-8729, who do

we have on the phone?

MR. GRIFFITHS: Your Honor, good afternoon.

David Griffiths of Weil Gotshal and Manges appearing for SpeedCast.

THE COURT: Mr. Griffith, good afternoon.

MR. GRIFFITHS: Good afternoon, Your Honor.

THE COURT: Mr. Schiff?

MR. SCHIFF: Good afternoon, Your Honor.

David Schiff with Davis Polk and Wardwell for Ad Hoc Group of Secured Lenders.

THE COURT: Good afternoon. From 713-546-5165?

MS. FUNK: Good afternoon, Your Honor.

Brenda Funk, Weil Gotshal and Manges for the Debtors.

THE COURT: Good afternoon. From 806-441 (indiscernible)?

MR. BOLAND: Good afternoon, Your Honor.

Jason Boland, Norton Rose Fulbright, on behalf of the Inmarsat Global Limited and Inmarsat Solutions B.V., which are two of the larger creditors in these cases. Your Honor, I think we're also here on the phone with our co-counsel, Joshua Taylor, from the Steptoe and Johnson firm.

THE COURT: Mr. Boland, good afternoon.

From 703-889-7716?

MS. MARTIR: Good afternoon, Your Honor.

Martha Martir from Weil Gotshal and Manges, proposed counsel for the Debtors (indiscernible).

THE COURT: Thank you. Could you spell your last name? You're coming through very faintly.

MS. MARTIR: Martir, M-A-R-T-I-R.

THE COURT: Thank you.

Mr. Cavenaugh?

MR. CAVENAUGH: Good afternoon, Your Honor. Matthew Cavenaugh from Jackson Walker, proposed co-counsel for Intelsat US, LLC. I'm joined on the phone by Mr. Anthony Grossi from the law firm of Kirkland and Ellis, lead counsel for Intelsat.

THE COURT: All right. Thank you.

MR. CAVENAUGH: Thank you, Your Honor.

THE COURT: From 832-246 and then it's 3391.

MS. MORRISON: Good afternoon, Your Honor. This is Stephanie Morrison of Weil Gotshal and Manges, on behalf of the Debtors.

THE COURT: Morrison is your last name?

MS. MORRISON: That's right, Your Honor.

THE COURT: Ms. Morrison, you're very faint. If I can get you to put your phone a little closer to your face?

MS. MORRISON: Is this better? Okay. Thank you.

THE COURT: A little bit.

From 216-544-2912.

MR. HOWARD: Good afternoon, Your Honor. This is George Howard from Skadden Arps, on behalf of Credit Suisse, the agent under the prepetition (indiscernible) and the agent under (indiscernible) DIP facility.

THE COURT: All right. Thank you, Mr. Howard.

From 214-232-3871.

MS. PRUGH: Good afternoon, Your Honor. I'm Amanda Prugh of Weil Gotshal and Manges, on behalf of the Debtors.

THE COURT: Good afternoon, Ms. Prugh.

From 347-453-9234.

MR. PEPPIATT: Good afternoon, Your Honor.

Jon Peppiatt and James (indiscernible) on behalf of the Ad Hoc Group of Prepetition Lenders.

THE COURT: Could you spell your last name for me please?

MR. PEPPIATT: Absolutely. It is P-E-P-P-I-A-T-T.

THE COURT: I'm glad I asked.

(Laughter.)

THE COURT: Mr. Beckham.

MR. BECKHAM: Good afternoon, Your Honor.

Charles Beckham and Arsalan Muhammad, on behalf of Credit Agricore.

THE COURT: Good afternoon. From 508-825-5995?

(No audible response.)

THE COURT: 508-825-5995.

(No audible response.)

THE COURT: If you're calling from a 508 area code and you have your own handset, you need to unmute your handset.

MR. SCHAIBLE: I'm sorry. Can you hear me?

THE COURT: I can now.

MR. SCHAIBLE: I'm sorry, Your Honor. I was speaking in mute, I think. Damian Schaible with Davis Polk, on behalf of the Ad Hoc Group of Secured Lenders. Thank you, Your Honor.

THE COURT: Mr. Schaible, you've done this enough times, you know how to do it, right?

MR. SCHAIBLE: New phones. Apologies.

(Laughter.)

THE COURT: All right. Let me be sure. I think that you're the last one and then I just want to be sure I don't have anybody else on the (indiscernible).

(Pause in the proceedings.)

THE COURT: Okay. I will ask you (indiscernible) your background noise or minimize that as much as possible by leaving your handset if you could until you're ready to speak, but I'll -- anyone that's (indiscernible) I'm going to leave your line fully active from my point of view. We

have 97 people on the phone right now so background noise will matter.

Let me go back now to Mr. Perez and ask how you want to start, Mr. Perez?

MR. PEREZ: Thank you, Your Honor. Alfredo Perez. Your Honor, we filed a witness and exhibit list. We have potentially three witnesses. We have two declarations, one of Mr. Healy, the other one of Mr. Waldman. And just as a matter of procedure, I would like to move those Declarations in for the purposes of this hearing and this hearing only. Obviously to the extent anyone objects, we can hear that at the time. But those two Declarations form the evidentiary basis for the First Day relief.

In addition, Your Honor, I think the Court has already granted the only motion that was assigned to me, which is the Joint Admin Motion, so I will have to --

THE COURT: (Indiscernible), Mr. Perez.

MR. PEREZ: Thank you. I'm on a winning streak with that one. But, Your Honor, I would like to turn the podium now to my partner, Mr. Gary Holtzer. Mr. Holtzer will say a few words and then Mr. Griffiths will take the Court through a presentation that we have with respect to the company and the background, which supplements the First Day relief, if that's okay with the Court.

THE COURT: That's fine. I need to know the ECF

numbers of Mr. Healy's and Mr. Waldman's Declaration. I've read Mr. Healy's. I have not read Mr. Waldman's.

MR. PEREZ: Yes, Your Honor.

THE COURT: I've only read one declaration.

MR. PEREZ: Right. Your Honor, I will tell you the -- our witness and exhibit list is Docket No. 45 and, Your Honor, the Declarations are --
Mr. Waldman's Declaration is at 34 and Mr. Healy's Declaration is at 16. Mr. Waldman's Declaration --

THE COURT: Okay. So I have read Mr. Healy's. I have not read Mr. Waldman's.

MR. PEREZ: Mr. Waldman's Declaration supports the DIP, Your Honor, and we were having extensive discussions with respect to the DIP until recently. That's why it's the last thing that was filed.

And, Your Honor, I neglected to say that we had tremendous amount of support from both our lenders and the US Trustee. This is not been an easy process, but -- and it would be disservice not to say that we haven't had a tremendous amount of success in operation from them so I thank them.

THE COURT: All right. Thank you, Mr. Perez. Let me take just a moment to read this and then I'm going to see if we have any objections to the admission right now of either the Healy or the Waldman Declarations so.

This is a (indiscernible) and you're able to see what's on the screen, right?

MR. PEREZ: Yes, Your Honor. I think just because of the fact that we have so many people on, some of those people haven't been able to connect, but I was on early and I think Mr. Griffiths was on. I see him. I haven't seen Mr. Holtzer yet.

THE COURT: So what will happen is is only the first nine cases will appear, but everyone should be able to see what I'm doing. So I've got 73 people that are online right now that are watching what we're doing.

MR. PEREZ: Okay.

(Pause in the proceedings.)

THE COURT: All right. Now let me hear objections. Otherwise if there are no objections, I will admit the two Affidavits or the two Declarations.

(No audible response.)

THE COURT: All right. The Declaration filed at ECF 34 is admitted.

(Waldman Declaration, ECF No. 34, received in evidence.)

THE COURT: The Declaration filed at ECF 16 is admitted.

(Healy Declaration, ECF No. 16, received in evidence.)

THE COURT: Mr. Holtzer?

MR. HOLTZER: (No audible response).

THE COURT: Do we have Mr. Holtzer on the line? Here we go. From the 646 area code, 646-942-4098, who do we have?

(No audible response.)

THE COURT: 646-942-4098. If you have your handset, you need to unmute your own handset.

(No audible response.)

THE COURT: Do we know if that's Mr. Holtzer, Mr. Perez, from 646?

MR. PEREZ: I thought it was a 914 number, Your Honor, but let me see what his number is.

MR. JORDAN: Your Honor, this is Rob Jordan from KCC on the 646-942-4098 number, not Mr. Holtzer.

THE COURT: All right. Thank you. Hold on a minute.

So who do I have at 646?

MR. JORDAN: Rob Jordan, R-O-B, J-O-R-D-A-N, from KCC.

MR. GRIFFITHS: Yes, Your Honor. I don't know if you can -- my name is David Griffiths of Weil Gotshal and Manges. (Indiscernible) and his number is 212-310-8463.

THE COURT: Thank you. I'll find him.

(Pause in the proceedings.)

THE COURT: Mr. Holtzer, do we have you live on

the phone at this time?

MR. HOLTZER: Yes, Your Honor. Can you hear me?

THE COURT: I can. Go ahead and tell me your full name please.

MR. HOLTZER: Gary Holtzer, Weil Gotshal and Manges, for the Debtors.

THE COURT: Thank you. Mr. Holtzer, my guess of what went wrong here just so that we don't -- you know about it, if you press five star twice, it raises your hand and then it immediately lowers it so you just have to press it one time. My guess is that's what happened. I don't know that that's what happened, could have been.

MR. HOLTZER: Got it. Thank you, Your Honor.

THE COURT: Sure. So go ahead.

MR. HOLTZER: Okay. Good afternoon, Your Honor. Let me make a few comments and then I'm going to turn the podium or the screen whatever the appropriate term over to my partner, David Griffiths. (Indiscernible) SpeedCast International Limited and 32 of its Debtor affiliates filed Chapter 11 cases in this court. Throughout our presentation we would (indiscernible) the company.

Let me start by just echoing Mr. Perez's remarks regarding the Court accommodating us under the present (indiscernible) circumstances and the Court's patience. We very much appreciate that.

Your Honor, the Declarations that have been filed explain in their essence that the company's challenging liquidity position along with some pressures on the Debtors' business by the current market conditions and COVID-19 (indiscernible) occurred in fairly rapid order to protect the company.

The company has been particularly hard hit by the current market conditions. The company's maritime business and its energy business have experienced the impact by both the total global shutdown due to COVID-19 pandemic and a sharp drop in oil prices, which has had a (indiscernible) effect on (indiscernible), Your Honor, Mr. Griffiths' presentation on background in just a moment.

Your Honor, please know that the Debtors and their lenders and the other parties have been working very cooperatively to make this filing as soon as possible under the circumstances. (Indiscernible) having some technically difficulties, but again we appreciate the Court's accommodation and we will work very hard tirelessly, Your Honor, that's for sure but as we get into the process, we will make sure that the process is orderly as possible under the circumstances.

Let me just propose what we would have be the process for today's hearing, Your Honor. We filed an Agenda, as is typical. I think Mr. Perez has referred to

it. And we would propose to file it for the First Day relief. But before we do that, Your Honor, I want to make just a couple of introductions.

First of all, there are a few SpeedCast (indiscernible) members in attendance (indiscernible) leadership members here, Your Honor. First let me introduce Stephen Wilks, who is the non-executive Chair for SpeedCast Board of Directors.

We have Pete Shaper, the Chief Executive Officer and the Accounting Executive Director of SpeedCast.

We have Joe Spytek (phonetic), the company's President and Chief Commercial Officer and also Executive Director.

Then we have Peter Myers, the company's Chief Financial Officer.

Let me also introduce, Your Honor, to the company's Board of Independent Directors and the Court may already be familiar with and who brings significant experience and expertise to the company. First we have Charles Greene, we have David Mack and we have (indiscernible).

Also today, as you know, Your Honor, Michal Healy of FTI whose Declaration was admitted, our Chief Restructuring Officer (indiscernible) is in attendance here.

We also have from Moelis and Company the company's

investment banker, Adam Waldman, whose Declaration you also read.

We have had, as Mr. Perez said, an extensive conversation with the US Trustee and we want to thank them for all of their receptiveness during these challenging times as well.

Actually as an aside, Your Honor, we are going through, as is our practice, had some of our associates who have worked very hard on preparing the papers and some of the presentations in the First Day Hearing today and they'll be going after Mr. Griffiths.

And finally as an aside, (indiscernible) for a final exam presentation to my bankruptcy class in law school so instead of that, they're having a virtual field trip, Your Honor, to see you here today at this First Day Hearing and some of them are on the phone today.

THE COURT: All right.

MR. HOLTZER: So with that, I will turn the screen over to Mr. Griffiths and he can make the presentation.

THE COURT: All right. Mr. Griffiths?

MR. GRIFFITHS: Yes. Thank you, Your Honor.

Can you hear me?

THE COURT: I can hear you. And let me pass the screen to you. Hold on.

MR. GRIFFITHS: And then if I may, Your Honor, my

colleague, Jake Rutherford, (indiscernible) would like to share on screen with Your Honor's permission, if possible if you could allow --

THE COURT: Just enabled him to do that and so I think all he needs to do is accept the presentation and he should be able to go.

MR. HOLTZER: Perfect, Your Honor. Thank you, (indiscernible).

(Pause in the proceedings.)

THE COURT: It says that his connection is down and (indiscernible) comes back on line with a message that just (indiscernible) my screen so we'll give it a minute. If that doesn't work, I'll have you email me the presentation and I'll put it up on the screen for you.

MR. HOLTZER: Very well, Your Honor.

(Pause in the proceedings.)

THE COURT: Why don't we go ahead and do that, if you don't mind, just as a backup anyway. The emails is isgur -- that's I-S-G-U-R -- underscore USB, as in a USB line, at TXS, Texas Southern, dot uscourts.gov. And I will put it up on my screen if we can't get this working.

MR. HOLTZER: Thank you, Your Honor.

(Pause in the proceedings.)

MR. GENENDER: Your Honor, Paul Genender. Mr. Rutherford, Jake Rutherford, is sending to email.

MALE SPEAKER: Thank you, sir.

(Pause in the proceedings.)

MALE SPEAKER: Jake, are we -- did you email?

THE COURT: You all's presentation --

MALE SPEAKER: (Indiscernible) not me.

MALE SPEAKER: I don't know if I did it, Your Honor.

THE COURT: Okay.

MALE SPEAKER: (Indiscernible).

MR. GRIFFITHS: Thank you, Your Honor. For the Record, David Griffiths, Weil Gotshal and Manges, proposed counsel of the Debtors, SpeedCast International Limited. Your Honor, I'm actually going through a very short (indiscernible) today. I (indiscernible) I can provide (indiscernible) to the Court (indiscernible). Again thank you very much on the short notice and thank you, Your Honor. (Indiscernible) we've gone from a (indiscernible) approximately six weeks ago to when we were initially engaged (indiscernible).

Your Honor, (indiscernible) from which (indiscernible) whether or not the lender will address shortly and we can then (indiscernible). While I think (indiscernible) the parent company which (indiscernible) Australia where some (indiscernible) board members and other members of the leadership team reside. And as you can see

from the (indiscernible), the (indiscernible) of the company has (indiscernible) around the globe.

And just mainly one of the first if not the first (indiscernible) Chapter 11 proceedings for a company this size and their reach (indiscernible) including the company's management and its advisors (indiscernible). And that may be somewhat appropriate but I think it provides no (indiscernible) from (indiscernible) as well.

So, Your Honor, (indiscernible) and really what I mean is that the company ensures that (indiscernible) ability is available to SpeedCast companies (indiscernible) from the traditional (indiscernible). (Indiscernible) type of services that can be provided to these clients have to include providing (indiscernible) passengers on cruise ships in the middle of the ocean (indiscernible) by providing videos, providing (indiscernible) of which this should be (indiscernible) and not part of the Chapter 11 proceedings (indiscernible) for (indiscernible) around the world to support (indiscernible.)

(Indiscernible) provide the equipment and access to communication (indiscernible) to various (indiscernible) including (indiscernible) network. In (indiscernible), Your Honor, (indiscernible) present time to operate a satellite (indiscernible) from two vendors which are (indiscernible) and (indiscernible) customers and (indiscernible) different

(indiscernible) than the type of hardware that the customers use or (indiscernible) or (indiscernible) or (indiscernible).

The company's parent company is (indiscernible) mentioned in the (indiscernible) in the government and maritime businesses. (Indiscernible) COVID-19 were dampened by the oil prices and we had other challenges (indiscernible). As Your Honor can see from the slide, almost 60 percent of the company's revenues come from maritime and energy customers which (indiscernible).

And, Your Honor, (indiscernible) some of the (indiscernible) on the next slide. We (indiscernible) and (indiscernible) providing (indiscernible) support as we can (indiscernible) during (indiscernible) around the world to (indiscernible) cruise back on or otherwise (indiscernible) which (indiscernible) logistical strain on the (indiscernible) and despite the timing of that sort of thing management and operators at the top have worked around the clock to support our customers and to ensure that they (indiscernible) while also making sure (indiscernible) continue to operate itself.

(Indiscernible) is also a critical part of our business and the Court (indiscernible) the hearing today about what (indiscernible) and we (indiscernible) played in supporting the company not only in the past month but also

with respect to the (indiscernible) motions.

Now (indiscernible) to introduce you to (indiscernible) item to note (indiscernible) to show up (indiscernible) we are going to be charged with (indiscernible) past six to nine months. But (indiscernible) things (indiscernible) restructure and we tried to (indiscernible) the next (indiscernible) and the company's (indiscernible) for future growth. And as I mentioned, the company's (indiscernible), Your Honor, (indiscernible).

Now, Your Honor, (indiscernible) slide in terms of where we are now the company filed (indiscernible) Chapter 11 proceedings and then (indiscernible) while the company's (indiscernible) the company has more than 115 corporate entities (indiscernible) which provides (indiscernible) companies. (Indiscernible) corporate entities (indiscernible). And, Your Honor, we do not (indiscernible).

THE COURT: I'm sorry?

MR. GRIFFITHS: (Indiscernible).

THE COURT: Yeah, I think I know where that is. Hold on. No, it's not coming from here.

If there's anyone on the phone that doesn't have their handset muted, would you please mute your handset?

MR. GRIFFITHS: How's that, Your Honor?

THE COURT: Yeah, let's try it again. That's better.

MR. GRIFFITHS: Okay. Thank you, Your Honor. And so, Your Honor, I was just noticing that one point (indiscernible) to bring to Your Honor's attention would be the company's government business, which under the corporate entity which (indiscernible) is not the Debtor in these Chapter 11 proceedings and the government business is healthy (indiscernible) and will continue to operate on a (indiscernible) basis through these Chapter 11 cases where the government business reference provides, you know, support to intelligence agencies and our other (indiscernible) and defense departments around the world and is controlled by a (indiscernible) to ensure that its operations are -- can effectively be uninterrupted by any (indiscernible).

Your Honor, (indiscernible) with a $19 million Debtor-In-Possession (indiscernible) that is before Your Honor for approval today and (indiscernible) Your Honor was (indiscernible) from our Declarations were in submitted from (indiscernible) presentation that will follow where the company believes that that (indiscernible) amount is sufficient to carry the Debtors through the six-month (indiscernible) the company's (indiscernible) those numbers and (indiscernible) have to address the company's

approximately $650 million of (indiscernible).

And we (indiscernible) have been working with our lenders (indiscernible) the restructuring part of their business and the company's members intend to (indiscernible) within the next 14 days and (indiscernible) anticipate the (indiscernible) or (indiscernible) we intend to do so in a way (indiscernible) Chapter 11 as soon as possible (indiscernible).

And unless Your Honor has any questions on the business which possibly happy to answer, I'd like to introduce Mr. Schaible of Davis Polk on behalf of the lenders and I think Mr. Schaible would like to make some introductory remarks. And after that (indiscernible) we then turn to the Motion set to be heard at today's hearing on (indiscernible). Thank you, Your Honor. That concludes the presentation.

THE COURT: All right. Thank you.

Mr. Schaible?

MR. SCHAIBLE: Yes, Your Honor.

Can you hear me okay?

THE COURT: Yes, sir, I can hear you fine.

MR. SCHAIBLE: Your Honor, I'll be brief. You know that's my strong point. Damian Schaible with Davis and Polk for the Record, on behalf of the Ad Hoc Group of Secured Lenders. As mentioned here today, my colleague,

David Schiff and Jon Peppiatt. Mr. Schiff is going to be speaking about the DIP following the Weil Gotshal comments shortly.

Your Honor, I just rise virtually to introduce to you the Ad Hoc Group and the role that the Ad Hoc Group has played over the past several weeks and the role that the Ad Hoc Group will be playing going forward in the case. Your Honor, the Ad Hoc Group represents approximately two-thirds of the principal amount of the terms loans and then you include the other -- the revolving debt and other debt under the first lien credit facility. It's close to 60 percent of the overall facility. The Ad Hoc Group of Secured Lenders is the largest (indiscernible) as previously mentioned in these cases.

Really, Your Honor, as you know, I like to appear before Your Honor with a timely buttoned-up deal on whatever I can. Unfortunately that's not where we are for the entire case here today although it is where we are for the First Day Hearing. Your Honor, the lenders were approached frankly for the first time and had been seeking dialog with the company, but had not received any dialog with the company until just over a month ago, maybe about a month and a half ago now. For the first time be able to reach out suggesting that advisors should start talking and we were in connection with the Debtors' advisors (indiscernible) Your

Honor and we learned what the world now knows that you've got both the COVID-19 situation but also underlying other issues have led to a rather exigent liquidity situation and a rather exigent business (indiscernible) situation.

And so the lenders -- we and our current advisors, Greenhill, gathered together the lenders who had first reached out to us and got them together and under effective -- under confidentiality and working hand in hand with the company for the past approximately month to be able to get where we were today, Your Honor. So the idea is to stabilize the situation and then start to get information (indiscernible) and be able to figure out what the next steps are for this (indiscernible) company.

The (indiscernible) Committee has been quick in action, has been working essentially literally around the clock but we have not been able to come yet just because of when it started to a full term and complete resolution of the cases. What we did do however was quite a lot. Within one week of engagement, we had entered into a forbearance agreement with the company forbearing on (indiscernible) and providing some covenant relief to give the company a little bit of a runway to figure out what we need to do next.

We then started working immediately on a financing package. At first we were going to try to do that financing package on a bridge basis out of court. It became clear

that financing package was going to be much tougher and frankly much bigger and have to pay items that people were not able to get their arms around and so we were not able to not only put together a bridge financing package, we did however began immediately to work on putting (indiscernible).

As you know, Your Honor, we stand here today to present to Your Honor for consideration and hope for approval a DIP financing that would provide stability to the company and will give the company the liquidity that it needs to be able to get through these cases hopefully as quickly as possible and come out the other end on acceptable business as possible.

At the same time, Your Honor, I've mentioned we have the deal with (indiscernible) and (indiscernible) with one of the company's critical suppliers and we got that under, quote, unquote, "a long history" of back and forth with the company before the lenders were involved and the lenders jumped in, tried to work together with Intelsat. And again, Your Honor, gratefully we are able to reach an interim agreement with Intelsat to ensure services and provide a rather significant payment to Intelsat in exchange for ensuring services hopefully for the next period of these cases while we work hard beginning with today to figure out what the long-term arrangement and deal will be with this

critical supplier.

Your Honor, I don't have to regale you with the issues that exists in towns and that exist in the world generally and in the various industries that are impacted and obviously the cruise industries and the energy industries are two of the industries most impacted by the COVID-19 crisis and so it was quite a challenge. Doing it all remotely was a challenge, doing it all for a multinational company with literally tentacles all over the world was quite a challenge and finding capital for this enterprise in this market and in this situation was again quite a challenge.

(Indiscernible) and, Your Honor, I want to thank you and your court staff for accommodating us. We thank the US Trustee for working so quickly with us to try to reach resolution and solutions that they had raised. I want to think Credit Suisse as the agent who worked with the lenders to be able to put this together and I frankly want to thank the lenders for the time that they have put into getting us to where we are today.

So, Your Honor, the DIP financing which you'll hear about shortly is going to provide much needed stabilization to the business and much needed liquidity. And then, Your Honor, we do have a ton of work to do. We don't have an RSA because frankly when we started, we don't

have a plan on file yet, Your Honor, but we're going to work hard to do that. The next two weeks are going to be key and we've set our milestones in (indiscernible) and ensure that everyone's working together around the clock for the next two weeks to come up with a plan that will make sense to this company.

Even while the businesspeople are working on a business plan and a financing structure and a capital structure for this company to be able to survive and frankly thrive, the lawyers are going to be working on an emergence structure that will work, whether it will be structured as a sale or restructuring the plan. We will provide notice to all relevant counterparties and constituencies and we would frankly love it if the answer is that, you know, value -- that people other than the term lenders see value in this company above the amount of the term loan. Part plus accrued is much more than enough for us, Your Honor, and we would gratefully accept that. If that's not coming, Your Honor, then the term lenders do stand ready to gets company financed and get this company out of bankruptcy and get this company on stronger footing. We're going to be and have been part of this for the Debtor and we look forward to working with Your Honor and the Court in the coming stages on a pretty rapid timing schedule.

As Mr. Griffiths mentioned, this is not a company

that will do well sitting in bankruptcy for a long period of time so it's incumbent on all of us to work hard and work quickly to get this company stabilized and need to get this Plan put in place and out of bankruptcy.

With that, Your Honor, unless you have any questions, I'm turning back to Mr. Griffiths.

THE COURT: No. I very much appreciate the tenor and the content of the statement. Thank you, Mr. Schaible.

MR. GRIFFITHS: Your Honor, David Griffiths of Weil Gotshal Manges for the Debtors. We echo the comments that Mr. Schaible just affirmed. The company and the lenders have worked at an incredible pace and extremely constructive of achieve the financing that's before Your Honor today. And on behalf of the company and its advisors, we'd like to thank the lenders and the team at Davis Polk (indiscernible) the Debtor to get the financial proposal on behalf of the Debtors.

And what I can say is that the company, its management, (indiscernible) and directors are all committed to expedite an exit from Chapter 11 and on a consensual path that we'll pursue with our lenders.

Thank you, Mr. Schaible.

With that, I'd like to just turn the podium if I may, Your Honor, over to my colleague, Martha Martir to walk through the DIP and I believe Mr. Schiff at Davis Polk would

like to also make some comments about the DIP once Ms. Martir has made the presentation.

THE COURT: Thank you. Ms. Martir?

MS. MARTIR: Good afternoon, Your Honor. For the Record, Martha Martir from Weil Gotshal Manges (indiscernible) as proposed counsel for the Debtors and Debtors-in-Possession. I would be discussing Agenda Item No. 3 at Docket No. 27, the Debtors' Motion for authority (indiscernible) financing, use of cash collateral (indiscernible) adequate protection (indiscernible) secured parties modifying (indiscernible) final hearing.

Your Honor, to secure liquidity necessary to administer the Chapter 11 cases and to continue the operations in the ordinary course of business, the Debtors contemplate and procured a 90 million new money in their secured post-petition term loan facility and also a two-stage rollup to (indiscernible) position term loan, both of them in a principal amount of 90 million. While (indiscernible) a little muddled, there is a new money term loan of 90 million and there's also a rollup facility that is also in the amount of 90 million.

THE COURT: Right. So as I understood what I've read so far -- and you know that I have not read the DIP Motion yet because I think it was filed after I was on the Bench -- you're going to draw 35 million on interim and you

want to roll up 35 million on an interim, if I understand correctly.

MS. MARTIR: Correct.

THE COURT: And what happens after we get to final -- we get to final and we have a committee and the Committee says, “You shouldn’t do a rollup” and they prevail? What then occurs? Just typically I wouldn’t approve the rollup until a final.

MS. MARTIR: Well, what -- Your Honor, I think there’s an important caveat to this. First (indiscernible) rollup. First (indiscernible) and second (indiscernible). The new money loans are (indiscernible) to it. Also in the event that the new money DIP is repaid prior to the final hearing, the rollup loans would effectively unroll and revert back to prepetition loans, which should alleviate some of its (indiscernible) concerns on that front.

I also -- you know, as you heard from (indiscernible) presenters, just kind of given where we are in the world and especially this client, you know, who (indiscernible) are in the cruise ships and oil and gas, they’re hit especially hard so, you know, finding another lender or other terms that frankly (indiscernible) a rollup or (indiscernible) was impossible. We talked to the market and we ran a pretty robust (indiscernible) for the time that we’ve had and I think it just -- it’s kind of circumstantial

that -- you know, this is where we are. The company does not have liquidity and this is the deal that we were able to strike after very rigorous negotiations, arm's length negotiations with the lenders.

THE COURT: Could I -- so you don't have -- as I understand it -- and I'm sorry but I'm trying to get educated on the fly here -- not all of your lenders are making the DIP, right? It's the Ad Hoc Group that's going to make the DIP?

MS. MARTIR: Correct, it's just them. Certainly, Your Honor --

THE COURT: I'm sorry, the rollup --

MR. SCHIFF: Your Honor, if I may?

THE COURT: Go ahead. Yeah, Mr. Schiff?

MR. SCHIFF: Yes. This is David Schiff of Davis Polk for the Record. Your Honor, the rollup is available on a dollar-for-dollar basis for each dollar of new money that's committed by any participating lenders. The DIP is not committed just by the Ad Hoc Group. There's a group of initial committee members that's frankly of a subset group of the Ad Hoc Group (indiscernible) members of the Ad Hoc Group that wouldn't commit (indiscernible) finance (indiscernible) which is part of how we got to where we are. And it's the lenders that were receiving information from the company and had discussions with the company separately

that aren't members of the Ad Hoc Group.

All lenders -- and I think this is an important point to raise now and I apologize, Ms. Martir, if I'm stealing your thunder -- that there's actually a syndication process that's ongoing now to bring other lenders into the fold and the way that this facility is set up is that 60 percent is going to be offered on a pro rata basis to all prepetition lenders and then where is -- there is 40 percent of the facility that's being provided just by the initial committee members, again a mix of some lenders in the Ad Hoc Group, some lenders not, but that is effectively standing in lieu of fee if that's (indiscernible), Your Honor.

THE COURT: Yeah, because it very much is. And from what I have read, this is such an extraordinary case situation, but I don't think that I should apply necessarily every concern that I've had in the past to your clients' situation. I still get nervous about one feature of doing any rollup and maybe the following can make some sense on an interim basis. As you know, I do roll up some finalized if I get a committee organized. I don't mean a routine basis, but I've done it pretty often.

It would seem to me that we could do a dollar-for-dollar prime without making that dollar-for-dollar become an administrative claim so that if there's 35 million comes in in new money, that that (indiscernible) would get to drag

along 35 million into a priming but not an administrative position. And I want people -- I've never done that before, but it seems to me it would resolve some of the concerns that I have because the Committee shouldn't care about the priority between the first lienholders because you'd only care whether something has -- can be in the way of barring confirmation.

And I'm not going to get anybody to answer that right now, but I suspect that, Mr. Schiff, you and Mr. Schaible and others can be texting each other before we get to a final decision, but would you all consider that while I hear the rest of the presentation?

MR. SCHIFF: Yes, of course, Your Honor, we'll consider it. And obviously we don't have authority for anything like that and I understand our clients have been working with them, that the rollup and having assurances of administrative priority when we had $35 million being funded at the interim stage and (indiscernible) that is going out immediately is (indiscernible) --

THE COURT: Oh, no, no, no, no. I'm sorry, sorry, sorry, sorry. The 35 -- the new money will have administrative priority and first position. I'm only talking the rollup portion.

MR. SCHIFF: Of course, Your Honor, and understood and (indiscernible). I think we will of course we'll sort

of take that under consideration. I just -- given the extraordinary circumstances of the case and the market and the credit risks associated with this DIP and the fact that the new money is going to be (indiscernible) to third parties right away, I think we thought that following the Court's meeting (indiscernible) would be sort of hopefully a second way to address the Court's concerns where, as Ms. Martir said, they're (indiscernible) and approved at the interim stage but if new DIP financing comes in, given that the new money is going to be leaving the Estates so quickly if new financing comes in that that essentially (indiscernible) the new money DIP exposure. The DIP is repaid. Then our loans would roll back out if that happens before the final hearing. And (indiscernible).

THE COURT: And I'm not rejecting that. I'm just telling you that first of all your clients might be more comfortable knowing that they get priming even if the first 35 is repaid. So, no, the priming doesn't bother me at all. It's only the admin status for the rolled-up money. But I got it that this is an extraordinary case and I'm trying to find the solution that might work so --

MR. SCHIFF: And --

THE COURT: I'm sorry, go ahead, a question?

MR. SCHIFF: We very much appreciate the Court's thinking that -- the Court's sidebar.

THE COURT: So I think you have someone that wants to make a presentation now; is that correct?

(No audible response.)

THE COURT: No. Okay.

MALE SPEAKER: Your Honor, I think --

THE COURT: How did you all want to proceed now?

MALE SPEAKER: Your Honor, I think Ms. Martir was continuing with the DIP presentation.

THE COURT: Thank you.

Ms. Martir?

MS. MARTIR: Okay. We discussed the new money and the rollup funds. Okay. All right. As I mentioned, the Debtors did conduct a prepetition marketing process first in the form of the bridge and made contact with like 32 various lending parties and that attributed to the DIP and the (indiscernible) marketing of that. It was (indiscernible) 11 different parties some of which were (indiscernible) part involved in the bridge process. And (indiscernible) party that they thought would actually lending to the situations given their profile.

The (indiscernible) and the (indiscernible) DIP facility are subject to a budget consistent with (indiscernible) was also (indiscernible) to (indiscernible). The (indiscernible) and the budgeting process was heavily negotiated (indiscernible) and then (indiscernible) between

the parties. Which as you know, the company understands it is a risky situation and (indiscernible) lenders (indiscernible).

For (indiscernible) interest, (indiscernible) loans will be at LIBOR about eight for the (indiscernible) and the (indiscernible) loans are at 7 percent, 2 percent with (indiscernible) and the rollups are LIBOR plus 1.75. So I think the full interest rate here 2 percent (indiscernible) interest and then also 2 percent for any other amounts.

(Indiscernible) commitment fee of 2 percent (indiscernible) 0.5 and (indiscernible) at 5 percent. All three of those (indiscernible) heavily negotiated between the parties. I'm going to discuss some things of that nature. Also included in that are the agencies which we filed (indiscernible) at Docket 46 and 47.

I could walk you down the (indiscernible), Your Honor, for everything.

THE COURT: I'm listening. I've also pulled up the Motion, as you can see, to look at sort of --

MS. MARTIR: Okay.

THE COURT: -- the different terms. I can (indiscernible) that's why I was listening to you.

MS. MARTIR: Next one. Okay, (indiscernible) the collateral here is (indiscernible) prepetition lender and

collateral, also for clarity (indiscernible) and lien on other (indiscernible) interests. There's the (indiscernible) for professional fees.

In terms of adequate protection, we have (indiscernible) claims, payments of the lenders (indiscernible) information rights and any sort of prepayment with certain of them.

As we mentioned earlier, we're trying to put in a sale process so there are sale related (indiscernible) plan related (indiscernible) as well. We know the timeline is very tight because with the lender as well as the company wants to get in and get out of this process as quickly as possible and we want to work consensually to make that happen.

THE COURT: So on the -- you mentioned what the liens would be. What's happened to Chapter 5 causes of action?

MS. MARTIR: Chapter 5 causes of action (indiscernible), but not until a final order.

THE COURT: Okay. So that is subject to final.

MS. MARTIR: Subject to final, correct.

THE COURT: Thank you. Go ahead.

MS. MARTIR: All right. Again I can't stress this enough that this is (indiscernible). The company does need (indiscernible). I think as was said in both Declarations,

if the company does not get financing, then would have to liquidate so this is not the case where we think you could negotiate for even a week frankly. The company needs the money (indiscernible) and we negotiated the best that we could and we think that this is the best terms that we could get.

I do note not that from the marketing process the only proposal that we got was from a lender (indiscernible) right now, but we are very (indiscernible) that the lenders are willing to (indiscernible) today but we also understand their risk in the deal that we cut. So we'd like you to approve --

THE COURT: Let me move for the moment to the default provisions.

Can you describe to me what happens if there's a default with the lenders?

MS. MARTIR: It's a typical loan (indiscernible) you will find. I think (indiscernible) cure period and then they (indiscernible) to the Court and lift the stay.

THE COURT: Okay. Is that -- I'm looking on my screen right now at some language that says they can (indiscernible), they can terminate, but they can't take anything without getting an order of the Court, right?

MS. MARTIR: Right. And the last provided (indiscernible) any action in front of the Court.

THE COURT: All right.

MS. MARTIR: Your Honor, if I can turn it over to David Schiff from the lending group at this time.

THE COURT: This may be for Mr. Schiff. I'm looking at two paragraphs on the screen and not at the actual agreement or order. As I understand the way those are working -- and I want to be sure I get this right -- you give the Debtors five business days' notice and after that notice, you can terminate the use of cash collateral and you can exercise it says all other rights and remedies but it looks to me like in this prior paragraph you can't exercise rights and remedies against collateral without court order. I want to be sure that I've got that distinction correct.

MR. SCHIFF: Yes, Your Honor. Again David Schiff from Davis Polk for the Ad Hoc Group of Secured Lenders. I asked Ms. Martir to (indiscernible) this point because this was (indiscernible) we've been -- as the Debtors have said, we've been racing in on each of these documents as a team effort. But, yes, my understanding is that this is -- those remedies would have to exercised I believe on motion and then (indiscernible) the Court.

THE COURT: Thank you. All right. Go ahead please.

MALE SPEAKER: Mr. Schiff (indiscernible).

MR. SCHIFF: Got it. My apologies. So, Your

Honor, I guess I have some remarks that kind of don't relate to the loan. I do (indiscernible) to start with a little bit of context and then maybe can address just a bit further the Court's concerns about the rollup and then just want to address the logistical points.

So first I think Mr. Schaible and Mr. Griffiths and Mr. Holtzer and Ms. Martir have all hit on this, but I should take (indiscernible) that this wasn't an easy financing to raise. The context here -- obviously the market context, the business context, the fact that lenders (indiscernible) made it very difficult for the Debtors to find financing frankly for us even going back to the lenders to find financing.

We were (indiscernible) engaged with the Debtors that they had significant liquidity needs. We've been working with -- have been working are still working in tandem with them because that's sort of the type of diligence that one would typically expect when making a credit decision related to a financing. And that all informs that kind of run the negotiation that (indiscernible), but as a particular concern that lenders have in this case around credit risk and around sort of the tradeoffs associated with extending new money under these circumstances particularly again -- and I don't want to get too far out ahead of the Debtors but (indiscernible) if Your

Honor has read the critical vendors Motion and the First Day Declarations, there is an agreement with Intelsat that had --

THE COURT: Yeah, I've read that.

MR. SCHIFF: Okay. So I don't need to retread, Your Honor, but we (indiscernible) this money again leaving the Estates immediately. You know, this just is a significant concern more so than in other cases and obviously more so than say two months ago would have been the case.

The other point is -- and this just again informs kind of how the terms were negotiated -- while we were racing through frankly last night in the early morning to sort of put finishing touches on the DIP, the (indiscernible) lenders made their commitment a week ago and they (indiscernible) a week ago went to frankly significantly more uncertainty because they Board of Directors insisted on it. They insisted on that and then it happened immediately with sort of no time to reconsider. And so we these commitments were just obtained on a basis where lenders had very, very little (indiscernible) frankly still have very little to go on. And I say that with one sort of echo that others have said about the fact that everybody's been kind of working tirelessly and mainly together although some of these issues were very tensely

negotiated.

I also stated just again to provide the Court with context to why we're asking for (indiscernible) we recognize is not something that just that the Court typically orders. And again I just do want to go back to the fact that (indiscernible) be approached in (indiscernible) and the goal is to offer for unsecured creditors and frankly for the Estates for any right the ability to essentially de-risk through (indiscernible).

THE COURT: So up on the screen are -- is a little section of the Motion.

What is a plan election and what is a sale election?

MR. SCHIFF: Sure. So, Your Honor, the way that the milestones are set up -- and I actually I think this may be again in the (indiscernible) documentation -- I think the sale election may be a bit of a misnomer. The way that the milestones work is we have both a 363 sale path for restructuring and we also have a plan path for restructuring. The Debtors (indiscernible) have said that they don't want to be sort of doing two things at once unnecessarily and I don't think that the (indiscernible) in the case have said really -- any inefficiency and we're trying to (indiscernible) that. And what we said is we want the Debtors to, at the outset of the case, to begin

preparation for a bidding procedures motion and to have bidding procedures (indiscernible).

There's going to be a 14-day window during which the focus is going to be on analysis and due diligence and specifically to understand the structuring implication and the process implication and we tried to -- most importantly the timing and the execution risk associated with a restructuring and (indiscernible) action versus a reorganization. Within that 14-day period, the lenders -- and when I say the lenders, it should be (indiscernible) DIP lenders which is a threshold that requires the consent of both the required lenders meaning, you know, in excess of 50 percent of all DIP lenders and then in excess of 50 percent of all the initial committee members and also two unaffiliated initial committee members. This is intended to be sort of more minority protected as well as the required lenders under the Prepetition Credit Agreement so in excess of 50 percent (indiscernible) to all come together with the Debtors and basically do what if we had another month we would all be doing anyway to try to get to a restructuring and support agreement. But we're going take those two routes and they're going to some stuff out about until we make a decision and the final (indiscernible) basically means if everyone I just named thinks that it's a good idea to pursue a plan in lieu of a sale, then a different set of

milestones kick in and we're on a timeline that tracks plan filing and solicitation and a confirmation process.

THE COURT: So let's assume that we get to the stage where the Debtors want to pursue a sale and the lenders want to pursue a reorg plan and you all can't resolve that difference, what then is the milestone?

MR. SCHIFF: So I think, Your Honor, the imposition of the milestone probably puts the thumb on the scale in favor of the lenders because a milestone is a covenant and a breach or a milestone is a covenant as well. So in order to avoid the covenant default, the Debtors would have to come to terms with the lenders I guess around that election if the election is something that the lenders can make and would have open extensive discussion with the Debtors. I think we've all agreed on that construct. Obviously the Debtors have the obligations that they have as fiduciaries, but as Mr. Schaible made in his remarks, we're just very focused from the perspective that the lenders are keeping the cases on track and then that given the fact that the company is very likely to need liquidity at the back end on the restructuring as well, that we are going down a path that we know we can underwrite to.

MR. GRIFFITHS: And, Your Honor, if I may? David Griffith with Weil Gotshal and Manges for the Debtors. In terms of (indiscernible) an expedited path to a

Chapter 11 and the question of a sale election versus a plan election I think the right lens to view it through is more in the context of what is the right technical and mechanical means for the company to act in Chapter 11 in the sense that the company (indiscernible), which as Your Honor knows can only prove pre-possessor of a crime if the amounts are significant (indiscernible) out of Chapter 11 weighs in favor of (indiscernible).

And I don't anticipate that there will be any daylight between the lender and the Debtors over this choice. I think the discussions that have been had in the run up to these Chapter 11 proceedings, and the way that we've negotiated these milestones, achieve -- and I don't know what to say, was paradise.

But the time is so compressed to get from meeting capital and meeting the DIP members to fund and to file the business, what we agreed on a process whereby we continued to work constructively so that to provide as much information as we can to the lenders, and also to the (indiscernible) information obviously to the Debtors when making your final decision collectively on the right property.

So I reviewed -- thought frankly if we were to get odds with the lenders, a revision, we would be back in front of Your Honor with any type of dispute in that regard. So

that (indiscernible) is that point up around the (indiscernible) and part of that decision if Your Honor has any questions. But I would also like to address one point that Mr. Schiff made, just while it's fresh in (indiscernible) my mind.

THE COURT: Go ahead.

MR. GRIFFEN: Thank you, Your Honor. So as Mr. Schiff mentioned and he is fantasizing. A typical case of a radio reconstruction case is that when those items, you know, assuming that red is rare, the Debtor is (indiscernible). I think the tables are somewhat balanced in this case from the sense that apparent attitude of this group from an Australian public related company.

And I'm not sure if the Court is aware. But Australia has extremely strict rules as they relate to the ability of Director to continue trailing if there's any risk that the company may not be able to pay its debts before due, trading lump sum (indiscernible).

And so Mr. Schiff is right, that the Board of Directors of the parent company, (indiscernible) extremely calculate (indiscernible) and to reach out to the lenders that a net capital could be provided, effectively on a bond. The company would have very little option but to pursue an alternative path which in a bombshell (indiscernible) administration in Australia, which may then have led to, you

know, lead to an uncontrolled liquidation around the group as each camp subsequently (indiscernible) correctly filed their own solvency proceedings and want to adhere to (indiscernible) restrictions down the road.

And so the members stepped up to the plate extremely quickly on very limited information and extremely challenging environment around, even if they have to provide information to them. And so, you know, when we're referring to what are extraordinary circumstances, that's a term that in bankruptcy cases can be (indiscernible) around, obviously. I think every case, frankly, would have to be described as an extraordinary case. But I couldn't connect them, as the professionals on the phone will tell you, we've not seen a candidate that's light risk, especially given my personality issues at hand and the lack of time that the members have to make a decision and the lack of liquidity that the company has, especially when (indiscernible).

So when Your Honor is weighing the appropriateness of the release (indiscernible) for the number we're speaking, this is that extraordinary case where I think it would be entirely reasonable to provide our lenders with both the security that they're asking for in the sense of (indiscernible) structure with it, and, you know, not to put it kind of flippantly, but with respect to the Rule for doing exactly the right thing, stepping up and supporting

this business and supporting, you know, the company's employees in 140 countries around the world, I'm sure they continue to trade.

And I can't stress highly enough, the company is out of (indiscernible) liquidity, we can't roll the dice on whether or not the members would agree to an unfriendly (indiscernible) structure. And absent was good (indiscernible). The company is out of options. I just wanted to make that clear if it wasn't already made clear by my colleague, Mr. Martin, (indiscernible) and we have our time in preparing for that. Thank you, Your Honor.

THE COURT: Thank you, Mr. (indiscernible) Curtis.

All right. Did you-all want to move ahead, or are we getting towards the end of the presentation?

MR. SCHIFF: Your Honor, this is David Schiff again from Davis Polk. Not to belabor -- not to belabor this, and I just, you know, we would add only one small add on to Mr. (indiscernible) Griffin's points, with which I very much agree.

And that's just to note additional context; that even among the lender group that we represent, it's roughly half of that -- even in the circumstances Mr. Griffin described, stepped up to participate in this facility, about half of the debt that is too risky an investment for me. And I think the important follow on data point is that 100

percent of the lenders have said that they are okay with the imposition of the debt in the roll up off arrangement, even if they're not participating, even if their loans are not going red because they're not going to commit their money to the debt.

I just wanted to say that. I also just wanted to just touch on a couple of logistical points, unless the Court has other substantive matters that it would like to address.

THE COURT: Do we have a typical challenge period in the DIP?

MR. SCHIFF: Again, I would ask that Ms. McCure (indiscernible) or one of the other lawyers on the phone to just (indiscernible).

MR. GRIFFIN: Yeah, we could join with it. Not only because commitment (indiscernible).

MR. SCHIFF: Yeah. We could be either 75 days from the Petition -- I can't -- I'm in the other room. But it does meet the local Rule requirement.

THE COURT: Thank you. And that's in coordination with the U.S. Trustee, is that right?

U.S. TRUSTEE: That is correct, Your Honor.

THE COURT: Let me ask for any party on the phone that has any objections to approval of the DIP loan to go ahead and speak up at this point.

(No response.)

THE COURT: All right. I'm hearing no objections. I am going to make a ruling that I believe properly balances what I'm hearing. And this is supported by the two affidavits that had been filed that I've reviewed from an evidentiary record point of view.

I don't believe I've ever done a ruling quite like this one. I guess (indiscernible) he was quite a bit different because at the first hearing the allegation was there were better DIP loans available. And so what I was worried about was how do I deal with the fact that the reason not to approve it was there were better DIP loans available. That's not the allegation that we have here.

But what we do have is a situation that I don't know will ever be replicated, as I think counsel has stated, Ms. (indiscernible) Griffith, pretty eloquently; that I've got a Debtor that in the middle of world-wide public health crisis, it's two lead businesses that it sells into are the shipping business and the oil and gas business. And in that situation expecting a lender to make a loan on commercial terms without a big incentive, I think isn't realistic. And the arguments that I've heard are going to have me do something that I don't feel comfortable with doing in a normal case, and this is simply not a normal case.

(Indiscernible) I am going to approve that the

roll out as provided (indiscernible). Then I will just tell you-all that when we get to the next case I don't want to hear that I did it in this case. This one's really extraordinary.

With respect to the milestones I recall it slightly different (indiscernible) than there, and that is because I don't believe that it's appropriate for the first day hearing to surrender -- and I don't mean that in a pejorative way -- to surrender what the Plan would look like to the lenders.

I agree factually, just from experience, with the statement by the Debtors with the probability that there will be a disagreement between the Debtors and their lenders as to whether to follow a Plan that reorganizes for a 363 sale. I don't think there will be any daylight either.

I have no problem with the deadlines once that course of action is determined, and I don't have any problem with the deadline that says by when that course of action has to be determined. So the only requirement that I'm going to be impose that makes this slightly differently is the following: If there is in fact a disagreement then we will hold a hearing, and if the Debtor has been unreasonable in its refusal to go along with what the lender is requiring (indiscernible) that Record then they default. But if the Debtor has not been unreasonable, then it will not have been

a default, and so there will be a hearing before I reach that determination.

But I don't have any problem with the actual deadlines, it's only I don't think the law lets me turn over all of the case to the lenders on the first day, no matter how practical that might seem to be. I think I can lower the (indiscernible), but not that one.

I do have a party that wishes to address the Court. I'm not sure. I got a quick flash on my screen. Whoever that is, if you had pressed five-star more than once the message has gone away. And let me ask you to press five-star and let me refresh my screen and be sure that I'm just not missing someone, so hold on a bit.

From 832-754-8661, who do we have?

MR. MOHAMMAD: (Indiscernible) Peter (indiscernible) DRN this is (indiscernible) Islam Mohammed from (indiscernible), can you hear me?

THE COURT: I can hear you. Are you the one that sent a message just a moment ago on the join.me?

MR. BECKHAM: Charlies Beckham did, yes. We were who you were trying to (indiscernible) the DIP loan.

THE COURT: Thank you. But go ahead, then. And I'm sorry I didn't see you there before. So you sort of heard a ruling that (indiscernible) asked me to totally vacate given their arguments. So, go ahead.

MR. MOHAMMED: Thank you, Your Honor. So Islam Mohammed for the Credit Agricore Corporate and Investment Bank, Your Honor.

Credit Agricore is a party to the pre-petition as indicated (indiscernible) for the (indiscernible) agreement, and we're here today and Credit Agricore's is possibly a risk (indiscernible) bank. So pre-petition Credit Agricore entered into (indiscernible) Intelstat's loss. My understanding is on a market-to-market calculation Credit Agricore is owed approximately $20 million. I also understand that Credit Agricore's obligations are secured and (indiscernible) with the other lenders.

On the other, while we understand and appreciate the distress that the Debtor is under, and the parties (indiscernible) we do object to the roll out on an interim basis today.

Your Honor, essentially there's three points that we would like to highlight for you.

THE COURT: Go ahead.

MR. MOHAMMED: Your Honor, thank you. First, while we appreciate the urgency here, we do think that $35 million being rolled up on, you know, a couple of hours of notice here is extraordinary and while the circumstance is difficult, none the less we think continuing the roll up through the final DIP hearing would be appropriate and we,

frankly, don't think that, you know, any party is improperly adversely impacted by that.

Second, Your Honor, we think the facility agreement actually doesn't allow for this. We heard you loud and clear, that's without the Bankruptcy Court and the State may not care about how the lenders divide up any questions. But none the less, the facility (indiscernible) unit provides that the hedge banks like Credit Agricore must consent certain modifications to the facility agreement, including waterfall provisions. And under the features of the roll up, you know, by definition the rolled up portions would be paid in advance of our obligations, which we don't believe is allowed under the facility agreement outside of our (indiscernible).

And dovetailing from (indiscernible) point, you know, a Debtor cannot obtain -- or cannot provide (indiscernible) at least without consent, without providing for adequate protection of the senior creditors who are being (indiscernible). And, Your Honor, I admittedly, you know, I have not read every word in the DIP motion that was filed. I also have not heard any presentation regarding the adequate protection that we are being provided, and that is a Debtor's burden under the Bankruptcy Code.

So we think under these circumstances today the DIP should not be -- the roll up feature of the DIP on an

interim basis for $35 million should not be granted.

THE COURT: Okay.

MR. GRIFFIN: Your Honor, if Mr. Schiff and I could just respond under these (indiscernible).

Your Honor, as remarkable as that is -- David Griffith and (indiscernible) Hernandez for the Record, while I appreciate I apologize I didn't quite catch all the comments. We have, if necessary, Mr. (indiscernible) Beatty our Chief Restruction Officer on the telephone, who submitted a declaration which wasn't objected to by anybody at the onset of the hearing. So my understanding that's been admitted into evidence.

Nevertheless, the Debtor is extremely comfortable putting Mr. (indiscernible) Beatty on the stand to testify that 35 million (indiscernible) in long term (indiscernible) liability is absolutely critical to operations. But also that the Board of Directors of the company, as I mentioned earlier, would not agree to a lower number as part of negotiations with the numbers. And I can represent to the Court that the members tried very, very hard, including up until 11:00 p.m. last night to reduce the amount the (indiscernible) ruling's been dropped. And the offer on the company side with a flattened note, because that with (indiscernible) evidentiary (indiscernible) would not be sufficient to carry us through to the final hearings. So

they would give uncontroverted evidence supporting the availability of the note.

And second, with respect to the (indiscernible) aspect of the bond, I would defer to Your Honor so that you can address the question and Mr. Schiff maybe can address it. But I believe the correct answer is that (indiscernible) able to bind the -- that the remainder there that have (indiscernible) under the credit facility for the practices of consent, the (indiscernible) cost of consent to the DIP being provided on a timely basis. And I believe and David spoke and can address that for the Court, because they always recommend windows that that consent was (indiscernible). But that --

THE COURT: Sorry about interrupting. Hold on. What about the adequate protection issues that he's raised?

MR. GRIFFIN: Well Your Honor, again, the adequate protection issue is only relevant in the context of the situation (indiscernible). And here, individuals lenders, whether they're (indiscernible) party or any other type of (indiscernible) help to provider, under the credit facility, effectively are a (indiscernible) party from the perspective of our lien and priority. And they both which required, I believe Mr. Schiff will confirm, at least 50 percent vote.

And so indeed their lender, who is a defending lender under the credit agreement, doesn't have the right

just to turn up and say, not withstanding that the majority members (indiscernible) under the terms of our contract have consented to the terms of the priming lien and that consent initiates any requirements to provide adequate protection outside of what forms have been negotiated under the terms of the DIP order.

And I will note, the DIP order and collateral (indiscernible) provisions provides adequate protection to the lender in various forms of (indiscernible) professional fee (indiscernible). But I don't think there's an argument there on the (indiscernible) of insight; that they have the ability to require additional adequate protection to protect -- for their individual interest. So (indiscernible) account we would swap their analysis or whatever it may be. But I'll let Mr. Schiff respond.

MR. SCHIFF: Your Honor -- can you hear me, Your Honor?

THE COURT: Yes, sir.

MR. SCHIFF: What I would say is at first I would agree with I think literally every word that Mr. Griffin said. We very, very strongly, more than 50 percent of (indiscernible) know that more than 50 percent of the (indiscernible) ability.

By the way, I'm also certain including Credit Agricore -- I'm looking at their signature page as we speak

-- consented to the prime and consented to the roll up, consented to the adequate protection package, consented to all of it. More than 50 percent feedback, and I am quite certain that there was a document, that is the way it works.

And Your Honor, (indiscernible) hearing and an emergency hearing, what I would propose is maybe we could reserve DIP arguments by them for the final hearing. In other words, if they want to file some papers -- and I assume, Your Honor will do this in a couple of other situations. If they want to file papers within some reasonable period of time to show that they believe that they are not bound by the adequate protection and the roll up and the end of financing end (indiscernible), that the majority of the lenders have consented to, they can fight that with (indiscernible) Your Honor. We'll respond and we can tee it up. We don't need to prejudice that argument today. But I am very skeptical of that argument, Your Honor.

THE COURT: Let me ask whether we have anyone here -- as I understand it you represent a subset of a group of lenders. Is there someone here that represents -- is this an agent for the lenders?

MALE SPEAKER: Yes, Your Honor. (Indiscernible) Pedro Allet (indiscernible) from Skadden Arps is on the phone and whoever represent Credit Suisse as the agent

(indiscernible).

THE COURT: Does Credit Suisse consent to this in its capacity as agent to the lenders?

MALE SPEAKER: Credit Suisse is supportive of what the Debtors are trying to do and what the Ad Hoc Group is trying to do. We are only acting in an administrative capacity here. And so we will do what we are directed to do by the majority lenders and what the Court approves today.

THE COURT: And have you been directed by the majority lenders to not oppose the priming portion?

MALE SPEAKER: That is correct.

THE COURT: All right.

MR. GRIFFITH: And Your Honor, just one final note for the Record, David Griffin for the Record. We honestly will object (indiscernible). Everything is now -- this is our Bankruptcy Court at work. But my colleagues were telling you that, as I recall it, we signed an amendment consenting to the DIP. So I think Mr. (indiscernible) Shadow's (indiscernible) proposal that instructed one. But (indiscernible) can represent to the Court whether in fact Mr. Mohammed had consented to this, too.

THE COURT: Yes, Mr. Mohammed, let me go back to you, sir.

MR. MOHAMMED: Your Honor, so two things. I was not aware and am not aware that Credit Agricore has

consented. Admittedly the file is in Hong Kong at Credit Agricore, so it very well could be that something has happened that has not been communicated. So, you know, I'm not aware of that, that wasn't my understanding and that's why I spoke on behalf of the client that understood.

With respect to the consent issue, I would like to just address whether required lender consent is sufficient or not. And then I would like to also address whether, you know, some sort of exacerbation (indiscernible) makes sense here.

But with respect to the consent issue. The facility agreement specifically has a provision of what a secured hedging bid and (indiscernible), and the provision that, you know, we can follow up as needed. But that's an amendment or modification to any of the following provision that would directly and adversely effect the secured ending date, shall not be respective as to such secured ending date without its prior written consentor. And it references a couple of sections and (indiscernible) EMG waterfall sections.

And so based on that we do believe we get to vote. Understood if there are signatures that have been sent that, you know, we are not aware of then obviously, you know, we would clarify that. But we were not aware of that, and we are not aware of that.

THE COURT: Sure. Somebody apparently, one of the teams is looking at those signature pages. Can we just get them uploaded as an exhibit? I think it's going to make this hearing a whole lot easier.

MR. SCHIFF: Your Honor, this is David Schiff of Davis Polk. I have the signature page that a colleague sent to me and I believe I can get a compiled -- I can get a compiled amendment consenting to this DIP and this DIP order, or directing the agent to consent to this DIP and this DIP order.

THE COURT: Actually, don't. Let me just see -- I think if you could just file the Agricore signature page it's going to go a long ways.

MR. GRIFFIN: Or perhaps, Your Honor, we can use the camera (indiscernible) with the adequate protection (indiscernible).

THE COURT: Pardon me? Oh, if you would just want to take a picture of it, or hold it up to the camera that's fine. Just tell the (indiscernible) or whoever requests, the presenter will. They can just hold it up and we'll take a look at it.

MR. SCHIFF: Your Honor, I may have like the only working camera here. I can mail it to myself and hold my phone up. I can also email it to the Court if that's easier.

THE COURT: You can email to Isgur_USB@gxs.uscourts.gov.

MR. SCHIFF: Yes. Let me do that right now.

THE COURT: Okay. And then I'll show it to Mr. Mohammed up on the screen and we'll see where we go.

I have ruled previously that when there is a credit agreement it vests an agent --

(Interruption in audio.)

MR. GRIFFIN: Your Honor, just for your own benefit, I believe you stopped mid-sentence and if you are talking no one can hear you.

(Pause.)

MR. SCHIFF: Your Honor, pardon me. David Schiff, from Davis Polk. I think I sent it to the wrong email. Would you mind -- would someone --

UNIDENTIFIED MALE SPEAKER: Yeah. It's Isgur, I-s-g-u-r, underscore, u-s-b at t-x-s --

(Interruption in audio.)

MR. SCHIFF: Thank you. I'm trying one more time.

UNIDENTIFIED MALE SPEAKER: And just for context, and this may help the attorneys from (indiscernible). My understanding is that Credit Agricore (phonetic), as a lender, perhaps you want to find them for (indiscernible) for the sake of the Record, and that it was directed to execute and did execute.

MR. MOHAMMED: Your Honor, that is Islam Mohammed (indiscernible). That is my understanding as well, that Credit Agricore has a hedging date here, that comports to the internal memo at least. And we believe that there be an authority limit, (indiscernible) there has to be a consent from Credit Agricore as a hedging bid.

But nonetheless, I personally was not aware of the signature or any consent, for what it's worth.

(Pause.)

THE COURT: All right. I think we are now back online. My VPN suddenly failed. Fortunately the Debtor isn't the one providing my phone services, so I can blame somebody else for that.

What I'm going to do is unmute all of the lines so that people don't need to re-raise their hands. But I would ask that if anyone is on the phone that you can mute your handset until it's time for you to speak. But I'm going to unmute all lines just to make this a little more efficient. And you-all should be able to hear me. I apologize for whatever that was, but my VPN just suddenly failed. I think we're (indiscernible) back on support date (indiscernible).

Mr. Schiff, I think you had the floor.

MR. SCHIFF: Your Honor, David Schiff from Davis Polk, the Ad Hoc Group of Secured Lenders.

I sent the Court the Credit Agricore signature

page. I believe maybe Mr. Mohammed was addressing the Court. But again, it is our --

(Indiscernible comment.)

THE COURT: If there's someone one the phone, everyone is now live on the phone.

I do have the email with the Credit Agricore's signature. Let me see if I can bring that up. So it's obviously only a signature page, but presumably that goes pretty far.

MR. SCHIFF: Your Honor --

THE COURT: And stating that I had ruled before. But when there was an agent and that agent was in charge of determining whether the agent had the requisite votes. But from a Bankruptcy Court point of view I am required to do, what was previously, is to respect the agent's determination that the agent had requisite votes. If the agent is incorrect in that determination, that is an internal problem with the lender group. It is not an issue that (indiscernible) the rest.

(Indiscernible comment.)

THE COURT: If you are on the phone please do not speak. All the lines are unmuted.

All right. Who else wanted to speak?

MR. MOHAMMED: Your Honor?

THE COURT: Yes, sir.

MR. MOHAMMED: Just to clarify. I believe our position, and I understand what you just stated and we will hear your ruling for what it is and we will see what our options are. But nonetheless, I believe this is Credit Agricore the lender. I believe as a hedging bank it has consent rights as well. That being said I will not persevere this and I don't believe we -- you know, my firm is not aware of this as we went to (indiscernible).

But understood, we still believe that as a hedging bank we do not (indiscernible) complain, and for that reason we do not believe the roll up should be approved under an ambitious (indiscernible).

THE COURT: All right. First of all, Mr. Mohammed, I got zero issue on a hearing on this short of notice that if your client's even tactfully consented in every capacity and you're trying to communicate with them halfway around the world, there are going to be small odds (indiscernible) between the actual reality, zero probability (indiscernible).

But I do believe strongly that this ruling that I've made in another case I can't remember the name of, was 100 percent correct that I shouldn't be getting into the internal mechanics of the lending arrangement. And those internal mechanics are in fact administered by Credit Suisse and their position that it had satisfied is not binding;

that there has been attempt in terms of the parties. If there is a problem internally with that, that needs to be pursued internally with that bonding group, so I'm going to overrule the objection.

Mr. --

MR. GRIFFIN: Thank you, Your Honor. David Griffin, (indiscernible) Hernandez for the Debtors. I believe Your Honor was going to rule and had made a proposal that we just need to confirm, we said, with the lenders allowing the (indiscernible) partner.

MALE SPEAKER: Thank you again very much. We understand and accept your modification and respect your (indiscernible) think (indiscernible).

I do ask, Your Honor, related to the documents, but the milestones are both effectively adequate protection and a term of the DIP loan. That's all we ask. I would ask Your Honor that obviously it will hurt the members' associated rights to ask Your Honor to take a proper position with respect to -- should we end up in that circumstance, but I have an expectation we won't. I guess I was just (indiscernible) with respect to the adequate protection package of the secured lenders to the extent that the milestones were ultimately were not met and Your Honor determined it didn't need to be met.

THE COURT: I understand the position and hearing

what you're telling me. Again, I think this is such a low level of likelihood, it's just a matter of principle that I don't think that I can have that forfeited by a Debtor on day one.

So if we ever get there we'll have a hearing and it's going to be a hearing in which I don't think I should have, but ask one side or the other whose (indiscernible) bankers are reasonable or not reasonable or (indiscernible) negotiations, which everyone appears on this issue. And I doubt that we end up with a problem on that, though.

Given that, let me hear any other objections to the DIP loan besides from Mr. (indiscernible)'s client.

THE COURT: All right.

MR. PEREZ: I'll tell you, Your Honor, I do have an objection. Your Honor, this is Alfredo Perez. We did have the initial (indiscernible) gift. It is (indiscernible) Division Number 8 and it is also attached to this motion. And to the extent that there needs to be an evidentiary basis we would move these DIP budgets into evidence, Your Honor.

THE COURT: Any objection to the DIP budgets (indiscernible).

(No response.)

THE COURT: All right. I do think that by the way the affidavits and the situation also provide the adequate

protection evidentiary basis as necessary. It is unambiguous from the evidence that I have before me with the Debtors sale (indiscernible) and adequate protection to actually provide in this case (indiscernible) by seeking the Debtors (indiscernible) and keeping the goal (indiscernible) for the Debtors (indiscernible) benefit. But the next tranche installed like (indiscernible) -- won't get in the way (indiscernible) so would be part of the (indiscernible), as well.

I'm going to approve -- I'm going to upgrade the revised form of order that approves that. (Indiscernible) I won't change, or do you want me to try and do that on the screen?

MALE SPEAKER: Your Honor, this is (indiscernible) from (indiscernible). We actually uploaded a revised form of order, Document Number 48.

THE COURT: I can barely hear you. I can very barely hear you. I need you to speak up.

MALE SPEAKER: Okay, I'm sorry. For the Record (indiscernible) from (indiscernible). Your Honor, the Debtors' uploaded the revised Order at Docket Number 48. This is (indiscernible) point that we came to an agreement also with the Lenders with the U.S. Trustee (indiscernible) flag that for you.

THE COURT: Does it deal with this issue?

MALE SPEAKER: It does not. But in terms of revising the order (indiscernible) that had been agreed to.

THE COURT: All right. So I'll take the redline out. I haven't read the original, so.

MR. GIANETTI: Your Honor, Paul Gianetti, (indiscernible) Hernandez. Just for the Record, on our (indiscernible) DPS 35, our exhibit list. The document that you had admitted, the initial DIP loan, it's listed as Exhibit 8 there attached to the DIP motion at (indiscernible) DPS 27, just for the Record, Your Honor. Thank you.

THE COURT: Thank you.

MR. GRIFFIN: And, Your Honor, it's probably okay to some mutual lines at this point that once Your Honor has ruled (indiscernible) on the DIP financing, which on behalf of the Debtor we very, very much appreciate.

(Indiscernible) I think the next on the Agenda is the critical (indiscernible) vendor motion, and my colleague at (indiscernible) will be presenting that motion to the Court.

THE COURT: All right. Do you-all want to try and re-draft this? Or do you want me to try and do it on the screen?

MR. PEREZ: Your Honor, this is Alfredo Perez. This is the order that has the most time sensitivity, so --

and that's why we want (indiscernible) on the Record (indiscernible) what the DIP loan asks, but it's time we did it first because it would just be better with time sensitivity. So I think it might make sense to try to do it now as opposed to coming back because of the time sensitivity.

THE COURT: All right. If we could just take a bit of a pause in the hearing, or whatever I do I'll do on the screen. Let's see what you-all think of it.

(Pause.)

So before I go into this, do we have any objections to the form of the DIP order that anyone wants to raise at this point? I've (indiscernible) overruled the more substantive objections.

(No response.)

THE COURT: All right.

(Pause.)

MALE SPEAKER: You just had lines, Your Honor.

THE COURT: I'm not going to look at the redline, because if I look at the redline I can't edit it and then docket it. So I'm looking at the black line, or not the black line, the actual.

THE COURT: So is there a reason why this language is a restrictive language that's required? Does it matter where they get the money from? If they pay you off they pay

you off.

MALE SPEAKER: Yes. Well, I think that's an error. (Indiscernible) to correct me if I'm missing something. But I think that was just intended to reflect the likely reality it maybe tracks word-for-word the language selected.

THE COURT: All right. Yeah. And I can see what this whole argument about is different with --

MALE SPEAKER: I understand. No issues with the revision.

MALE SPEAKER: Your Honor, (indiscernible).

(Pause.)

THE COURT: Can you go to the section that deals with -- maybe we'll go ahead fill this in first. When do you want your final here?

MALE SPEAKER: Just give us one moment, Your Honor while we confirm. Be back to you in one second.

THE COURT: Sure. So all lines are active. There's somebody with water running in the background. Please mute the line. Thank you.

MALE SPEAKER: Your Honor, I think May 14th for 21 days, that could not -- that date could be acceptable, that is if they want the changes.

THE COURT: May 14th at 2:30 going to work?

MALE SPEAKER: (Indiscernible).

THE COURT: If someone would check their phone. It appears they're running water in the background.

So where is the provision with milestones that has to do with the election between planning sale?

MR. GRIFFIN: Yes, Your Honor. It's in the covenants in the DIP record dated (indiscernible) ending in DIP credit agreement. Our proposal would be to get that done and in to the Court. And the mandates, if we could just rely on the transcript of this hearing and (indiscernible). And I don't think any additional changes could be credited in the order unnecessary now that you've made (indiscernible) due with the lenders. And then the Debtors would bring (indiscernible) to Your Honor and we would refer back to the transcript of this hearing as the basis for -- it's in your ruling.

THE COURT: So I only have a very slight problem with that, which is there was an opinion came up in District Court last (indiscernible). It says, in essence, if what you say on the Record conflicts with the written record, it doesn't matter, and so -- I'm sorry -- conflicts, rather, with the written order. So I'm just going to add a little something about that if it does that, and we have to (indiscernible).

UNIDENTIFIED: Yes, Your Honor. (Indiscernible) on the Debtors' side and Mr. Schaible (indiscernible).

THE COURT: Let me just see (indiscernible).

Can anyone identify (indiscernible)?

(No audible response.)

THE COURT: Thank you. I think people (indiscernible) recognize (indiscernible).

(Pause in proceedings)

THE COURT: Does that work? Mr. (Indiscernible)?

UNIDENTIFIED: Yeah, I think Mr. Griffiths is responding, but this language is fine for the lenders, Your Honor.

THE COURT: Thank you.

MR. GRIFFITHS: And Your Honor, for the Record, David Griffiths at Weil Gotshal for the Debtor. This language is acceptable for the Debtors.

THE COURT: Thank you.

And the budget is not attached, right? So I believe (indiscernible) budget not attached.

UNIDENTIFIED: Your Honor, the budget was filed with the motion (indiscernible).

THE COURT: I believe the order says the budget is attached hereto (indiscernible) like that. I just want to be sure I get that (indiscernible).

OPERATOR: Your call has been forwarded to an automated voice messaging system.

THE COURT: Can somebody (indiscernible), which

documents I need to attach to this. We'll get them attached.

UNIDENTIFIED: Yes, Your Honor (indiscernible), Your Honor, if you go to Exhibit 48 -- I'm sorry -- Docket 48.

THE COURT: (Indiscernible).

(Pause in proceedings)

THE COURT: All right.

UNIDENTIFIED: I'm sorry, Your Honor. Docket 45. I apologize. Docket 45.

THE COURT: Okay. (Indiscernible).

UNIDENTIFIED: And Your Honor, the budget is Exhibit Number 8, and the credit agreement is Exhibit Number 7 to that.

THE COURT: All right.

(Pause in proceedings)

THE COURT: And I'm having -- are you all hearing me?

UNIDENTIFIED: Yes, Your Honor.

UNIDENTIFIED: Yes, Your Honor.

UNIDENTIFIED: Yes, Your Honor.

THE COURT: (Indiscernible) got quiet (indiscernible), all right. I have signed it, I have combined all the files, and it's now gone for docketing. Thank you.

UNIDENTIFIED: Thank you. Thank you very much, Your Honor. Your Honor (indiscernible) the motion. Your Honor (indiscernible) and I can give you Ms. Funk telephone number, just (indiscernible) un-mute her line.

THE COURT: So what I'm going to do is I am going to mute all the lines, and then I'm going to allow parties that wish to speak, including Ms. Funk, should press five-star on their phone, and we'll see if we can make that work.

UNIDENTIFIED: Thank you, Your Honor.

THE COURT: And Ms. Funk and anyone else that wants to speak needs to press five-star, but there's just too much background noise. Thank you.

OPERATOR: Conference muted.

(Pause in proceedings)

MS. FUNK: Hi. This is Brenda Funk. Can you hear me, Your Honor?

THE COURT: I can. I'm just un-muting the other people that have their hand raised, so hold on.

MS. FUNK: Yes, okay.

(Pause in proceedings)

THE COURT: We have some one from (708) 204-1722. Who would that be? (708) 204-1722.

MR. GROSSI: Yes. Good afternoon, Your Honor. This is Anthony Grossi of Kirkland & Ellis on behalf of Intelstat. I just wanted to un-mute my line.

THE COURT: Yeah, I can't hear you. Can you speak up?

MR. GROSSI: Good afternoon. Good afternoon, Your Honor. Can you hear me? This is Anthony Grossi with Kirkland & Ellis.

THE COURT: I need you to speak up a little bit louder. I heard "Anthony." Is it Grossi?

MR. GROSSI: Yes, Anthony Grossi with Kirkland & Ellis, on behalf of Intelstat (indiscernible).

THE COURT: Yes, sir. Thank you.

MR. GROSSI: Thank you, Your Honor.

THE COURT: All right. Ms. Funk, go ahead, please.

MS. FUNK: Thank you, Your Honor. Brenda Funk, Weil, Gotshal & Manges for the Debtors. We are here on Agenda Item Number 4, which is Docket Number 21, the Debtors' emergency motion for interim relief authorizing the Debtors to pay pre-petition obligations of critical vendors, foreign creditors, lien claimants, and 503(b)(9) claimants. We also have a motion to approve a letter agreement with Intelstat and granting related relief thereto.

I'd like to start with the vendor side of the picture and give Your Honor a little bit of background about the company -- actually, a lot of background regarding (indiscernible) picture of the Debtors' vendors, we look at

two buckets. We have a bandwidth bucket and we have a non-bandwidth bucket. And so, when the Debtors took a step back and said, okay (indiscernible) vendors that are particularly critical to this business, you know, what is that list and how do we develop that list.

So, in connection with developing, you know, the relief requested today, the Debtors examined which of its vendors were (indiscernible) the relationship (indiscernible) particular clients. And they also looked at those vendors who were (indiscernible) based on the expense and the time it would take to replace them and find another vendor because they didn't simply have enough liquidity or time to undertake those efforts.

So (indiscernible) list. That list was broken out into four different categories. So we have our critical vendors, our foreign claimants, our lien claimants, and our 503(b)(9) claimants. So the relief that we are seeking today in those four buckets is 2.1 million for critical vendors, 2.6 for foreign vendors, 455,000 for lien claimants, and 1.55 million for 503(b)(9) claimants.

So, not only are the critical vendors important to us, but I think (indiscernible) global organization, it is critically important that we have the flexibility to address our foreign creditors, who might not otherwise understand the bankruptcy process. It's also important for us to be

able to take care of lien claimants and 503(b)(9) claimants who might be able to disrupt our business with (indiscernible).

So, you know, because -- having the ability to pay pre-petition claims is a very powerful tool to the estate, and preserving value within the estate (indiscernible) questions about critical vendor and foreign vendor as that information is developed.

I would like to go ahead and move onto the second part of the motion, which deals Intelstat.

THE COURT: All right.

MS. FUNK: This is a (indiscernible) Intelstat is a very large provider of bandwidth to the Debtors' organization. And pre-petition, the Debtors and Intelstat were having continuous negotiations about the (indiscernible) relationship. And there was a substantial pre-petition amount owed to Intelstat.

In March, Intelstat decided to terminate its contract with the Debtors. And during the negotiations, Intelstat turned down services to the company for a limited period of time. Right before we filed (indiscernible).

THE COURT: Ms. Funk, I'm going to interrupt you for a moment.

If you're on the phone, please mute your handset.

Go ahead, please, Ms. Funk. Thank you, everyone.

MS. FUNK: Thank you, Your Honor.

So, in the weeks before the filing, again, the Debtors and Intelstat were in intense negotiations about the ongoing relationship between the parties. In order to (indiscernible) Intelstat's critical services back online and to ensure that the Debtors could continue to service their customers, the Debtors and Intelstat entered into a letter agreement dated April 21st, which (indiscernible) that is the letter attached to the motion as Exhibit T.

(Indiscernible) first thing it does and the most important thing it does is ensure that Intelstat will continue to provide services to the Debtors through June 30th. And in exchange for that agreement to perform, the Debtors are going to pay Intelstat $24 million. The are other (indiscernible) of this agreement that are important today is that Intelstat will also be given a forty-four-million-dollar claim, and that there are mutual releases being granted under the letter agreement.

(Indiscernible) in this overall agreement, Intelstat (indiscernible) that the Debtors (indiscernible) in the first- and second-day motions for these releases. We acknowledge that this is an -- probably an unusual step on a first-day basis, but we believe that it is warranted because of the extreme damage that can be done to the Debtors (indiscernible) should Intelstat discontinue services. It

would be extremely value-destructive for the business.

Does Your Honor have any questions?

THE COURT: No. This is one I had a chance to read before the hearing. Let me hear what objection this draws from others.

Let me clarify then with you, Ms. Funk, a couple of understandings that I have. One is, is that the money that's being deposited with Intelstat is only for use for post-petition -- or at least post April 21 fees and charges, not for anything that is prior to April 21. Is that correct?

MS. FUNK: I believe, Your Honor (indiscernible) post the date that we pay, but it does not cover any pre-petition period.

THE COURT: And if there is (indiscernible), it's terminated and you haven't spent the $24 million, who gets the balance?

MS. FUNK: Intelstat (indiscernible) earns the money and it goes, and it -- the money is paid into a designated account, which account we have a lien on it. And if they seek to terminate early, that money goes back to the Debtors.

THE COURT: What if the Debtors just don't run up quite that big of a bill by June 1, does it still go back to the Debtors?

MS. FUNK: I think -- June 30, Your Honor. And that date -- that's an agreed flat rate (indiscernible) run rate attributable to the Debtors.

THE COURT: And so you're going for two months and a week. What's the normal run rate?

MS. FUNK: I believe the normal run rate, Your Honor, is 1.7 million a week. And if I could, if Mr. Healy is on the line, who gave a declaration with respect to this, he could assist.

THE COURT: All right. We have -- so 1.7 a week, and we're going for about 10 weeks; that's about 17 million. So I probably am missing part of the story.

MS. FUNK: I would ask Mr. Healy if he is on the line, or (indiscernible) if he could clarify.

THE COURT: Well, let's see, I've got two people, so I believe the other one may be Mr. Healy, from the 774 area code. Is that you, Mr. Healy?

MR. HEALY: It is, Your Honor. Michael Healy.

THE COURT: All right. Thank you.

MR. HEALY: So the point Brenda was making was that, when the deal was struck -- well, it's roughly 7.5 million a month, which translates into roughly 1.7 million a week. And at the time we were negotiating this deal, we were about 12 weeks out through June 30th. So, if you run that 1.73 times 12 weeks, you get roughly $21 million.

THE COURT: And how much is the deposit?

MR. HEALY: Twenty-four million dollars, which was a negotiated amount.

I would point out, though, that currently we are anticipating using services in excess of what would be owed and what we would need delivered under the 7.5-million-dollar-a-month contract. And as early as this morning, Intelstat -- at least that's what's -- recognizing our bankruptcy, we heard from the CEO and the CFO, letting us know that they were fully supportive of the company for the duration of its case, and they're looking forward to working together, and they're hoping to get this matter settled.

THE COURT: So are you telling me that, because of whatever circumstance, you anticipate running more than seven and a half million a month during -- if this were a normal, fee-based arrangement during the bankruptcy case?

MR. HEALY: Yes. Right now, due to the way that cruise ships are moving their fleet around the world and our -- SpeedCast's continued desire to service those clients, we actually think we are going to be using bandwidth in excess of that -- of the seven and a half million usage rage.

THE COURT: Okay.

MR. GRIFFITHS: And Your Honor? This is David Griffiths for the Debtors.

THE COURT: Yes, sir, I can hear you.

MR. GRIFFITHS: Okay, Your Honor. Just to address the point you made -- and I'm sure you did pick this up when Ms. Funk made the point. But Intelstat's contract was terminated a long time ago. I mean, I don't have the exact date, and Ms. Funk can point to it if necessary. But the --

UNIDENTIFIED: March 20th.

MR. GRIFFITHS: March 20th? Thank you. So there is no contract with Intelstat, with no obligation to deliver services on their side. And we -- and Intelstat is owed approximately, we believe, $44 million, in terms of pre-petition services. It's almost unheard of to have a pre-petition vendor (indiscernible) agreement to continue to support the business like this with a large amount accrued, and doing it at such (indiscernible) rates. And so we rely on Mr. Healy's -- on the evidence supporting his declaration that the 24 million that is being paid is an appropriate amount in the Debtors' business judgment.

THE COURT: All right. Let me hear from others.

MR. STATHAM: Steve Statham for the U.S. Trustee, Your Honor. May I be heard?

THE COURT: Yes, sir.

MR. STATHAM: Thank you. Initially, Judge, we have no objection to the vendor portion of this motion. We are concerned about the time line and what amounts to a 9019 settlement of what we view to be potential compromised

estate claims, on a very short fuse. And I'm hoping that Mr. Grossi or the Debtor can address that particular concern.

THE COURT: Thank you.

UNIDENTIFIED: Ms. Funk or Mr. Genender, I think, are prepared to address the issue (indiscernible).

THE COURT: Someone --

MS. FUNK: If I may, Your Honor. Brenda Funk for the Debtors.

This is commercial relationship, and I think the (indiscernible) here is, again, as Mr. Griffiths highlighted, there is no contract as of really a few days ago. And the Debtors are facing an already challenging process ahead of them. And the Debtors are much stronger (indiscernible) with Intelstat providing services that are still critical to the business. So we recognize the unique challenges here during this case (indiscernible).

THE COURT: Does anyone want to address the other issue?

MR. GENENDER: Your Honor?

THE COURT: Yes, go ahead.

MR. GENENDER: This is Paul Genender for the Debtors. May I add one point to what Ms. Funk (indiscernible) appropriately said? Mr. Healy's declaration, Paragraph 111 and 112, in particular, address

the comment about the viability of the claims, and puts forth competent evidence that (indiscernible) is not aware of any claims that have value beyond anything it would cost to pursue them, and that the estate is not giving up a valuable asset in connection with this mutual release. Thank you, Judge.

THE COURT: All right. Mr. Statham, I'm going to overrule your objection, and I'm going to give reasons why because, again, just where we are in this case.

I agree that Mr. Healy's affidavit identifies that there are no claims and that he's looked into this.

I put this motion in a bit of context, which is I can't really imagine, for this business (indiscernible) somebody that's a more critical vendor than Intelstat. And if you think about a routine case -- which this isn't -- we would have allowed the Debtor to pay (indiscernible) if I'm on somebody's speaker, would you please take me off.

And would allow someone to pay a portion of the pre-petition claim, or maybe more than a portion of it, in exchange for providing post-petition market rate services. Here, where there's going to be an allowed pre-petition claim, but one about which there's no dispute, and we have one of the most critical vendors that I could imagine in this case -- this case fails if I don't end up approving this and they discontinue services. The cost, to me, seems

favorable compared to what, if the Debtor was more solvent, I might have approved otherwise.

It would not have been unreasonable to think that we would have approved a payment of the pre-petition amount, in order to get a sole-supplier vendor like Intelstat under these circumstances. This Debtor can't afford that. Intelstat was, apparently, cooperative in negotiating with them. And I find that, under these really exceptional circumstances that this case has all over the place, it's their only chance for survival, and I'm going to approve the motion in full.

I want to caution Mr. Healy that the order provides you some discretion about getting trade terms from people. You're going to lose a lot of confidence that is very well deserved and placed in you if you don't enforce with your people that are negotiating deals pretty closely. I really don't want to be spending money paying critical vendors to then walk on deals. I want them to agree to these trade terms.

I'm leaving that vague language in there that I don't normally leave in, primarily because, when you're dealing in a foreign environment, I've got to give you more flexibility. But for vendors that are not foreign vendors and for vendors who are controllable, I would expect you to use that discretion in a way that you get that pretty firm

commitment to provide post-petition services. Otherwise -- and in fact, I'm not going to change the order. I just want to make that statement to Mr. Healy, so that he understands, you know, what the expectation is, then the order is fine.

Mr. Statham, I'm overruling your objection, but I want to give you a chance to preserve any record that you might want to have on that. It's a hard question, and I will just acknowledge that (indiscernible).

MR. STATHAM: Thank you, Your Honor. I appreciate the Court clarifying that. Our interest is, obviously, not to bank to the Debtor (indiscernible). We acknowledge that there's not a lot of options at this point. So thank you for hearing us out.

THE COURT: Thank you, sir.

MS. FUNK: And Your Honor, this is Brenda Funk again. Before you enter this order, Mr. Statham and I actually have an agreement, reached earlier today, on unrelated language. I would like the opportunity to honor this agreement and submit a revised order for you to enter, once Mr. Statham and I have a chance to put the language in, and he has a chance to see it.

THE COURT: That's great, Mr. Funk, but I'm going to go ahead and orally authorize it, so that there's no delay in getting Intelstat its deal.

MS. FUNK: Thank you, Your Honor.

THE COURT: And Mr. Healy, you're free to act under the order (indiscernible) order with Mr. Statham, and taking into account the language that you've agreed to with him. But I want to get the company stable, so I'm orally approving it. We'll do a written order when it's submitted.

Where do you all want to go next?

UNIDENTIFIED: Thank you, Your Honor.

THE COURT: Thank you.

MS. FUNK: (Indiscernible) we're on Agenda 5, Docket Number 8. This is a comfort motion (indiscernible) enforcing the provisions of the Bankruptcy Code. We acknowledge that the (indiscernible) Bankruptcy Code that are referenced in this motion came into effect when we filed (indiscernible) early this morning. However, as you have acknowledged and as others have acknowledged, we have a lot of foreign creditors in non U.S. jurisdictions who don't have the understanding of the Bankruptcy Code that others do here in the United States. And your order in this regard would be helpful to demonstrate the gravity of the proceedings to the creditors who are less familiar.

(Indiscernible), Your Honor, we'd request that you enter the order at Docket 8 (indiscernible).

THE COURT: Is there any objection to that?

(No verbal response)

THE COURT: All right. I did have an opportunity

to review this, this morning, and made me go look up some portions of the Bankruptcy Code that -- I didn't realize that a governmental unit included a foreign governmental unit. I just never had to confront that before.

There was no objections. This makes a lot of sense, given -- as I understand the affidavits you have, employees, I believe, or operations in 40 countries, but you're providing service to 140 countries. It makes no sense not to do this. This is simply a statement of the law that allows you to go and show people the court order that implements the law and makes it clear, in case there's a country where it's not automatic (indiscernible) and I've signed that, and I will send that to docketing.

All right. What do we have next?

MS. FUNK: Next is, Judge, Item Number 6, Docket Number 17. This is the Debtors' motion to protect tax attributions, otherwise known as an "NOL motion."

As a number of people have stated in this hearing, before me, the Debtors are looking at every path available t them to (indiscernible) restructuring, and whether the assets that (indiscernible), but we want time to investigate these tax attributes. And so we are seeking an order here on an interim basis to establish the procedures to protect the potential value of those assets, so that we can include them as part of the restructuring.

THE COURT: So who are the people that are going to be affected by this?

MS. FUNK: It is both equity and claims.

THE COURT: Okay.

MS. FUNK: And we (indiscernible) Australian public company, but our relief is that those NOLs are now a part of a U.S. bankruptcy estate.

THE COURT: So I don't have any problem, you're restricting people from buying shares, buying into the estate. It's a question of whether you can restrict people from selling, so I want to know what kind of -- how many people own enough that their sales matter, and what type of notice do they have of this motion?

MS. FUNK: Those individuals are included on our equity list, and that is on the petition that was filed with SpeedCast International, which is the main Debtor case. Those are (indiscernible) holders there of five percent or more are specifically listed. And I do not believe -- I'm not sure notice has been undertaken, but we would request interim relief. And we will give those individuals the appropriate time to come in if they want to object. But we do need the relief on an interim basis to forestall any unintended consequences.

THE COURT: I'm going to make you give them some notice, but I'll give you a followup hearing as soon as you

want it. When do you want your -- I'm not going to grant interim relief with no notice to the people that we're stopping them from selling their property rights.

MS. FUNK: There is one other -- I apologize, Your Honor. There is one point -- there is one point that I failed to mention that is (indiscernible) here. Trading was actually suspended on the Australian exchange.

THE COURT: Correct.

MS. FUNK: So --

THE COURT: But that doesn't stop people from selling private blocks of stock, and you're asking me to stop somebody from selling a private block of stock without giving them notice. I don't understand how I can do that.

MS. FUNK: Understood. Could we go (indiscernible) date? That would be preferable to come back at the same time.

THE COURT: Well, I'm not going to (indiscernible) relief until you give them notice, so.

MS. FUNK: Oh, (indiscernible).

THE COURT: Yeah. I mean, if you want to come back on Tuesday maybe or on Monday because it's not that I'm not interested in considering this, I don't think I can consider it until people whose direct property rights are affected get notice.

MS. FUNK: I would suggest Tuesday, Your Honor.

(Pause in proceedings)

THE COURT: I've got Tuesday at 1:30 in the afternoon. Does that work for you?

MS. FUNK: Yes, Your Honor.

THE COURT: Okay. We'll carry the NOL motion until Tuesday at 1:30.

Where do you all want to go next?

MS. FUNK: Turning to Item Number 7, Your Honor, at Docket Number 6. It is our motion to continue insurance programs in the ordinary course.

The Debtors do not currently owe any amounts on the insurance programs that are detailed in the motion. The Debtors do have a local (indiscernible) property damage, including (indiscernible) a commercial general liability program, a group travel program, a marine cargo program, a professional indemnity program, D&O, prospective liability insurance, and special contingency program. Again, nothing is due and owing at this time on these.

We do ask for interim relief on a small amount, in case we have an obligation to a long-time brokers, who have expertise with our business. So we would ask for that relief on an interim basis, and then continue that to a final hearing.

THE COURT: All right. I think this is supported by the affidavit. Do we have any objection to it?

(No verbal response)

THE COURT: All right. Let me see if I can get that done. Again, this is one I did have a full opportunity to review before the hearing. I've read the order and I've read the motion, I've read the affidavit. This looks like a very routine motion.

What date did we give you for final cash collateral?

MS. FUNK: The 14th.

THE COURT: And what time?

MS. FUNK: I have it in my notes here from earlier, Your Honor. I can't recall. Would it have been 2:30?

(Pause in proceedings)

THE COURT: All right.

MS. FUNK: Next, Your Honor, is --

THE COURT: Hold on, I got to get this across to docketing, before we go too far.

(Pause in proceedings)

THE COURT: All right. I've sent that to docketing. Go ahead.

MS. FUNK: All right. Thank you, Your Honor. Next on the Agenda is Item 8, which is at Docket 24. This is our application to retain Kurtzman Carson Consultants, LLC, as the claims, noticing, and solicitation agent.

Mr. Jordan, I believe, who has hung on with us this whole time, may be on the line from KCC, and we submitted his declaration with the application.

THE COURT: Mr. Jordan, would you press five-star, please?

(Pause in proceedings)

THE COURT: Mr. Jordan, good afternoon. Can you hear me, Mr. Jordan?

MR. JORDAN: Yes, good evening, Your Honor, at least in New York.

THE COURT: Good evening. Thank you.

Mr. Statham, have you had a chance to review this application?

MR. STATHAM: Yes, Your Honor, we have. And we have no objections to the content.

THE COURT: All right. Mr. Jordan, I have not read it. I can, you know, sort of keep everybody and read it, but I'm inclined -- I've hired you so many times -- to just review this in the morning, so that I can do it justice. I doubt that I'm going to have anything with it, but I haven't read it. Do you have any problem if I review this in the morning and just enter it without a hearing, with whatever minor changes, if any, might be needed?

MR. STATHAM: That's totally fine, Your Honor.

THE COURT: Thank you, Mr. Jordan.

Ms. Do, would you put that in my emergency folder, so that I can look at it in the morning, please?

MR. GRIFFITHS: (Indiscernible) amended.

THE COURT: Yes, sir.

MR. GRIFFITHS: (Indiscernible) Mr. Jordan (indiscernible) motion.

THE COURT: Is there any objection?

(No verbal response)

THE COURT: All right. And that's ECF 24 dash what?

MR. GRIFFITHS: I actually will defer to my colleague Brenda Funk on that.

MS. FUNK: It's Exhibit B -- sorry, Exhibit 2, Your Honor.

THE COURT: So it's 24-2, and at of 24-2 was Mr. Jordan's affidavit, and then we're going to take this in the morning in chambers, for lack of a better room, in my living room, and I'll take it up at that point.

Where do you want to go next?

MR. GENENDER: Your Honor, Paul Genender. It's also Exhibit 13 on the Debtors' exhibit list.

THE COURT: Very well. Thank you. And that's really a better way to admit it. We're going to admit then as -- I don't have an Exhibit 13; it stops at 8.

MR. GENENDER: Judge, that -- Paul Genender. ECF

45 is an amended list, and Number 13 is the KCC agreement.

THE COURT: All right. 45, Exhibit 8.

MR. GENENDER: I'm sorry. I'm sorry. I'm sorry. It's Exhibit 5 on our list, Your Honor. I apologize. Exhibit 5 is his declaration, Mr. Jordan's declaration.

THE COURT: We'll admit 45, S-5, without objection.

(Jordan Declaration received in evidence.)

THE COURT: Okay. Where do you want to go next, please?

MS. FUNK: Thank you, Your Honor. At this time, I will pass things off to my colleague Stephanie Morrison to continue the Agenda.

THE COURT: Thank you.

Ms. Morrison, go ahead, please.

MS. MORRISON: Good evening, Your Honor. Can you hear me okay?

THE COURT: I can hear you fine. But if you're speak up a little bit louder.

MS. MORRISON: Okay. I will do my best.

The next item on the Agenda is Item Number 9, which is the Debtors' motion for approval of continued use of the cash management program, filed at Docket Number 11.

Under this motion, the Debtors are seeking authority to continue their cash management system,

including maintaining their existing bank accounts, continuing their intercompany transactions on a go-forward basis, banking and credit card programs, and paying their bank fees.

Your Honor, after discussions with the U.S. Trustee's Office today, we've agreed to several changes in the proposed order, which was filed on the docket just moments ago, at ECF Number 53.

THE COURT: Let me -- hold one second. The fire alarm just went off in my home. I think it stopped, but I'm going to put down my headset, and I'll be right back. Sorry.

(Pause in proceedings)

THE COURT: Well, that only lasted a second, I'll assume it's nothing. If it goes off again -- I'm sorry to interrupt you, Ms. Morrison, but you were telling me that you had filed another agreement, right?

MS. MORRISON: That's right, Your Honor, just moments ago. So, if you can bear with me, I'm trying to also pull it off the docket now.

THE COURT: So let me....

(Pause in proceedings)

THE COURT: I don't see a new order.

MS. MORRISON: Okay. It might be (indiscernible) technical difficulties.

THE COURT: All right. Mr. Statham, (indiscernible).

MS. MORRISON: (Indiscernible).

THE COURT: Mr. Statham, can you tell me if this is something that you've agreed to with Ms. Morrison?

MR. STATHAM: Actually, I'll defer to my colleague Mr. Duran, if he's still on the line.

THE COURT: All right. Mr. Duran, are you there? If you could press five-star, there you go. Mr. Duran, can you tell me where we are on this?

MR. DURAN: Yes. I had requested -- we had requested some changes, and the Debtors have agreed to incorporate all those changes into what I now believe to be Docket Number 51, which is the proposed interim order.

THE COURT: Oh, it sure is there.

All right. Ms. Morrison, go ahead.

MS. MORRISON: Oh, apologies, Your Honor. So we discussed (indiscernible) the U.S. Trustee's Office today, with a few changes (indiscernible) I can turn to those in a moment. But before I do so, I'm happy to provide the Court with an overview of the cash management systems, if it would be helpful for the Court, or just address any of the Court's questions in the first instance.

THE COURT: Why don't you present the case you want to present? I've, of course, already read the --

Mr. Healy's declaration, so no need to repeat what's in there. But if there's something you want to add to that, feel free.

MS. MORRISON: Sure. Thank you, Your Honor.

So, as we (indiscernible) in the motion, the company's cash management program is made up of (indiscernible) banks around the world and (indiscernible) of these accounts are the Debtors' bank accounts (indiscernible) are actually a fairly simple system because, generally, each bank account serves as an operating account for (indiscernible) entity and serves to receive the first (indiscernible) enterprise.

These funds are tracked by each participating entity, and the transfers are actually centrally managed by the company's treasury department, so that they can address each entity's cash needs on an as-needed basis. These transfers are tracked as either intercompany loans or accounting entries which show up as payables and receivables on the Debtors' books and records.

As part of the cash management program, certain of the Debtors (indiscernible) are not recipients under the cash management system, and so they (indiscernible) access to cash through intercompany transactions is critical to their ability to continue paying employees and their other costs that are necessary to operate their business.

Going forward, the company is seeking to continue to use its cash management system as normal, including with respect to intercompany transactions and to grant administrative priority to all intercompany transactions that arise after the petition date, and are seeking authority to honor pre-petition --

THE COURT: Ms. Morrison, you said there are 200 bank accounts. How many of them are outside of the United States?

MS. MORRISON: Your Honor --

THE COURT: (Indiscernible) multiple ones?

MS. MORRISON: There are multiple. There are quite a --

THE COURT: So how do you --

MS. MORRISON: (Indiscernible).

THE COURT: -- (indiscernible) for a foreign bank account?

MS. MORRISON: Yes, that is one of the reasons that we sought relief initially, to waive the requirements of 325, given the (indiscernible) this company's business. And in reality, a lot of their bank accounts need to exist within the jurisdictions where these companies operate.

That being said, we have agreed with the U.S. Trustee's Office for an extension of the time required for the Debtors to comply, and have agreed to work together, so

that the U.S. Trustee's Office can either (indiscernible) cash management system that the Debtors have in place or we can continue to talk about the (indiscernible) address those going forward.

THE COURT: So, Mr. Duran, what is the policy if you're a multi-national Debtor with accounts outside of the United States, in terms of compliance with 345?

MR. DURAN: It's going to be difficult. We're going to talk, we're going to try to get our heads around the cash management system, see if there's anything that can be devised where balances can be transferred to authorized depositories. And if that fails, then I think that sets us up for a court hearing on compliance with Section 345. We may not be able to do it. I just don't know at this point in time, just don't know enough about the cash management system.

MR. GRIFFITHS: And Your Honor, if I may be heard? David Griffiths with Weil, Gotshal & Manges. Just one point (indiscernible), we also have Mr. Healy on the line. While Debtors' bank accounts are spread out around the world, it's just a fact that the Debtors have almost no liquidity; there's very little cash in the (indiscernible) system. You know, the (indiscernible) capital coming in initially will just be from the DIP funding, which I understand is going into a U.S. bank account. And then (indiscernible) the U.S.

Trustee about this, and then to come back before Your Honor at a later date (indiscernible) U.S. Trustee's Office, which at least, in my experience (indiscernible).

THE COURT: So I'm going to ask you all to file one more revision to the form of order and just get it uploaded. Let Ms. Do know when it's filed. I don't want an order that only says we're going to consider this, you know, how to comply with 345 later. I want to tee in up in the interim order that the parties are going to discuss what to do about foreign bank accounts, and if they're unable to resolve what to do about foreign bank accounts, that they'll then return to Court.

I just -- I think it's only fair that people know that it's a difficult issue that we need to deal with. I'm not suggesting that the answer is that I don't want it to be not stated that that's the hard question that we need to answer. Is there any objection to including language like that, Ms. Morrison or Mr. Duran?

MS. MORRISON: No objection from me, Your Honor.

MR. DURAN: No objection, Your Honor.

THE COURT: All right. If you'll just upload another revised form of order, I would appreciate it. I have no problems with the revisions that you've already made, other than it seems to not squarely make me confront the question, and I want to have it up on the table.

All right. Where did you want to go next, Ms. Morrison?

MS. MORRISON: Thank you, Your Honor. Next is item -- Agenda Item Number 10, which is the Debtors' motion to continue honoring and paying employee obligations. This motion was filed at Docket Number 20.

And like the cash management motion, the Debtors have discussed this with the U.S. Trustee's Office and have agreed to a few modifications to the order, which I'll address in a moment.

The Debtors operations are supported by a workforce of more than 950 employees just at the Debtors. The enterprise itself has over 1,000. And (indiscernible) 13 countries around the world. The Debtors also have a small number of contract employees, who were hired on an individual basis or through a staffing agency, to support their operations around the world in countries where the Debtors don't have operations.

The company estimates as of the petition date that there's about 1.14 million outstanding, limited to employee obligations, and about $200,000 outstanding, limited to the contract employees. And the employee obligations (indiscernible) you know, the typical benefit and certain wage reduction requirements that you'd expect to see in a large corporation, including wages, payroll taxes, and other

deductions.

And unless Your Honor has specific questions, I can walk through (indiscernible) the modifications (indiscernible) revised proposed order that should be filed (indiscernible) if it hasn't already been filed --

THE COURT: What do those changes (indiscernible)?

MS. MORRISON: -- as I've been speaking.

Sure. So the first one (indiscernible) clarify that the Debtors are not going to honor any pre-petition obligations or contract obligations that are over the statutory cap at 507(a)(4) or (a)(5). And that will provide --

THE COURT: (Indiscernible).

MS. MORRISON: So we're also going to provide notice to the trustee and any statutory committee that's appointed (indiscernible) material changes (indiscernible) benefit programs or (indiscernible) programs, policies, and benefits.

THE COURT: All right.

MS. MORRISON: In addition, there were a few clarifications that we made with respect to the Debtors' long-term incentive program and cash (indiscernible) and this clarifies that the specific programs that were in place, which (indiscernible) they will not change during the case, and also clarify that the Debtors are not going to be

-- we're not trying to take any (indiscernible) under 503(c) of the Bankruptcy Code, as it relates to an insider.

THE COURT: All right. Are there any objections to the order with the amendments that have been announced by Ms. Morrison?

(No verbal response)

THE COURT: All right. We're going to approve based on the affidavits and the contents of the motion. If you will just let Ms. Do know when you get the revised order uploaded, she can put it in my emergency box.

Where do you want to go next?

MS. MORRISON: Yes, Your Honor. The next motion on the Agenda is the taxes motion, which is Item 11, and filed at Docket Number 16.

THE COURT: All right.

MS. MORRISON: Under this motion, the Debtors are seeking authority to pay certain pre-petition taxes, which they currently estimate to be around 17.2 million. It includes -- excuse me. It includes sales and use taxes (indiscernible) income taxes, property and other foreign taxes.

We reviewed the motion with the U.S. Trustee's Office and we've addressed its request to (indiscernible) certain reporting (indiscernible) basis throughout the case. And unless Your Honor has any questions regarding the

motion, we'd request that it be entered.

THE COURT: So does the proposed order already have the U.S. Trustee's comments built in?

MS. MORRISON: It does, Your Honor.

THE COURT: It was ECF 5-1. Is that right? That's the one that I reviewed on this matter.

MS. MORRISON: Yes. Yes, Your Honor.

THE COURT: All right. Is there anybody that has any objection to the relief?

(No verbal response)

THE COURT: All right. I reviewed this before I came out, and I've reviewed the affidavit. This seems like relief that is obviously in the best interests of the estate to avoid penalties on the taxes and problems with governmental entities. They have a high priority, in any event, and I am going to grant the motion. That's signed.

(Pause in proceedings)

THE COURT: All right, Ms. Morrison. What do you have next?

MS. MORRISON: Next is the utilities motion, which is Item 12 on the Agenda, filed at Docket Number 7.

And the Debtors (indiscernible) utility services -- electricity, gas, water, telephone (indiscernible) other utility services from a number of companies in the United States and around the world. Looking at historical

averages, the Debtors are proposing an adequate assurance deposit of $196,000, which is equal to one-half of the monthly charges for services that the Debtor -- based on the Debtors' run rates.

And maintaining utility services is really critical for this company, especially because of global operations (indiscernible) any interruption in services could pretty severely disrupt the Debtors' ability to continue its operations for its customers. And any interruption of potential power outages (indiscernible) in the Debtors teleports can lead to significant -- it could lead to significant liabilities with the Debtor to customers.

And we have reviewed this program with the U.S. Trustee and there were no objections to it. So, unless Your Honor has any questions, we'd request that you enter the order approving it.

THE COURT: So how can I -- how can you be adding additional utilities to the list if it's outside of the twenty-to-thirty-day range given in 366?

MS. MORRISON: (Indiscernible), Your Honor, it might make sense (indiscernible) so that we can at least have a limited period of time, perhaps (indiscernible).

THE COURT: Yeah, I think, in a prior case that your firm handled, what we did is we put in the order that

we can add companies, but only if they have time to object within the time limits under 366, and otherwise, you can't add them because then you're not in compliance with 366.

So, with that change, does anyone have any objection to approving the utility motion?

(No verbal response)

THE COURT: All right. Ms. Morrison, if you'll just incorporate that concept and upload an order to that effect, we'll get it done tomorrow. Thank you.

MS. MORRISON: All right. Thank you, Your Honor.

THE COURT: What do we have next?

MS. MORRISON: We're in the home stretch, only two more. The next is Agenda Item Number 13, which is our request to extend the deadline to file schedules and statements.

The Debtors have requested an extension of a fourteen-day period to file their schedules of assets and liabilities and statements of financial affairs which (indiscernible) to June 8th, without prejudice to the Debtors' right to request additional time, should it become necessary.

We have discussed (indiscernible) with the U.S. Trustee's Office and we've incorporated their comments to this motion prior to its filing, and our understanding is that they have no more objections.

THE COURT: Is there any party that objects to extending the date for filing schedules and statements?

(No verbal response)

THE COURT: All right.

MS. MORRISON: (Indiscernible).

THE COURT: You are (indiscernible), Ms. Morrison. What do you have next?

MS. MORRISON: Thank you. Last, but certainly not least, Item Number 14, which is the motion to approve the Debtors' form and manner of notice of the commencement of the cases, authorizing our filing of a consolidated creditor matrix listing the 30 largest unsecured creditors, and modifying the requirement to file a list of equity security holders. We filed this at Docket Number 14 -- excuse me, Your Honor. We filed this at Docket Number 9 earlier today.

THE COURT: Right.

MS. MORRISON: We've previewed this motion and the order with the United States Trustee and have incorporated their comments prior to filing the motion. We understand that any of their concerns or objections have been resolved.

THE COURT: Does any party have any objection to the notice order?

(No verbal response)

THE COURT: All right.

MS. MORRISON: Your Honor, that concludes my

presentation. But I'd like to turn the podium (indiscernible) back over to my colleague (indiscernible).

THE COURT: I need to get this order signed before I let you do that.

MS. MORRISON: Okay.

THE COURT: Hold on a moment, so I can ... I do my best never to just put my signature on a page.

MS. MORRISON: (Indiscernible).

THE COURT: Oh, I think you do your best. That wasn't a complaint, just telling you what (indiscernible) happened you might like.

All right. I've signed that and I have sent it to docketing. Thank you.

MR. GRIFFITHS: Your Honor, David Griffiths for the Debtors. I believe that concludes our presentation, and my kids are in the background screaming. So I think we'd like to thank the Court for your patience this evening in running so late. We truly do appreciate it. And with that, Your Honor, (indiscernible).

THE COURT: Okay. Thank you.

Do we have any other party with any issues to raise?

MR. PEREZ: Your Honor, just one thing. This is Alfredo Perez. Actually, with the DIP motion, there was a motion to seal that was also filed, with respect to the

pricing of the DIP. It was just kind of the usual type of motions that you file (indiscernible) I think that can just be -- we request the Court enter the order. Of course, I'm not sure we need to take the Court's time with it right now.

THE COURT: Well, I normally don't treat those as an emergency because they stay sealed until I consider it.

MR. PEREZ: Right, right.

THE COURT: Yeah, so it's -- and I haven't read it. It's just a typical (indiscernible) where the actual gross amount is on the budget. What's not disclosed is how you calculate that and the sharing of that amongst the lender. Is that --

MR. PEREZ: Yes, Your Honor.

THE COURT: Is that (indiscernible)?

MR. PEREZ: (Indiscernible) payments going to the lenders, it does have that.

THE COURT: I've approved about a hundred of those, I think, so I think we're okay.

All right. So does any other party have anything they need to raise today?

UNIDENTIFIED: Just to thank you, Your Honor.

THE COURT: Well, thank you all for appearing. The hearing was not as efficient as what we might have hoped for. Given, really, how well you had it organized, we were able to be somewhat efficient on it. But I appreciate all

the efforts and I appreciate that your clients are really overcoming a difficult situation, perhaps not of their making. So I wish everyone luck, and we'll go ahead and adjourn the hearing. Thank you.

(The parties thank the Court.)

THE COURT: Thank you.

(Proceedings concluded at 7:06 p.m.)

* * * * *

I certify that the foregoing is a correct transcript to the best of my ability due to the condition of the electronic sound recording of the proceedings in the above-entitled matter.

/S/ MARY D. HENRY

*CERTIFIED BY THE AMERICAN ASSOCIATION OF ELECTRONIC REPORTERS AND TRANSCRIBERS, CET*337*

JUDICIAL TRANSCRIBERS OF TEXAS, LLC

JTT TRANSCRIPT #62108

DATE FILED: APRIL 26, 2020

Tab 4

Syndicated Facility Agreement

EXECUTION VERSION

SYNDICATED FACILITY AGREEMENT

dated as of May 15, 2018,

among

SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241),

as Parent and a Borrower,

CERTAIN OF ITS SUBSIDIARIES,

as Borrowers,

THE LENDERS AND ISSUING BANKS NAMED HEREIN

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,

as Administrative Agent, Collateral Agent and Security Trustee

_____

CREDIT SUISSE SECURITIES (USA) LLC,

CITIBANK, N.A.,

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK,

ING BANK N.V.

and

MACQUARIE CAPITAL (USA) INC.,

as Joint Lead Arrangers

and Joint Bookrunners

TABLE OF CONTENTS

Page

ARTICLE I Definitions 1

SECTION 1.01. Defined Terms 1
SECTION 1.02. Terms Generally 57
SECTION 1.03. Exchange Rates 58
SECTION 1.04. Classification of Loans and Borrowings 58
SECTION 1.05. Pro Forma Calculations; Limited Condition Transactions 58
SECTION 1.06. Certain Calculations relating to Incremental Commitments and Incremental Equivalent Indebtedness 59

ARTICLE II The Credits 60

SECTION 2.01. Commitments and Loans 60
SECTION 2.02. Loans 61
SECTION 2.03. Borrowing Procedure 64
SECTION 2.04. Evidence of Debt; Repayment of Loans 65
SECTION 2.05. Fees 65
SECTION 2.06. Interest on Loans 67
SECTION 2.07. Default Interest 67
SECTION 2.08. Alternate Rate of Interest 68
SECTION 2.09. Termination and Reduction of Commitments 69
SECTION 2.10. Conversion and Continuation of Borrowings 69
SECTION 2.11. Repayment of Term Borrowings 71
SECTION 2.12. Prepayment 72
SECTION 2.13. Mandatory Prepayments 73
SECTION 2.14. Reserve Requirements; Change in Circumstances 76
SECTION 2.15. Change in Legality 77
SECTION 2.16. Indemnity 78
SECTION 2.17. Pro Rata Treatment 79
SECTION 2.18. Sharing of Setoffs 79
SECTION 2.19. Payments 80
SECTION 2.20. Taxes 80
SECTION 2.21. Australian Tax Matters 84
SECTION 2.22. Assignment of Commitments Under Certain Circumstances; Duty to Mitigate 87
SECTION 2.23. Letters of Credit 88
SECTION 2.24. Borrowers 94
SECTION 2.25. Reporting Requirements of the Issuing Banks 96
SECTION 2.26. Additional Issuing Banks 97
SECTION 2.27. Incremental Commitments 97
SECTION 2.28. Defaulting Lenders 101
SECTION 2.29. Contract Credit Facilities 103

SECTION 2.30. Refinancing Facilities 105
SECTION 2.31. Extension of Term Loans; Extension of Revolving Credit Commitments 106
SECTION 2.32. Discounted Prepayment Offers 109

ARTICLE III Representations and Warranties 112

SECTION 3.01. Organization; Powers 112
SECTION 3.02. Authorization 112
SECTION 3.03. Enforceability 113
SECTION 3.04. Governmental Approvals 113
SECTION 3.05. Financial Statements 113
SECTION 3.06. No Material Adverse Change 113
SECTION 3.07. Title to Properties; Possession Under Leases 114
SECTION 3.08. Subsidiaries 114
SECTION 3.09. Litigation; Compliance with Laws 114
SECTION 3.10. Agreements 115
SECTION 3.11. Federal Reserve Regulations 115
SECTION 3.12. Investment Company Act 115
SECTION 3.13. Use of Proceeds 115
SECTION 3.14. Tax Returns 116
SECTION 3.15. No Material Misstatements 116
SECTION 3.16. Employee Benefit Plans 117
SECTION 3.17. Environmental Matters 117
SECTION 3.18. Insurance 118
SECTION 3.19. Security Documents 118
SECTION 3.20. Location of Material Owned Real Property 118
SECTION 3.21. Labor Matters 118
SECTION 3.22. Solvency 119
SECTION 3.23. Sanctions, Anti-Terrorism and Anti-Bribery Laws 119
SECTION 3.24. Senior Indebtedness 120
SECTION 3.25. Australian Tax Consolidation 120
SECTION 3.26. Trustee; Benefit; Financial Assistance; Etc. 121

ARTICLE IV Conditions 121

SECTION 4.01. Initial Credit Event 121
SECTION 4.02. All Credit Events 125

ARTICLE V Affirmative Covenants 125

SECTION 5.01. Existence; Businesses and Properties 126
SECTION 5.02. Insurance 126
SECTION 5.03. Obligations and Taxes 127
SECTION 5.04. Financial Statements, Reports, etc 128
SECTION 5.05. Litigation and Other Notices 129
SECTION 5.06. Employee Benefits 130

SECTION 5.07. Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings 130
SECTION 5.08. Use of Proceeds 130
SECTION 5.09. Compliance with Environmental Laws 131
SECTION 5.10. Preparation of Environmental Reports 131
SECTION 5.11. Guarantor Coverage Test; Further Assurances; Etc 131
SECTION 5.12. Senior Indebtedness 134
SECTION 5.13. Compliance with Tax Sharing Agreement and Tax Funding Agreement 134
SECTION 5.14. Post-Closing Matters 135
SECTION 5.15. Federal Reserve Regulations 135

ARTICLE VI Negative Covenants 135

SECTION 6.01. Indebtedness 135
SECTION 6.02. Liens 141
SECTION 6.03. Sale and Lease-Back Transactions 144
SECTION 6.04. Investments, Loans and Advances 144
SECTION 6.05. Mergers, Consolidations and Sales of Assets 149
SECTION 6.06. Dividends and Distributions; Restrictions on Ability of Restricted Subsidiaries to Pay Dividends 151
SECTION 6.07. Transactions with Affiliates 153
SECTION 6.08. Business of Borrowers and Restricted Subsidiaries 154
SECTION 6.09. Other Indebtedness and Agreements 154
SECTION 6.10. Financial Covenant 156
SECTION 6.11. Fiscal Year 157
SECTION 6.12. Designation of Subsidiaries 157
SECTION 6.13. Certain Issuances of Equity Interests 158
SECTION 6.14. Sanctions-Compliant Repayment of Obligations 159

ARTICLE VII Events of Default 159

SECTION 7.01. Events of Default 159
SECTION 7.02. Application of Proceeds 162

ARTICLE VIII The Agents, Etc.; Certain ERISA Matters 164

SECTION 8.01. The Administrative Agent, the Collateral Agent and the Security Trustee, Etc 164
SECTION 8.02. Certain ERISA Matters 170

ARTICLE IX Miscellaneous 172

SECTION 9.01. Notices 172
SECTION 9.02. Survival of Agreement 175
SECTION 9.03. Binding Effect 176
SECTION 9.04. Successors and Assigns 176
SECTION 9.05. Expenses; Indemnity 182
SECTION 9.06. Right of Setoff 184

SECTION 9.07. Applicable Law....184
SECTION 9.08. Waivers; Amendment....185
SECTION 9.09. Interest Rate Limitation....188
SECTION 9.10. Entire Agreement....189
SECTION 9.11. WAIVER OF JURY TRIAL....189
SECTION 9.12. Severability....189
SECTION 9.13. Counterparts....189
SECTION 9.14. Headings....190
SECTION 9.15. Jurisdiction; Consent to Service of Process....190
SECTION 9.16. Conversion of Currencies....190
SECTION 9.17. Confidentiality....191
SECTION 9.18. European Monetary Union....192
SECTION 9.19. Rights of Contract Credit Facility Lenders; Amendments and Waivers of Contract Credit Facilities....193
SECTION 9.20. No Advisory or Fiduciary Responsibility....193
SECTION 9.21. USA PATRIOT Act Notice....194
SECTION 9.22. Additional Borrowers....194
SECTION 9.23. Acknowledgment and Consent to Bail-In of EEA Financial Institutions....195
SECTION 9.24. Certain Privacy Principles and Laws....195
SECTION 9.25. Release of Liens....196
SECTION 9.26. Exclusion of Certain PPSA Provisions....197

SCHEDULES

Schedule 1.01(a)	Agreed Security Principles
Schedule 1.01(b)	Certain Alternative Currencies
Schedule 1.01(c)	Initial Subsidiary Guarantors
Schedule 1.01(d)	Existing Letter of Credit
Schedule 1.01(e)	Unrestricted Subsidiaries
Schedule 2.01	Lenders; Commitments
Schedule 3.08	Subsidiaries
Schedule 3.09	Litigation
Schedule 3.17	Environmental Matters
Schedule 3.18	Insurance
Schedule 3.21	Labor Matters
Schedule 4.01(d)	Initial Security Documents and Certain Closing Deliverables
Schedule 4.01(l)	Existing Indebtedness for Borrowed Money
Schedule 5.14	Post-Closing Matters
Schedule 6.01	Indebtedness
Schedule 6.02	Liens
Schedule 6.04	Investments
Schedule 6.05	Certain Fundamental Changes
Schedule 6.07	Transactions with Affiliates

EXHIBITS

Exhibit A	Form of Administrative Questionnaire
Exhibit B	Form of Assignment and Acceptance
Exhibit C	Form of Borrowing Request
Exhibit D	Form of Guarantee Agreement
Exhibit E	Form of Security Trust Deed
Exhibit F	Form of Compliance Certificate
Exhibit G	Form of Solvency Certificate
Exhibit H-1	Form of Term Loan Promissory Note
Exhibit H-2	Form of Revolving Loan Promissory Note
Exhibit I-1	Form of Borrowing Subsidiary Agreement
Exhibit I-2	Form of Borrowing Subsidiary Termination
Exhibit J-1	Form of U.S. Tax Compliance Certificate
Exhibit J-2	Form of U.S. Tax Compliance Certificate
Exhibit J-3	Form of U.S. Tax Compliance Certificate
Exhibit J-4	Form of U.S. Tax Compliance Certificate

SYNDICATED FACILITY AGREEMENT dated as of May 15, 2018 (this "***Agreement***"), among SPEEDCAST INTERNATIONAL LIMITED (ACN 600 699 241), a company organized under the laws of Australia and registered in New South Wales, Australia (the "***Parent***"), SPEEDCAST AMERICAS, INC., a Delaware corporation ("***SpeedCast America***"), SPEEDCAST COMMUNICATIONS, INC., a Texas corporation ("***SpeedCast Communications***"), SPEEDCAST LIMITED, a company incorporated under the laws of Hong Kong with its registered office at 2401 & 08-11 Dorset House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong and company registration number 0687568 ("***SpeedCast HK***", and together with the Parent, SpeedCast America and SpeedCast Communications, the "***Initial Borrowers***"), the Lenders (as defined in Article I), the Issuing Banks (as defined in Article I) and CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as administrative agent (in such capacity, including any successor thereto, the "***Administrative Agent***") for the Lenders, as collateral agent (in such capacity, including any successor thereto, the "***Collateral Agent***") for the Secured Parties, and as security trustee (in such capacity, including any successor thereto, the "***Security Trustee***") for the Secured Parties.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. ***Defined Terms***. As used in this Agreement, the following terms shall have the meanings specified below:

"***ABR***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"***Acquired Entity***" shall have the meaning assigned to such term in Section 6.04(d).

"***Additional Refinancing Lender***" shall mean, at any time, any bank, financial institution or other institutional lender or investor (other than any such bank, financial institution or other institutional lender or investor that is a Lender at such time and other than any Ineligible Assignee) that agrees to provide any portion of Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.30, provided that each Additional Refinancing Lender shall be subject to the approval of (i) the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed, to the extent that each such Additional Refinancing Lender is not an Affiliate of a then-existing Lender or an Approved Fund and (ii) Parent.

"***Adjusted LIBO Rate***" shall mean, (a) with respect to any Eurocurrency Borrowing denominated in Euro for any Interest Period, an interest rate per annum equal to the EURIBO

Rate in effect for such Interest Period multiplied by Statutory Reserves, and (b) with respect to any other Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to the LIBO Rate in effect for such Interest Period multiplied by Statutory Reserves.

"***Administrative Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Administrative Questionnaire***" shall mean an Administrative Questionnaire substantially in the form of Exhibit A, or such other form as may be supplied by the Administrative Agent.

"***Affiliate***" shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

"***Agent Fees***" shall have the meaning assigned to such term in Section 2.05(b).

"***Agents***" shall have the meaning assigned to such term in Article VIII.

"***Aggregate Contract Credit Facilities Exposure***" shall mean, at any time, the aggregate amount of the Contract Credit Facility Lenders' Contract Credit Facility Exposure at such time.

"***Aggregate Revolving Credit Exposure***" shall mean, at any time, the aggregate amount of the Lenders' Revolving Credit Exposure at such time with respect to the Revolving Credit Commitments and each Class of Extended Revolving Credit Commitments.

"***Agreed Security Principles***" means the principles set out in Schedule 1.01(a) hereto (Agreed Security Principles).

"***Agreement"*** shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Agreement Value***" shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to any such Hedging Agreement, (i) for any date on or after the date such Hedging Agreement has been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (ii) for any date prior to the date referenced in clause (i), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreement (which may include a Lender or any Affiliate of a Lender).

"***Agreement Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Alternate Base Rate***" shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate in effect on such day for a one-month Interest Period commencing on the second Business Day after such day plus 1.00%; provided that the Alternate Base Rate shall not be less than 0.00%. If the Administrative Agent shall have

determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or the Adjusted LIBO Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) or (c), as applicable, of the preceding sentence until the circumstances giving rise to such inability no longer exist. The term "***Prime Rate***" shall mean the rate of interest per annum determined from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City and notified to the Borrowers. The term "***Federal Funds Effective Rate***" shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System of the United States, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, as the case may be.

"***Alternative Currency***" shall mean, (a) with respect to Revolving Loans, Euros, Australian Dollars and any other freely available currency or currencies (other than dollars) from time to time approved by the Administrative Agent, each Revolving Credit Lender, each Extending Revolving Credit Lender and each Issuing Bank, in each case in its sole discretion and (b) with respect to Letters of Credit issued for the account of a Revolving Credit Borrower, Euros, Australian Dollars and any other freely available currency or currencies (other than dollars) listed on Schedule 1.01(b) or from time to time approved on or after the Closing Date by the Administrative Agent, each Revolving Credit Lender, each Extending Revolving Credit Lender and each Issuing Bank, in each case in its sole discretion; provided that, for purposes of this clause (b), to the extent that the participation obligation of any Revolving Credit Lender or Extending Revolving Credit Lender in respect of a Letter of Credit denominated in an Alternative Currency is permitted to be funded in an amount equal to the Dollar Equivalent of obligations relating to a Letter of Credit denominated in a currency that has not been approved by such Revolving Credit Lender or Extending Revolving Credit Lender, as the case may be, then such currency shall only be required to be approved by the Administrative Agent and each Issuing Bank that has agreed to issue Letters of Credit denominated in such currency pursuant to procedures agreed to by such Issuing Bank.

"***Alternative Currency Borrowing***" shall mean a Borrowing comprised of Alternative Currency Loans.

"***Alternative Currency Equivalent***" shall mean, on any date of determination, with respect to any amount denominated in dollars in relation to any specified Alternative Currency, the equivalent in such specified Alternative Currency of such amount in dollars, determined by the Administrative Agent pursuant to Section 1.03 using the applicable Exchange Rate then in effect.

"***Alternative Currency Loan***" shall mean any Loan denominated in an Alternative Currency.

"***Anti-Bribery Laws***" shall have the meaning assigned to such term in Section 3.23(b).

"***Applicable Creditor***" shall have the meaning assigned to such term in Section 9.16(b).

"***Applicable Rate***" shall mean, for any day (a) with respect to any Initial Term Loan, (i) 2.50% per annum, in the case of a Eurocurrency Term Loan, or (ii) 1.50% per annum, in the case of an ABR Term Loan, and (b) with respect to (i) any Fixed Rate Revolving Loan, the applicable percentage per annum set forth in the table below under the caption "Fixed Rate Spread — Revolving Loans", (ii) any ABR Revolving Loan, the applicable percentage per annum set forth in the table below under the caption "ABR Spread — Revolving Loans", (iii) the Facility Fee, the applicable percentage per annum set forth in the table below under the caption "Facility Fee", and (iv) the L/C Participation Fee, the applicable percentage per annum set forth in the table below under the caption "L/C Participation Fee", in each case based upon the First Lien Net Leverage Ratio as of the last day of the most recently ended Test Period:

Category	First Lien Net Leverage Ratio	Fixed Rate Spread – Revolving Loans	ABR Spread – Revolving Loans	Facility Fee	L/C Participation Fee
1	≥ 3.00:1.00	2.50%	1.50%	0.75%	1.75%
2	< 3.00:1.00 and ≥ 2.50:1.00	2.25%	1.25%	0.675%	1.575%
3	< 2.50:1.00 and ≥ 2.00:1.00	2.00%	1.00%	0.60%	1.40%
4	< 2.00:1.00 and ≥ 1.50:1.00	1.75%	0.75%	0.525%	1.225%
5	< 1.50:1.00	1.50%	0.50%	0.45%	1.05%

Each change in the Applicable Rate resulting from a change in the First Lien Net Leverage Ratio shall be effective with respect to all Revolving Loans, Revolving Credit Commitments, Extended Revolving Credit Commitments (if applicable) and Letters of Credit on the first Business Day immediately following the date of delivery to the Administrative Agent of the financial statements and the related Compliance Certificate required by Section 5.04(a) or 5.04(b), as the case may be, and Section 5.04(c), based upon the First Lien Net Leverage Ratio as of the end of the most recent fiscal half-year period included in such financial statements so delivered, and shall remain in effect until the date immediately following the next date of delivery of such financial statements and certificate indicating another such change.

Notwithstanding the foregoing, (i) Category 1 shall apply (x) as of the first Business Day after the date on which the financial statements and the related Compliance Certificate required by Section 5.04(a) or 5.04(b), as the case may be, and Section 5.04(c) were required to have been delivered but were not delivered, and shall continue to so apply to and including the date on which such financial statements and the related Compliance Certificate required by Section 5.04(a) or 5.04(b), as the case may be, and Section 5.04(c) are delivered (and thereafter the Category otherwise determined in accordance with this definition shall so apply), (ii) until Parent shall have delivered the financial statements and the related Compliance Certificate required by Section 5.04(b) and Section 5.04(c), respectively, as of and for the first fiscal half-year period of Parent ending after the Closing Date, the First Lien Net Leverage Ratio shall be deemed to be in Category 2 for purposes of determining the Applicable Rate, and (iii) at any time after the occurrence and during the continuance of an Event of Default but excluding the date on which such Event of Default is cured or waived, the First Lien Net Leverage Ratio shall be deemed to be in Category 1 for purposes of determining the Applicable Rate (and thereafter the Category otherwise determined in accordance with this definition shall apply).

In the event that any financial statement or Compliance Certificate required by Section 5.04(a) or 5.04(b), as the case may be, and Section 5.04(c) is inaccurate (regardless of whether this Agreement is in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period (an "***Applicable Period***") than the Applicable Rate applied for such Applicable Period, then (i) the Borrowers shall immediately deliver to the Administrative Agent the corrected financial statements and a corrected certificate for such Applicable Period, (ii) the Applicable Rate shall be determined based on the corrected certificate for such Applicable Period and (iii) the Borrowers shall immediately pay to the Administrative Agent (for the account of the Lenders during the Applicable Period or their successors and assigns) the accrued additional interest owing as a result of such increased Applicable Rate for such Applicable Period. This paragraph shall not limit the rights of the Administrative Agent or the Lenders with respect to Section 2.06 and Article VII hereof, and shall survive the termination of this Agreement.

"***Asset Sale***" shall mean the sale, transfer or other disposition (by way of merger, casualty, condemnation or otherwise and including by way of a Sale and Leaseback) by any Borrower or any Restricted Subsidiary to any person other than any Borrower or any Guarantor of (a) any Equity Interests of any Subsidiary (other than directors' or foreign nationals' qualifying shares) or (b) any other assets of any Borrower or any Restricted Subsidiary (other than sales, transfers or other dispositions (i) in the ordinary course of business on arm's length terms, (ii) by any Loan Party to any Restricted Subsidiary that is not a Loan Party to the extent having a value not in excess of $5,000,000 in the aggregate for all such sales, transfers and other dispositions pursuant to this subclause (ii) in any period of two consecutive fiscal half-year periods, (iii) between or among Restricted Subsidiaries which are not Loan Parties or (iv) in the ordinary course of business of (x) surplus, obsolete or worn out assets or (y) assets that are otherwise no longer useful in the business of Parent and its Restricted Subsidiaries); *provided* that any sale, transfer or other disposition described in clause (a) or (b) above shall be deemed not to be an "Asset Sale" for purposes of this Agreement to the extent having a value not in excess of $15,000,000 in the aggregate for all such sales, transfers and other dispositions that are excluded from the definition of "Asset Sale" pursuant to this proviso in any period of two consecutive fiscal half-year periods, so long as the consideration received in any such individual

sale, transfer or other disposition in excess of $1,000,000 is at least equal to the fair market value of the assets so sold, transferred or disposed of.

"***Assignment and Acceptance***" shall mean an assignment and acceptance entered into by a Lender and an assignee, and accepted by the Administrative Agent, substantially in the form of Exhibit B or such other form as shall be approved by the Administrative Agent.

"***Associate***" has the meaning given to it in Section 128F(9) of the Australian Tax Act.

"***ASX***" means ASX Limited.

"***Auction Manager***" shall mean Credit Suisse AG, Cayman Islands Branch (acting through any of its Affiliates or branches as it deems appropriate) (or, if Credit Suisse AG, Cayman Islands Branch declines to act as Auction Manager, an investment bank of recognized standing selected by Parent and reasonably acceptable to the Administrative Agent), which shall be engaged to act in such capacity on terms and conditions reasonably satisfactory to Credit Suisse AG, Cayman Islands Branch (or such other investment bank) and the Administrative Agent.

"***Auction Notice***" shall mean an auction notice with respect to a Discounted Prepayment Offer given by the applicable Term Loan Borrower in accordance with Section 2.32 and the auction procedures established pursuant thereto.

"***Australian Corporations Act***" shall mean the Corporations Act 2001 of Australia (Cth).

"***Australian Dollars***" or "***A$***" shall mean the lawful currency of Australia.

"***Australian Privacy Principles***" shall mean the Australian Privacy Principles in Schedule 1 of the *Privacy Act 1988* (Cth) of Australia.

"***Australian Tax Act***" shall mean the Income Tax Assessment Act 1936 of Australia or the Income Tax Assessment Act 1997 of Australia, as the context requires, and includes any amended or successor provisions thereof.

"***Australian Withholding Tax***" means any Australian Tax required to be withheld or deducted from any interest or other payment under Division 11A of Part III of the Australian Tax Act or Subdivision 12-F of Schedule 1 to the Taxation Administration Act 1953 (Cth).

"***Available Amount***" shall mean, at any time, an amount, to the extent Not Otherwise Applied, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) $40,000,000; plus

(b) the aggregate amount of Net Cash Proceeds received by Parent from Equity Issuances made by Parent after the Closing Date (other than in connection with a Specified Equity Contribution or from the issuance of Disqualified Stock); plus

(c) the Cumulative Retained Excess Cash Flow Amount; plus

(d) to the extent not otherwise included, the aggregate amount received by any Borrower or any Restricted Subsidiary after the Closing Date (other than from any other Borrower or Restricted Subsidiary) from dividends, distributions, returns of principal, cash repayments and similar payments, in each case, made in cash (or Permitted Investments) on account of any investment made pursuant to Section 6.04(u), so long as such aggregate amount does not exceed the initial amount of such investment that utilized the Available Amount pursuant to Section 6.04(u); minus

(e) any usage of such Available Amount pursuant to Sections 6.04(u), 6.06(a)(iv) and 6.09(b)(iv).

"***Bail-In Action***" shall mean the exercise of any Write-Down and Conversion Powers by any EEA Resolution Authority in respect of any liability of any EEA Financial Institution.

"***Bail-In Legislation***" shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"***Bank Bill Rate***" shall mean, in relation to an Interest Period for any Fixed Rate Loan denominated in Australian Dollars, the Australian Bank Bill Swap Reference Rate (Bid) administered by the ASX Benchmarks Pty Ltd (or any other person which takes over the administration of that rate) for a term equivalent to such Interest Period and displayed on page BBSY of the Thomson Reuters Screen (or its successor or equivalent page) (the "***BBSY Screen Rate***") at or about 10:30 a.m. (Sydney time) on the first day of such Interest Period (but if such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with Parent); *provided*, that to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "Bank Bill Rate" for the relevant Interest Period shall be (a) the Interpolated Rate, for a period equal in length to such Interest Period or (b) if such rate is not available at such time for any other reason, a comparable successor rate that is, at such time, broadly accepted by the syndicated loan market for loans denominated in Australian Dollars in lieu of the "Bank Bill Rate", as determined by the Administrative Agent, or, if no such broadly accepted comparable successor rate exists at such time, a successor index rate as the Administrative Agent may determine with the consent of Parent and the Required Revolving Credit Lenders. Rates will be expressed as a yield percent per annum to maturity and rounded up, if necessary, to the nearest two decimal places. Notwithstanding the foregoing, if the Bank Bill Rate, determined as provided above, would otherwise be less than zero, then the Bank Bill Rate will be deemed to be zero.

"***Bankruptcy Code***" shall mean Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect, or any successor statute.

"***Benefit Plan***" shall mean any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of

Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"***Board***" shall mean the Board of Governors of the Federal Reserve System of the United States of America.

"***Borrower Materials***" shall have the meaning assigned to such term in Section 9.01.

"***Borrowers***" shall mean, collectively, Parent and the Subsidiary Borrowers.

"***Borrowing***" shall mean a group of Loans of the same Class and currency and a single Type made by the Lenders on, and converted or continued on, the same date and, in the case of Fixed Rate Loans, as to which a single Interest Period is in effect.

"***Borrowing Minimum***" shall mean $500,000, A$500,000 and €200,000 or, in the case of any other Alternative Currency, such amount as may be reasonably specified by the Administrative Agent.

"***Borrowing Multiple***" shall mean $100,000, A$100,000, €50,000 or, in the case of any other Alternative Currency, such amount as may be reasonably specified by the Administrative Agent.

"***Borrowing Request***" shall mean a request by any Borrower in accordance with the terms of Section 2.03 and substantially in the form of Exhibit C, or such other form as shall be approved by the Administrative Agent.

"***Borrowing Subsidiary Agreement***" shall mean a Borrowing Subsidiary Agreement substantially in the form of Exhibit I-1, or such other form as shall be acceptable to Parent and the Administrative Agent.

"***Borrowing Subsidiary Termination***" shall mean a Borrowing Subsidiary Termination substantially in the form of Exhibit I-2, or such other form as shall be acceptable to Parent and the Administrative Agent.

"***Breakage Event***" shall have the meaning assigned to such term in Section 2.16.

"***Business Day***" shall mean any day other than a Saturday, Sunday or day on which banks in New York City are authorized or required by law to close; *provided*, *however*, that (i) when used in connection with a Fixed Rate Loan, the term "Business Day" shall also exclude (a) any day on which banks are not open for dealings in dollar deposits in the London interbank market (if such Fixed Rate Loan is denominated in dollars), (b) any day that is not a Target Day (if such Fixed Rate Loan is denominated in Euro) and (c) any day on which commercial banks are not open for business in Sydney and/or Melbourne (if such Fixed Rate Loan is denominated in Australian Dollars), (ii) when used in connection with any Calculation Date or determining any date on which any amount is to be paid or made available in an Alternative Currency other than Euro, the term "Business Day" shall also exclude any day on which commercial banks and foreign exchange markets are not open for business in the principal financial center in the country of such Alternative Currency or, in the case of Australian Dollars, the term "Business

Day" shall also exclude any day on which commercial banks and foreign exchange markets are not open for business in Sydney and/or Melbourne and (iii) when used in connection with any Revolving Credit Borrowing or Letter of Credit, the term "Business Day" shall also exclude any day on which commercial banks are not open for business in Hong Kong or Singapore.

"***Calculation Date***" shall mean (a) the date of delivery of each Borrowing Request with respect to any Revolving Credit Borrowing, (b) the date of issuance, amendment (in the event such amendment increases the undrawn amount thereof), extension or renewal of any Letter of Credit, (c) the date of conversion or continuation of any Revolving Credit Borrowing pursuant to Section 2.10, (d) the last Business Day of each calendar quarter, and (e) such additional dates as (i) the Administrative Agent shall specify in its sole discretion in connection with any Contract Credit Facility or during the continuation of an Event of Default or (ii) reasonably requested by the Required Revolving Credit Lenders (but, in any event, no more frequently pursuant to this clause (e)(ii) than once during any period of two consecutive calendar weeks).

"***Capital Lease Obligations***" of any person shall mean the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as, or accounted for in a similar way to, a finance lease or capital lease on a balance sheet or statement of financial position of such person under GAAP, and the amount of such obligations shall be the principal or capitalized amount thereof determined in accordance with GAAP.

"***Change in Law***" shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender or Issuing Bank (or, for purposes of Sections 2.14 and 2.15, by any lending office of such Lender or by such Lender's or Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; *provided* that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or non-U.S. regulatory authorities, in each case pursuant to Basel III, and (iii) any law or regulation that implements or applies Basel III Standards (including the Capital Requirement Regulation (EU) no. 575/2013 dated 26 June 2013 and the Capital Requirement Directive 2013/36/EU dated 26 June 2013), shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

A "***Change of Control***" shall be deemed to have occurred if (a) any person or group shall (i) own directly or indirectly, beneficially or of record, shares representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent or (ii) obtain or acquire the power to appoint or remove all, or the majority, of the directors or other equivalent officers of Parent; (b) any "change of control" (or similar event, however denominated) with respect to Parent or any of its Restricted Subsidiaries shall occur under and as defined in any indenture or agreement in respect of Indebtedness in an outstanding

principal amount in excess of the Threshold Amount to which Parent or any of its Restricted Subsidiaries is a party; (c) any person or group shall otherwise directly or indirectly Control Parent or (d) Parent shall cease to own beneficially, directly or indirectly, 100% of the issued and outstanding Equity Interests of any Subsidiary Borrower.

"***Charges***" shall have the meaning assigned to such term in Section 9.09.

"***Class***", when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans under the Revolving Credit Commitments, Revolving Loans under any Class of Extended Revolving Credit Commitments, Initial Term Loans, Other Term Loans, Refinancing Term Loans or Extended Term Loans, (b) when used in reference to any Commitment, refers to whether such Commitment is an Initial Term Loan Commitment, Revolving Credit Commitment, Incremental Term Loan Commitment or Extended Revolving Credit Commitment and (c) any Lender, refers to whether such Lender has a Loan, Borrowing or Commitment with respect to a particular Class of Loans, Borrowings or Commitments.

"***Closing Date***" shall have the meaning assigned to such term in Section 4.01(a).

"***Code***" shall mean the United States Internal Revenue Code of 1986, as amended from time to time.

"***Collateral***" shall mean (a) all the "Collateral", "Pledged Collateral" and any similar term as defined in any Security Document, (b) the "Trust" and the "Trust Fund" (as such terms are defined in the Security Trust Deed), (c) the Mortgaged Properties, and (d) any other asset on which a Lien is (or purported to be) granted, or that is otherwise subject to any Transaction Security Interest (as defined in the Security Trust Deed), pursuant to this Agreement or any Security Document.

"***Collateral Agent***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Commitment***" shall mean, with respect to any Lender, such Lender's Revolving Credit Commitment, Initial Term Loan Commitment, Incremental Term Loan Commitment and Extended Revolving Credit Commitment (if any).

"***Commodity Exchange Act***" shall mean the United States Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"***Communications***" shall have the meaning assigned to such term in Section 9.01.

"***Compliance Certificate***" shall mean a certificate of a Financial Officer of Parent, substantially in the form of Exhibit F or such other form as shall be approved by the Administrative Agent.

"***Confidential Information Memorandum***" shall mean the Confidential Information Memorandum of Parent used in connection with the syndication of the credit facilities provided for herein.

"***Connection Income Taxes***" shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"***Consolidated Capital Expenditures***" shall mean, for any period, without duplication, the aggregate of all expenditures (whether paid in cash or other consideration or accrued as a liability) by Parent or any of its Restricted Subsidiaries during such period that, in accordance with GAAP, are or should be included in "additions to property, plant and equipment" or similar items reflected in the consolidated statement of cash flows of Parent and the Restricted Subsidiaries for such period or is otherwise regarded as capital expenditure under GAAP (including the amount of assets leased by incurring any Capital Lease Obligation or Synthetic Lease Obligation); provided that Consolidated Capital Expenditures shall exclude any such expenditure (a) constituting the consideration paid (and transaction expenses incurred) in connection with a Permitted Acquisition or other investment permitted under Section 6.04 or (b) constituting the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent of the credit granted by the seller of the equipment being traded at such time.

"***Consolidated Current Assets***" shall mean, as of any date of determination, the total assets that would properly be classified as current assets (other than cash and cash equivalents, Taxes and deferred Taxes) of Parent and its Restricted Subsidiaries as of such date, determined on a consolidated basis in accordance with GAAP.

"***Consolidated Current Liabilities***" shall mean, as of any date of determination, the total liabilities (other than, without duplication, (a) the current portion of long-term Indebtedness, (b) outstanding Revolving Loans and (c) Taxes and deferred Taxes) that would properly be classified as current liabilities of Parent and its Restricted Subsidiaries as of such date, determined on a consolidated basis in accordance with GAAP.

"***Consolidated EBITDA***" shall mean, for any period, an amount equal to:

(a) Consolidated Net Income for such period, plus, without duplication and to the extent deducted in determining Consolidated Net Income for such period, the sum of:

(i) the aggregate amount of Consolidated Interest Expense for such period,

(ii) the aggregate amount of tax expense in respect of corporate taxes or other taxes on income or gains for such period,

(iii) all amounts attributable to depreciation and amortization for such period (other than the write-down of current assets),

(iv) non-cash expenses for such period resulting from the grant of stock options or other equity-related incentives or benefits to any director, officer or employee of Parent or any Restricted Subsidiary pursuant to a written plan or agreement approved by the Board of Directors (or similar governing body) of Parent or the applicable Restricted Subsidiary,

(v) any non-cash charges (other than the write-down of current assets) for such period, including, without limitation, with respect to stock based compensation, goodwill or other asset impairments, impacts of fair value accounting, valuation of derivatives, unrealized losses on foreign currency translation and non-cash charges in respect of capitalized research and development and organizational costs,

(vi) fees and expenses incurred during such period in connection with any proposed or actual Equity Issuance or any proposed or actual issuance or incurrence of any Indebtedness, or any proposed or actual acquisitions, investments, asset sales or divestitures permitted hereunder, including any financing fees, merger and acquisition fees,

(vii) the amount of reasonable fees and expenses paid to members of the board of directors of Parent or any of its Restricted Subsidiaries, in their respective capacities as directors of any such entity,

(viii) non-recurring charges or extraordinary losses incurred during such period, including, without limitation, with respect to restructurings, plant closings, headcount reductions or other similar actions, including severance charges in respect of employee terminations,

(ix) restructuring, redundancy, integration or similar charges,

(x) all losses during such period resulting from the sale or disposition of any asset of Parent or any Restricted Subsidiary outside the ordinary course of business, and all non-cash losses during such period resulting from any revaluation of any asset of Parent or any Restricted Subsidiary (except earnings in the ordinary course of business and other than the write-down of current assets), and

(xi) the amount of Cost Savings/Synergies for such period, net of the amount of actual benefits realized during such period from the actions underlying such Cost Savings/Synergies; provided that no such amounts may be added pursuant to this clause (xi) to the extent duplicative of any expenses, charges, costs or other amounts added to Consolidated EBITDA for such period, whether through a pro forma adjustment or otherwise for such period; provided, further, that the aggregate amount that may be added in the determination of Consolidated EBITDA pursuant to this clause (xi) for such period shall not exceed 25.0% of Consolidated EBITDA for such period (prior to giving effect to any adjustments pursuant to this clause (xi)), minus

(b) the sum, without duplication and to the extent not deducted in determining Consolidated Net Income for such period, of:

(i) all cash payments made during such period on account of reserves, restructuring charges (other than restructuring charges in amounts specified in clauses (a)(viii) and (a)(ix), above) and other non-cash charges added to Consolidated Net Income pursuant to clause (a)(iv) above in a previous period,

(ii) any extraordinary gains and all non-cash items of income for such period, including with respect to unrealized gains on foreign currency translation, and

(iii) any gains on extinguishment of debt (including, as a result of the acquisition of Term Loans by the Borrowers).

Notwithstanding anything in the definition of any term used in the definition of "Consolidated EBITDA" to the contrary, all components of Consolidated EBITDA shall be computed for Parent and its Restricted Subsidiaries on a consolidated basis in accordance with GAAP.

"***Consolidated Interest Expense***" of Parent and its Restricted Subsidiaries shall mean, for any period, without duplication, interest expense of and other financing costs incurred by Parent and its Restricted Subsidiaries for such period (including the aggregate amount of all line, commitment, facility, letter of credit, guarantee and similar fees paid during such period and all other fees and other amounts (other than principal amounts) of a regular or recurring nature paid during such period in relation to Indebtedness, but excluding any establishment, arrangement or other fees payable once only on the initial provision of financial accommodation), net of interest income, included in the determination of Consolidated Net Income. For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by Parent and its Restricted Subsidiaries under Interest Rate Protection Agreements.

"***Consolidated Net Income***" shall mean, for any period, the sum of net profit (or loss) for such period of Parent and its Restricted Subsidiaries on a consolidated basis determined in accordance with GAAP; provided that the following shall be excluded: (a) any profit (or loss) of any person (i) if such person is not a Restricted Subsidiary (except to the extent that clause (a)(ii) below is applicable) or (ii) in which any other person (other than Parent or a Restricted Subsidiary or any director or foreign national holding qualifying shares in accordance with applicable law) has a joint interest, except that Parent's equity in the net profit of any such person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such person during such period to Parent or a wholly owned Restricted Subsidiary as a dividend or other distribution; (b) the profit (or loss) of any person accrued prior to the date (i) it became a Restricted Subsidiary of Parent or is merged into or consolidated with Parent any of its Restricted Subsidiaries or (ii) such person's assets are acquired by Parent or any of its Restricted Subsidiaries; (c) non-recurring gains (or losses) during such period; and (d) the profit of any Restricted Subsidiary that is not a Loan Party to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of that profit is prohibited by operation of the terms of its charter or any agreement, instrument, judgment, decree, statute, rule or governmental regulation applicable to such Restricted Subsidiary.

"***Consolidated Total Assets***" means, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet or statement of financial position of the applicable person and its subsidiaries (other than Unrestricted Subsidiaries) at such date.

"***Contract Credit Facility***" shall mean any bilateral credit facility entered into by a Borrower and a Revolving Credit Lender that complies with the requirements of Section 2.29

pursuant to which such Revolving Credit Lender agrees to make Contract Loans available to such Borrower and/or to issue, amend, extend and renew Contract Letters of Credit for the account of such Borrower.

"***Contract Credit Facility Commitment***" shall mean the commitment of a Revolving Credit Lender to make Contract Loans and/or to issue, amend, extend and renew Contract Letters of Credit pursuant to Section 2.29.

"***Contract Credit Facility Exposure***" shall mean, with respect to any Contract Credit Facility Lender at any time, the sum of (a) the aggregate principal amount of all outstanding Contract Loans of such Contract Credit Facility Lender at such time denominated in dollars, (b) the Dollar Equivalent of the aggregate principal amount of all outstanding Contract Loans of such Contract Credit Facility Lender denominated in a currency other than dollars at such time, (c) the aggregate undrawn amount of all outstanding Contract Letters of Credit issued by such Contract Credit Facility Lender that are denominated in dollars at such time, (d) the Dollar Equivalent of the aggregate undrawn amount of all outstanding Contract Letters of Credit issued by such Contract Credit Facility Lender that are denominated in a currency other than dollars at such time, (e) the aggregate amount of all payments or disbursements made in dollars pursuant to a Contract Letter of Credit issued by such Contract Credit Facility Lender, which payments and disbursements have not yet been reimbursed by the Borrowers at such time and (f) the Dollar Equivalent of the aggregate amount of all payments or disbursements made in a currency other than dollars pursuant to a Contract Letter of Credit issued by such Contract Credit Facility Lender, which payments and disbursements have not yet been reimbursed by the Borrowers at such time.

"***Contract Credit Facility Lender***" shall have the meaning assigned to such term in Section 9.19.

"***Contract Letters of Credit***" shall mean the letters of credit, bank guarantees or similar instruments issued by a Revolving Credit Lender pursuant to one or more Contract Credit Facilities, which letters of credit, bank guarantees and similar instruments, and any payments or disbursements made pursuant thereto that have not yet been reimbursed by the Borrowers at any time, are deemed to utilize the Revolving Credit Commitments.

"***Contract Loans***" shall mean the loans made by a Revolving Credit Lender pursuant to one or more Contract Credit Facilities, which loans are deemed to utilize the Revolving Credit Commitments.

"***Control***" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and the terms "***Controlling***" and "***Controlled***" shall have meanings correlative thereto; provided that any reference to "Control" in the definition of "Change of Control" shall have the meaning given in section 50AA of the Australian Corporations Act.

"***Cost Savings/Synergies***" shall mean "run rate" cost savings, operating expense reductions and synergies projected by Parent in good faith to be realized in connection with any

Permitted Acquisition, Material Asset Sale, implementation of an operational initiative or operational change or any other transaction permitted by this Agreement that are, in each case, supportable and quantifiable and have been realized or are reasonably expected to be realized within 18 months following such Permitted Acquisition, Material Asset Sale, implementation of an operational initiative or operational change or other transaction, as certified by a Financial Officer of Parent pursuant to a certificate delivered to the Administrative Agent that is in form and scope reasonably satisfactory to the Administrative Agent to the extent that that the aggregate amount being added in the determination of Consolidated EBITDA pursuant to clause (xi) of the definition of Consolidated EBITDA for any Test Period exceeds 10.0% of Consolidated EBITDA for such Test Period (prior to giving effect to any adjustments pursuant to such clause (xi)), all calculated, as applicable, using the historical financial statements of the applicable Acquired Entities with respect to the assets so acquired in a Permitted Acquisition or the applicable entities sold in a Material Asset Sale and the consolidated financial statements of Parent and the Restricted Subsidiaries or other applicable historical financial statements, so long as, in each instance, such financial statements are prepared in accordance in all material respects with the requirements of GAAP (but without the requirement for footnote disclosures). Notwithstanding the foregoing, if cost savings, operating expense reductions or synergies are included in any calculations of Consolidated EBITDA based on the reasonable expectation that such cost savings, operating expense reductions or synergies would be realized within 18 months of a Permitted Acquisition, Material Asset Sale, implementation of operational initiative or change or other transaction permitted hereby, then on and after the date that is 18 months after the date of such Permitted Acquisition, Material Asset Sale, implementation of operational initiative or change or other transaction, such calculations shall not give effect to such cost savings, operating expense reductions or synergies to the extent not actually realized during such 18-month period.

"***Credit Agreement Refinancing Indebtedness***" shall mean (a) Permitted First Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt, (c) Permitted Unsecured Refinancing Debt or (d) other Indebtedness, in each case, in a minimum aggregate principal amount of $50,000,000 and issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, repurchase, retire or refinance, in whole or part, existing Term Loans, or any then-existing Credit Agreement Refinancing Indebtedness (for purposes of this paragraph, the "***refinanced debt***"); provided that (i) such Credit Agreement Refinancing Indebtedness has a maturity no earlier, and, in the case of any refinancing of Term Loans, a weighted average life to maturity equal to or greater, than the refinanced debt, (ii) such Credit Agreement Refinancing Indebtedness shall not have an aggregate principal amount greater than the aggregate principal amount of the refinanced debt plus accrued interest, fees, premiums (if any) and penalties thereon and fees and expenses associated with the refinancing, (iii) the terms and conditions of such Credit Agreement Refinancing Indebtedness (except as otherwise provided in clause (ii) above, and excluding (except as otherwise provided in clause (x) below) pricing and optional prepayment or redemption terms) shall not be more favorable, taken as a whole, to the providers of such Indebtedness than the refinanced debt being so replaced (except for covenants or other provisions applicable only to periods after the Latest Maturity Date then in effect), unless such term or condition otherwise is reasonably satisfactory to the Administrative Agent, (iv) such refinanced debt shall be repaid, repurchased, retired, defeased or satisfied and discharged, and all accrued interest, fees, premiums (if any) and penalties in connection therewith shall be paid, on

the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained, (v) such Credit Agreement Refinancing Indebtedness is not at any time guaranteed by any Person other than a Loan Party, (vi) each borrower or issuer of such Credit Agreement Refinancing Indebtedness shall also be a Borrower under this Agreement, (vii) to the extent secured, such Credit Agreement Refinancing Indebtedness is not secured by property or assets other than the Collateral and a Debt Representative acting on behalf of the providers of such Indebtedness shall have become party to an Intercreditor Agreement, (viii) if the refinanced debt is subordinated in right of payment to, or is secured by Liens that are subordinated to, the Liens securing the Obligations, then any Credit Agreement Refinancing Indebtedness shall be subordinated in right of payment to, and the Liens securing such refinanced debt shall be subordinate to, the Liens securing the Obligations, as applicable, pursuant to a customary subordination agreement or an Intercreditor Agreement or provisions reasonably satisfactory to the Administrative Agent, (ix) (A) if the refinanced debt is secured on a second lien or junior basis, such Credit Agreement Refinancing Indebtedness shall be Permitted Junior Priority Refinancing Debt and (B) if such refinanced debt is unsecured, such Credit Agreement Refinancing Indebtedness shall be Permitted Unsecured Refinancing Debt, (x) any Credit Agreement Refinancing Indebtedness may participate on a pro rata basis or on a less than pro rata basis (but not greater than pro rata basis) in any voluntary or mandatory prepayments hereunder and shall not require any mandatory prepayments in addition to those hereunder and (xi) no Event of Default or Default shall have occurred and be continuing or result from the issuance or incurrence of such Credit Agreement Refinancing Indebtedness; provided, further, that in determining if the foregoing conditions in this proviso are met, a certificate of a Responsible Officer of Parent delivered to the Administrative Agent at least seven Business Days prior to such modification, refinancing, refunding, renewal or extension, together with a reasonably detailed description of the material terms and conditions of such resulting indebtedness or drafts of the documentation relating thereto, stating that Parent has determined reasonably in good faith that such terms and conditions satisfy the foregoing requirement, shall be evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies Parent in writing within such seven Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees).

"***Credit Event***" shall have the meaning assigned to such term in Section 4.02.

"***Cumulative Retained Excess Cash Flow Amount***" shall mean, at any date, an amount, not less than zero, equal to (a) the amount of Excess Cash Flow, determined on a cumulative basis, for all ECF Periods, that is not required to be applied in accordance with Section 2.13(d) plus (b) the amount of Declined Amounts that are not required to be applied in accordance with Section 2.13(i).

"***Debt Representative***" shall mean, with respect to any series of Permitted First Priority Refinancing Debt or Permitted Junior Priority Refinancing Debt or any Incremental Equivalent Indebtedness that is secured by Liens on the Collateral ranking pari passu with or junior to the Liens securing the Obligations, the trustee, administrative agent, collateral agent, security agent, security trustee or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

"***Debtor Relief Laws***" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, judicial management, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief statute, law, ordinance, rule or regulation of the United States of America, any State thereof or the District of Columbia, or other applicable jurisdictions from time to time in effect.

"***Declined Amounts***" shall have the meaning assigned to such term in Section 2.13(i).

"***Declining Lender***" shall have the meaning assigned to such term in Section 2.13(i).

"***Default***" shall mean any event or condition which upon notice, lapse of time or both would constitute an Event of Default.

"***Defaulting Lender***" shall mean, subject to Section 2.28(b), any Lender that has (a) failed to fund any portion of its Loans or participations in Letters of Credit within two Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) notified any Borrower, the Administrative Agent, any Issuing Bank or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit, unless such writing or public statement indicates that such position is based on such Lender's good-faith determination that a condition precedent to funding (specifically identified, including, if applicable, by reference to a specific Default) has not been satisfied, (c) failed, within three Business Days after written request by the Administrative Agent, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit; *provided* that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent, (d) otherwise failed to pay over to the Administrative Agent or any other Lender any other amount (other than a *de minimis* amount) required to be paid by it hereunder within two Business Days of the date when due, unless the subject of a good faith dispute, (e) (i) has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or has a parent company that has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such person or its assets to be, insolvent or (ii) become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, administration, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become (other than via an Undisclosed Administration) the subject of a bankruptcy, judicial management, examinership, insolvency or similar proceeding under any Debtor Relief Law, or has had a receiver, examiner, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or custodian

appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachments on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender, or (f) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under this definition shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.28(b)) upon delivery of written notice of such determination to Parent, each Issuing Bank and each Lender (or each Lender of the applicable Class).

"***Discounted Prepayment Offer***" shall have the meaning assigned to such term in Section 2.32(a).

"***Disqualified Institutions***" shall mean any competitors of the Borrowers and their respective Subsidiaries on the "disqualified institutions" list delivered by the Parent to the Joint Bookrunners on or before April 18, 2018; provided that Disqualified Institutions shall exclude any Person that Parent has designated as no longer being a Disqualified Institution by written notice delivered to the Administrative Agent from time to time.

"***Disqualified Stock***" shall mean any Equity Interest that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case at any time on or prior to the first anniversary of the Latest Maturity Date then in effect, or (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interest referred to in clause (a) above, in each case at any time prior to the first anniversary of the Latest Maturity Date then in effect.

"***Dollar Borrowing***" shall mean a Borrowing comprised of Dollar Loans.

"***Dollar Equivalent***" shall mean, on any date of determination, with respect to any amount denominated in any currency other than dollars, the equivalent in dollars of such amount, determined by the Administrative Agent pursuant to Section 1.03 using the applicable Exchange Rate with respect to such currency at the time in effect. The Dollar Equivalent at any time of the amount of any Letter of Credit, L/C Disbursement or Contract Credit Facility Exposure denominated in any such other currency shall be the amount most recently determined as provided in Section 1.03.

"***Dollar Loan***" shall mean a Loan denominated in dollars. Dollar Loans may be Dollar Revolving Loans or Dollar Term Loans.

"***dollars***", "***Dollars***" or "***$***" shall mean lawful money of the United States of America.

"***DQ List***" has the meaning assigned to such term in Section 9.04(m).

"***ECF Percentage***" shall mean, with respect to any ECF Period of the Parent, (i) 50% if the First Lien Net Leverage Ratio as of the end of such ECF Period exceeds 3.25 to 1.00, (ii) 25% if the First Lien Net Leverage Ratio as of the end of such ECF Period is less than or equal to 3.25 to 1.00 but exceeds 3.00 to 1.00, and (iii) 0% if the First Lien Net Leverage Ratio as of the end of such ECF Period is less than or equal to 3.00 to 1.00.

"***ECF Period***" shall mean the period from January 1 to December 31 of each year, beginning with the period commencing on January 1, 2019.

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

"***EEA Member Country***" shall mean any member state of the European Union, Iceland, Liechtenstein and Norway.

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

"***Engagement Letter***" shall mean that certain Engagement Letter dated April 18, 2018, among the Borrowers party thereto, Credit Suisse Securities (USA) LLC, Credit Suisse AG, Cayman Islands Branch, Citigroup Global Markets Inc., Crédit Agricole Corporate and Investment Bank, ING Bank N.V., Macquarie Capital (USA) Inc. and Macquarie Capital Funding LLC, as amended, restated, supplemented or otherwise modified from time to time.

"***environment***" shall mean ambient air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, the workplace or as otherwise defined in any Environmental Law.

"***Environmental Claim***" shall mean any written notice of violation, claim, demand, order, directive, cost recovery action or other cause of action by, or on behalf of, any Governmental Authority or any person for damages, injunctive or equitable relief, personal injury (including sickness, disease or death), Remedial Action costs, tangible or intangible property damage, natural resource damages, nuisance, pollution, any adverse effect on the environment caused by any Hazardous Material, or for fines, penalties or restrictions, resulting from or based upon (a) the existence, or the continuation of the existence, of a Release (including sudden or non-sudden, accidental or non-accidental Releases), (b) exposure to any Hazardous Material, (c) the presence, use, handling, transportation, storage, treatment or disposal of any Hazardous Material or (d) the violation or alleged violation of any Environmental Law or Environmental Permit.

"***Environmental Law***" shall mean any and all applicable present and future treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the presence, management, Release or threatened Release of any hazardous or toxic material or to health and safety matters.

"***Environmental Permit***" shall mean any permit, approval, authorization, certificate, license, variance, filing or permission required by or from any Governmental Authority pursuant to any Environmental Law.

"***Equity Cure Period***" shall have the meaning assigned to such term in Section 6.10(b).

"***Equity Interests***" shall mean shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity interests in any person and any option, warrant or other right (other than Indebtedness that is convertible into, or exchangeable for, any such equity interest) entitling the holder thereof to purchase or otherwise acquire any such equity interest.

"***Equity Issuance***" shall mean any issuance or sale by any Borrower or any Restricted Subsidiary of any Equity Interests of any Borrower or any Restricted Subsidiary, as applicable.

"***ERISA***" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time.

"***ERISA Affiliate***" shall mean any trade or business (whether or not incorporated) that, together with any Borrower, is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code. When any provision of this Agreement relates to a past event, the term "ERISA Affiliate" includes any person who was an ERISA Affiliate at the time of such past event.

"***ERISA Event***" shall mean (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period has been waived); (b) the adoption of any amendment to a Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code; (c) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived, under any Plan; (d) the filing of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the failure of any Loan Party or an ERISA Affiliate to make any required contributions to a Plan or Multiemployer Plan on or before the due date for such contributions; (f) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Plan or the incurrence of Withdrawal Liability by any Loan Party or any of its ERISA Affiliates from any Multiemployer Plan; (g) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (h) the receipt by any Loan Party or any ERISA Affiliate of any notice concerning a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of

Title IV of ERISA, or is in an endangered, critical and declining, or critical status, within the meaning of Section 305 of ERISA; (i) the occurrence of a non-exempt "prohibited transaction" within the meaning of Section 4075 of the Code of Section 406 of ERISA with respect to which any Loan Party or any of its Subsidiaries is a "disqualified person", within the meaning of Section 4975 of the Code, or a "party-in-interest", within the meaning of Section 3(14) of ERISA, or with respect to which any Loan Party or any such Subsidiary could otherwise be liable; (j) the failure of any Benefit Plan of any Loan Party or any ERISA Affiliate that is intended to be qualified under Section 401(a) of the Code to be so qualified; (k) the incurrence of any other liability by any Loan Party or any of its ERISA Affiliates to the PBGC or to any Plan or any trust established under Title IV of ERISA; and (l) any Non-U.S. Benefit Event.

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

"***EURIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing denominated in Euro for any Interest Period, the rate per annum equal to the Banking Federation of the European Union EURIBOR Rate ("***BFEA EURIBOR***"), as published by Telerate (or another commercially available source providing quotations of BFEA EURIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., Brussels time, two Target Days prior to the commencement of such Interest Period, for deposits in Euro (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "EURIBO Rate" for the relevant Interest Period shall be (a) the Interpolated Rate, for a period equal in length to such Interest Period or (b) if such rate is not available at such time for any other reason, a comparable successor rate that is, at such time, broadly accepted by the syndicated loan market for loans denominated in Euros in lieu of the "EURIBO Rate", as determined by the Administrative Agent, or, if no such broadly accepted comparable successor rate exists at such time, a successor index rate as the Administrative Agent may determine with the consent of Parent and the Required Revolving Credit Lenders. Notwithstanding the foregoing, if the EURIBO Rate applicable to any Borrowing for any Interest Period, determined as provided above, would otherwise be less than zero, then the EURIBO Rate applicable to such Revolving Loan for such Interest Period will be deemed to be zero (except to the extent otherwise provided in any Incremental Assumption Agreement with respect to Incremental Term Loans denominated in Euros).

"***Euro***" or "***€***" shall mean the single currency of the European Union as constituted by the Treaty on European Union as adopted as lawful currency by certain member states under legislation of the European Union for European Monetary Union.

"***Eurocurrency***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"***Events of Default***" shall have the meaning assigned to such term in Section 7.01.

"***Excess Cash Flow***" shall mean, for any ECF Period, an amount equal to (which amount shall in no case be less than zero):

(a) the sum, without duplication, of:

(i) Consolidated EBITDA for such ECF Period,

(ii) extraordinary or non-recurring cash receipts or gains of Parent and its Restricted Subsidiaries, if any, during such ECF Period and not included in Consolidated EBITDA,

(iii) reductions to non-cash working capital of Parent and its Restricted Subsidiaries for such ECF Period (*i.e.*, the decrease, if any, in Consolidated Current Assets minus Consolidated Current Liabilities from the beginning to the end of such ECF Period); *provided* that (x) such change shall be calculated without regard to any changes as a result of (1) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent, (2) the effects of business combination or purchase accounting rules, (3) the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under Hedging Agreements or (4) any impact of foreign exchange translations and (y) for purposes of calculating such change, such calculation shall be adjusted to eliminate any distortion resulting from mergers, acquisitions and dispositions occurring during the applicable ECF Period,

(iv) cash receipts in respect of Hedging Agreements during such ECF Period to the extent not otherwise included in arriving at Consolidated EBITDA for such ECF Period, minus

(b) the sum, without duplication, of:

(i) the amount of any corporate taxes or other taxes on income or gains paid or payable in cash by Parent and its Restricted Subsidiaries with respect to such ECF Period,

(ii) Consolidated Interest Expense paid in cash by Parent and its Restricted Subsidiaries during such ECF Period,

(iii) to the extent financed with Internally Generated Cash, (x) Consolidated Capital Expenditures made in cash during such ECF Period, or legally committed to be paid in cash in the immediately succeeding ECF Period pursuant to binding contracts or executed letters of intent (and not deducted from Excess Cash Flow in any prior year), (y) Restricted Payments with respect to the Equity Interests of the Parent paid in cash during such ECF Period, or legally committed to be paid in cash after the end of such ECF Period but prior to the mandatory prepayment date for such ECF Period (and not deducted from Excess Cash Flow in any prior year), and (z) Permitted Acquisitions or other investments made in cash during such ECF Period, to the extent permitted pursuant to Section 6.04,

(iv) to the extent financed with Internally Generated Cash, (w) cash

expenditures in respect of Hedging Agreements during such ECF Period to the extent not otherwise deducted in arriving at Consolidated EBITDA for such ECF Period, (x) scheduled principal repayments of Indebtedness made by Parent and its Restricted Subsidiaries during such ECF Period, (y) optional prepayments of the principal of Term Loans during such ECF Period and prepayments made pursuant to Section 2.32 (other than Voluntary Specified Prepayments), and (z) optional prepayments of the principal of Revolving Loans to the extent accompanied by a corresponding reduction of Revolving Credit Commitments and/or Extended Revolving Credit Commitments, during such ECF Period; provided that any prepayments made pursuant to Section 2.32 shall be limited to the actual amount paid in cash in respect of principal,

(v) additions to non-cash working capital for such ECF Period (*i.e.*, the increase, if any, in Consolidated Current Assets minus Consolidated Current Liabilities from the beginning to the end of such ECF Period); *provided* that (x) such change shall be calculated without regard to any changes as a result of (1) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent, (2) the effects of business combination or purchase accounting rules, (3) the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under Hedging Agreements or (4) any impact of foreign exchange translations and (y) for purposes of calculating such change, such calculation shall be adjusted to eliminate any distortion resulting from mergers, acquisitions and dispositions occurring during the applicable ECF Period,

(vi) fees and expenses paid in cash during such ECF Period in connection with any proposed or actual Equity Issuance or any proposed or actual issuance or incurrence of any Indebtedness, or any proposed or actual acquisitions, investments, asset sales or divestitures permitted hereunder, including any financing fees, merger and acquisition fees paid in cash,

(vii) the amount of fees and expenses paid in cash during such ECF Period to members of the board of directors of Parent or any of its Restricted Subsidiaries who are not officers or employees of any such entity that are reasonable and consistent with past practice,

(viii) extraordinary or non-recurring expenses and losses to the extent paid in cash by the Parent and its restricted subsidiaries during such ECF Period and not included in Consolidated EBITDA,

(ix) restructuring, redundancy, integration or similar charges paid in cash during such ECF Period to the extent of the adjustment determined in clause (a)(ix) under the definition of Consolidated EBITDA,

(x) cash losses incurred in such ECF Period attributable to the adjustments made in clause (a)(x) of the definition of Consolidated EBITDA, and

(xi) the adjustments made in respect of such ECF Period pursuant to clause (a)(xi) of the definition of Consolidated EBITDA.

Notwithstanding anything in the definition of any term used in the definition of "Excess Cash Flow" to the contrary, all components of Excess Cash Flow shall be computed for Parent and its Restricted Subsidiaries on a consolidated basis in accordance with GAAP.

"***Exchange Rate***" shall mean, on any day, with respect to any currency other than dollars (for purposes of determining the Dollar Equivalent) or any Alternative Currency (for purposes of determining the Alternative Currency Equivalent with respect to such Alternative Currency), the rate at which such currency may be exchanged into dollars or the applicable Alternative Currency, as the case may be, as set forth at approximately 11:00 a.m., New York City time, on such date on the applicable Bloomberg Key Cross Currency Rates Page. In the event that any such rate does not appear on any Bloomberg Key Cross Currency Rates Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates selected by the Administrative Agent for such purpose, or, at the discretion of the Administrative Agent, such Exchange Rate shall instead be the spot rate of exchange of the Administrative Agent, at or about 10:00 a.m., local time in such market, on such date for the purchase of dollars or the applicable Alternative Currency, as the case may be, for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any other reasonable method it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

"***Excluded Swap Obligations***" shall mean, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the United States Commodity Futures Trading Commission (or the application or official interpretation of any thereof). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"***Excluded Taxes***" shall mean any of the following Taxes imposed on or with respect to, or required to be withheld or deducted from a payment to, the Administrative Agent, any Lender or an Issuing Bank: (i) Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes of the Administrative Agent, any Lender or an Issuing Bank (or any Transferee), in each case (A) imposed by the jurisdiction under the laws of which the Administrative Agent, such Lender or such Issuing Bank (or Transferee) is organized or incorporated, or the jurisdiction in which the Administrative Agent's, such Lender's or such Issuing Bank's (or Transferee's) principal office or applicable lending office is located (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) Taxes attributable to such recipient's failure to comply with Section 2.20(f), (iii) in the case of a Lender or Issuing Bank (or Transferee thereof), Taxes imposed by a Governmental Authority in the United States, Australia, Hong Kong or any other Eligible Jurisdiction, in each case on amounts payable to or for the account of such Lender or Issuing Bank (or Transferee thereof) with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (x) such Lender or Issuing Bank (or Transferee thereof) acquires such interest in the Loan or Commitment by way of assignment (other than pursuant to an assignment made at

the request of any Borrower) or (y) such Lender or Issuing Bank (or Transferee thereof) changes its lending office, except in each case to the extent that pursuant to Section 2.20, amounts with respect to such Taxes were payable either to the assignor of such Lender or Issuing Bank (or Transferee thereof) immediately before such Lender or Issuing Bank (or Transferee thereof) acquired the applicable interest in such Loan or Commitment or to such Lender or Issuing Bank (or Transferee thereof) immediately before it changed its lending office, except that this clause (iii) shall not apply where the payment is in relation to Australian Withholding Tax and there are at least two Lenders after the assignment, novation or change, and the new Lender, or Lender acting through its new lending office, is not an Offshore Associate of Parent (and in such instances, the new Lender, or Lender acting through its new lending office, will be entitled to full payment under Section 2.20), (iv) Taxes arising under FATCA and Taxes arising under FATCA and (v) in relation to a Loan made to, or a Letter of Credit issued for the account of, the Parent, Taxes required to be withheld pursuant to a direction under section 255 of the Income Tax Assessment Act 1997 (Cth) or section 260-5 of Schedule 1 to the Taxation Administration Act 1953 (Cth).

"***Eligible Jurisdiction***" shall mean the United States, Australia, Hong Kong or any other jurisdiction in which a Subsidiary Borrower is incorporated, organized or formed that has been approved pursuant to Section 9.22.

"***Existing Letter of Credit***" shall mean the bank guarantee (a) issued under the Existing Syndicated Facility Agreement, (b) outstanding on the Funding Date and (c) listed in Schedule 1.01(d).

"***Existing Revolver Tranche***" shall have the meaning assigned to such term in Section 2.31(b).

"***Existing Syndicated Facility Agreement***" shall mean that certain Syndicated Facility Agreement, dated December 27, 2016, by and among the Parent, the subsidiaries of Parent party thereto, Australia and New Zealand Banking Group Limited, as agent, ANZ Fiduciary Services Pty Ltd, as security trustee, the lenders party thereto and the other parties party thereto, as amended by an amendment agreement, dated November 2, 2017, and as further amended, restated, supplemented or otherwise modified prior to the date hereof.

"***Existing Syndicated Facility Agreement Refinancing***" shall mean the payment in full of all amounts due or outstanding under the Existing Syndicated Facility Agreement, the termination of the commitments thereunder and the release of all guarantees thereof and security therefor.

"***Existing Term Loan Tranche***" shall have the meaning assigned to such term in Section 2.31(a).

"***Extended Revolving Credit Commitments***" shall have the meaning assigned to such term in Section 2.31(b).

"***Extended Term Loans***" shall have the meaning assigned to such term in Section 2.31(a).

"***Extending Revolving Credit Lender***" shall have the meaning assigned to such term in Section 2.31(c).

"***Extending Term Lender***" shall have the meaning assigned to such term in Section 2.31(c).

"***Extension***" shall mean the establishment of an Extension Series by amending a Loan pursuant to Section 2.31 and the applicable Extension Amendment.

"***Extension Amendment***" shall have the meaning assigned to such term in Section 2.31(d).

"***Extension Election***" shall have the meaning assigned to such term in Section 2.31(c).

"***Extension Request***" shall mean any Term Loan Extension Request or a Revolver Extension Request, as the case may be.

"***Extension Series***" shall mean any Term Loan Extension Series or a Revolver Extension Series, as the case may be.

"***Facility Fee***" shall have the meaning assigned to such term in Section 2.05(a).

"***FATCA***" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"***FCPA***" shall have the meaning assigned to such term in Section 3.23(b).

"***Federal Funds Effective Rate***" shall have the meaning assigned to such term in the definition of "Alternate Base Rate".

"***Fee Letter***" shall mean that certain Fee Letter, dated as of the Closing Date, among the Agents and the Borrowers, as amended, restated, supplemented or otherwise modified from time to time.

"***Fees***" shall mean the Facility Fees, the Agent Fees, the L/C Participation Fees, the Issuing Bank Fees and the Initial Term Loan Upfront Fees.

"***Final Termination Date***" shall mean the "Final Termination Date" as defined in the Guarantee Agreement.

"***Financial Covenant Default***" shall have the meaning assigned to such term in Section 7.01(d).

"***Financial Officer***" of any person shall mean the chief financial officer, a Vice President-Finance, principal accounting officer, Head of Capital Management or Group Financial, Treasurer or Controller of such person and any other officer or similar official thereof responsible for financial matters of such person (or any other person reasonably acceptable to the Administrative Agent).

"***First Lien Net Leverage Ratio***" shall mean, as of any date of determination, the ratio of (a) Total Debt on such date that is secured by a Lien on any asset or property of the Borrowers or any of their respective Restricted Subsidiaries (but excluding any such Indebtedness in which the applicable Liens are expressly subordinated or junior to the Liens securing the Obligations) to (b) Consolidated EBITDA for the most recent Test Period ended on or prior to such date; *provided* that to the extent any Permitted Acquisition or Material Asset Sale has occurred during such Test Period (or after the end of such Test Period but on or prior to the date of such determination), Consolidated EBITDA shall be determined for such Test Period on a pro forma basis for such occurrences in accordance with Section 1.05.

"***Fixed Rate***", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate or the Bank Bill Rate.

"***Fronting Exposure***" shall mean, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender's applicable Pro Rata Percentage of aggregate L/C Exposure at such time, other than L/C Exposure as to which such Defaulting Lender's participation obligation has been reallocated to other Revolving Credit Lenders or Extending Revolving Credit Lenders or cash collateralized in accordance with the terms hereof.

"***Funding Date***" shall mean the date on which the conditions precedent set forth in Section 4.01 shall have been satisfied or waived, notice of which date shall be provided by the Administrative Agent to the Lenders.

"***GAAP***" shall mean Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board and the Australian Corporations Act, applied on a consistent basis.

"***Governmental Authority***" shall mean the government of any Specified Jurisdiction, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"***Granting Lender***" shall have the meaning assigned to such term in Section 9.04(j).

"***Group Liabilities***" has the meaning given in section 721-10 of the Australian Tax Act.

"***Guarantee***" of or by any person shall mean any obligation, contingent or otherwise, of such person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligations of any other person (the "***primary obligor***") in any manner, whether directly or

indirectly, and including any obligation of such person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligations or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligations, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligations of the payment of such Indebtedness or other obligations or (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligations; *provided*, *however*, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business.

"***Guarantee Agreement***" shall mean the Guarantee Agreement, substantially in the form of Exhibit D, among Parent, the Subsidiaries of Parent party thereto, the Security Trustee and the Collateral Agent, for the benefit of the Secured Parties.

"***Guarantor Coverage Certification Date***" shall mean, with respect to any Test Period ending after the Closing Date, the date on which the Compliance Certificate for such Test Period was delivered pursuant to Section 5.04(c) or, if earlier, the date on which financial statements for such Test Period were required to have been delivered pursuant to Section 5.04(a) or 5.04(b), as applicable.

"***Guarantor Coverage Test***" shall have the meaning assigned to such term in Section 5.11(a).

"***Guarantor Coverage Test Date***" shall mean the last day of each Test Period ending after the Closing Date.

"***Guarantors***" shall mean Parent and the Subsidiary Guarantors.

"***Hazardous Materials***" shall mean all explosive or radioactive materials, substances or wastes, hazardous or toxic materials, substances or wastes, pollutants, solid, liquid or gaseous wastes, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls ("***PCBs***") or PCB-containing materials or equipment, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"***Head Company***" has the meaning given in section 703-15 of the Australian Tax Act.

"***Hedging Agreement***" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms

and conditions of, or governed by, any form of ISDA Master Agreement, including any such obligations or liabilities under any ISDA Master Agreement.

"***Immaterial Subsidiary***" shall mean, as of any date, any Restricted Subsidiary (a) having Consolidated Total Assets in an amount of less than 2.5% of Consolidated Total Assets of Parent and its Restricted Subsidiaries and (b) contributing less than 2.5% of the consolidated revenues of Parent and its Restricted Subsidiaries, in each case, as of the last day of or for the most recently ended Test Period; provided that the Consolidated Total Assets (as so determined) and revenues (as so determined) of all Immaterial Subsidiaries shall not exceed 10.0% of Consolidated Total Assets of Parent and its Restricted Subsidiaries or 10.0% of the consolidated revenues of Parent and its Restricted Subsidiaries as of the last day of or for the relevant Test Period.

"***Increase Effective Date***" shall have the meaning assigned to such term in Section 2.27(e).

"***Incremental Amount***" shall have the meaning assigned to such term in Section 2.27(a).

"***Incremental Assumption Agreement***" shall mean an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent and Parent, among Parent, the applicable Borrower, the Administrative Agent and each Incremental Term Lender and/or existing or additional Revolving Credit Lender or Extending Revolving Credit Lender party thereto.

"***Incremental Commitments***" shall have the meaning assigned to such term in Section 2.27(a).

"***Incremental Equivalent Indebtedness***" shall mean Indebtedness in respect of senior or subordinated term loans made to a Borrower or one or more series of senior or subordinated notes issued by a Borrower, in each case, in a minimum aggregate principal amount of $50,000,000 and that are either, at the option of such Borrower, (x) unsecured or (y) secured by Liens on the Collateral ranking pari passu with or junior to the Liens securing the Obligations; provided that (A) the final maturity date of such Indebtedness shall be no earlier than the Latest Maturity Date, (B) the weighted average life to maturity of such Indebtedness shall be no shorter than the average life to maturity of each Class of Term Loans then outstanding, (C) with respect to any such Indebtedness consisting of term loans that are secured by Liens on Collateral ranking pari passu with the Liens securing the Obligations (other than any such Indebtedness that has a stated maturity date occurring more than two (2) years after the Latest Maturity Date then in effect), if the initial Yield on such Indebtedness exceeds the then applicable Yield on the Initial Term Loans (and each other Class of Term Loans that, pursuant to the applicable Incremental Assumption Agreement, Refinancing Amendment or Extension Amendment, generally or specifically provides the Lenders with respect to such Class of Term Loans with the benefits of this provision) then in effect for Eurocurrency Term Loans by more than 50 basis points (the amount of such excess above 50 basis points being referred to herein as the "***Equivalent Debt Yield Differential***"), then the Applicable Rate then in effect for such Term Loans shall automatically be increased by the Equivalent Debt Yield Differential, effective upon the issuance or incurrence of such Indebtedness (it being agreed that any such increase required due to the

application of any Adjusted LIBO Rate "floor", Alternate Base Rate "floor" or similar "floor" on such Indebtedness shall be effected solely through an increase in (or implementation of, as applicable) a "floor" applicable to the Initial Term Loans and other relevant existing Term Loans), (D) any such Indebtedness that is secured (i) shall be subject to an Intercreditor Agreement and (ii) shall not be secured by property or assets of any Borrower or any Restricted Subsidiary other than the Collateral (it being agreed that such Indebtedness shall not be required to be secured by all of the Collateral), (E) no such Indebtedness shall become effective unless, on the date of effectiveness, no Default or Event of Default shall have occurred and be continuing (other than with respect to a Limited Condition Transaction, in which case, if otherwise agreed by the lenders providing such Indebtedness, no Default or Event of Default under Section 7.01(b), (c), (g), (h) or (i) or any other Default or Event of Default, the absence of which is a condition to the effectiveness of such Limited Condition Transaction shall have occurred and be continuing), (F) such Indebtedness shall not be guaranteed by any Person other than any Guarantor and shall not have any obligors other than a Loan Party, (G) each borrower or issuer of such Indebtedness shall also be a Borrower under this Agreement, (H) the other terms and conditions of such Indebtedness (excluding pricing, fees, rate floors, premiums, optional prepayment or optional redemption provisions) (i) shall not be materially less favorable (when taken as a whole) to the Borrowers and the other Loan Parties than those set forth in the Loan Documents (when taken as a whole) or (ii) shall be on customary terms for "high yield" notes of the type being incurred at the time of incurrence (it being agreed that such Indebtedness may be in the form of notes or a credit agreement), except in each case for covenants or other provisions contained in such Indebtedness that are applicable only after the then Latest Maturity Date, and (I) the holders of such Indebtedness that is secured by Liens on the Collateral ranking pari passu with Liens securing the Obligations may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments of Term Loans then outstanding; provided, further, that in determining if the foregoing conditions in this proviso are met, a certificate of a Responsible Officer of Parent delivered to the Administrative Agent at least seven Business Days prior to the issuance or incurrence of such Incremental Equivalent Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Parent has determined reasonably in good faith that such terms and conditions satisfy the foregoing requirement, shall be evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies Parent in writing within such seven Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees).

"***Incremental Term Lender***" shall mean a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan.

"***Incremental Term Loan Commitment***" shall mean the commitment of any Lender, established pursuant to Section 2.27, to make Incremental Term Loans to one or more Borrowers, as applicable.

"***Incremental Term Loan Maturity Date***" shall mean the final maturity date of any Incremental Term Loan, as set forth or referenced in the applicable Incremental Assumption Agreement.

"***Incremental Term Loan Repayment Date***" shall mean each date regularly scheduled for the payment of principal of any Incremental Term Loan, as set forth in the applicable Incremental Assumption Agreement.

"***Incremental Term Loans***" shall mean term loans made by one or more Lenders to one or more Borrowers pursuant to Section 2.01(c). Incremental Term Loans may be made in the form of additional Initial Term Loans or, to the extent permitted by Section 2.27 and provided for in the relevant Incremental Assumption Agreement, Other Term Loans.

"***Indebtedness***" of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes, loan stock or similar instruments, (c) receivables sold or discounted (other than to the extent sold on a non-recourse basis or in the ordinary course of business and not as part of a financing transaction), (d) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person (excluding trade accounts payable and other accrued obligations, in each case incurred in the ordinary course of business), (e) all obligations of such person issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business) with payment terms exceeding 120 days, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person, whether or not the obligations secured thereby have been assumed, but limited to the lower of (i) the fair market value of such property and (ii) the amount of the Indebtedness so secured, (g) all Guarantees by such person of Indebtedness of others, (h) all Capital Lease Obligations and Synthetic Lease Obligations of such person, (i) net obligations of such Person under any Hedging Agreements, valued at the Agreement Value thereof, (j) all obligations of such person as an account party in respect of letters of credit, bond, bank guarantee or similar instrument issued by a bank or financial institution, (k) all obligations of such person as an account party in respect of bankers' acceptances and any other amount raised under any acceptance credit, bill acceptance or bill endorsement facility, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Disqualified Stock of such Person or any other Person or any warrants, rights or options to acquire such equity interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends. The Indebtedness of any person shall include the Indebtedness of any partnership in which such person is a general partner, to the extent such person is liable therefor as a result of such person's ownership interest in or other relationship with such entity, except to the extent the express terms of such Indebtedness do not provide that such person is liable therefor. Notwithstanding the foregoing, the term "Indebtedness" shall not include, for any Person, (i) in connection with any Permitted Acquisition, any other permitted investment or any permitted disposition, contingent post-closing purchase price adjustments, indemnification payments or earn-outs until such purchase price adjustments, indemnification payments or earn-outs become liabilities on the balance sheet or statement of financial position of such Person in accordance with GAAP and (ii) obligations of such Person in respect of operating leases.

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

"***Indemnitee***" shall have the meaning assigned to such term in Section 9.05(b).

"***Ineligible Assignee***" shall mean (a) Parent or any Affiliate of Parent, (b) any natural person (or any holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, any natural person), (c) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary thereof, (d) a Person that at the time of such assignment, is the subject of Sanctions or (e) any Disqualified Institution.

"***Information***" shall have the meaning assigned to such term in Section 9.17.

"***Initial Borrowers***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Initial Revolving Credit Commitment***" shall have the meaning assigned to such term in the definition of "Revolving Credit Commitments".

"***Initial Term Lender***" shall mean a Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

"***Initial Term Loan Commitment***" shall mean, with respect to each Initial Term Lender, the commitment of such Initial Term Lender to make Initial Term Loans hereunder as set forth on Schedule 2.01, or in the Assignment and Acceptance pursuant to which such Initial Term Lender assumed its Initial Term Loan Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Initial Term Lender pursuant to Section 9.04. The total amount of the Initial Term Loan Commitments on the Closing Date is $425,000,000.

"***Initial Term Loan Repayment Date***" shall have the meaning assigned to such term in Section 2.11(a).

"***Initial Term Loan Upfront Fees***" shall have the meaning assigned to such term in Section 2.05(d).

"***Initial Term Loans***" shall mean the Initial Term Loans made by the Initial Term Lenders to the Term Loan Borrowers pursuant to Section 2.01(a) of this Agreement. Each Initial Term Loan shall be a Eurocurrency Term Loan or an ABR Term Loan.

"***Intellectual Property***" shall have the meaning assigned to such term in the Agreed Security Principles.

"***Intercreditor Agreement***" shall mean any intercreditor agreement executed in connection with any transaction requiring such agreement to be executed pursuant to the terms hereof, among any of the Agents and one or more Debt Representatives of Indebtedness or any

other party, as the case may be, on such terms that are reasonably acceptable to the Agents, in each case, as amended, restated, supplemented or otherwise modified or replaced from time to time with the consent of the Administrative Agent.

"***Interest Payment Date***" shall mean (a) with respect to any ABR Loan, the last Business Day of each March, June, September and December and the applicable Revolving Credit Maturity Date or Term Loan Maturity Date, and (b) with respect to any Fixed Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Fixed Rate Borrowing with an Interest Period of more than three months' duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months' duration been applicable to any Borrowing, and, in addition, the date of any prepayment of any Fixed Rate Borrowing or conversion of any Eurocurrency Borrowing to an ABR Borrowing.

"***Interest Period***" shall mean (a) as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is 1, 2, 3 or 6 months thereafter (or 12 months or less than a month, if agreed to by all applicable Lenders) (and, in the case of an Alternative Currency Borrowing maturing or required to be repaid in less than seven days, the date thereafter requested by the applicable Borrower and agreed to by the Administrative Agent), as the applicable Borrower may elect, (b) as to any ABR Borrowing, the period commencing on the date of such Borrowing and ending on the earliest of (i) the last Business Day of the next succeeding March, June, September or December, and (ii) the Revolving Credit Maturity Date or the Term Loan Maturity Date, as applicable, and (c) as to any Fixed Rate Borrowing bearing interest by reference to the Bank Bill Rate, the period commencing on the date of such Borrowing and ending on the date (more than 7 but not more than 92 days thereafter) as Parent may elect; *provided*, *however*, that (i) if any Interest Period for any Fixed Rate Borrowing would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period for any Fixed Rate Borrowing that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period and (iii) no Interest Period for any Loan shall extend beyond the maturity date of such Loan. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing. Notwithstanding the foregoing, the Interest Period with respect to the initial borrowing of the Initial Term Loans shall be a period commencing on the Funding Date and ending on September 28, 2018.

"***Interest Rate Protection Agreement***" shall mean any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or similar agreement or arrangement entered into in the ordinary course of business of any Borrower or any Restricted Subsidiary and not solely for speculation.

"***Internally Generated Cash***" means, with respect to any person, funds of such person and its Subsidiaries not constituting, and not subsequently reimbursed out of, (a) proceeds of the issuance or sale of (or contributions in respect of) Equity Interests of such person or any of its Subsidiaries, (b) proceeds of the incurrence of Indebtedness by such person or any of its Subsidiaries, (c) proceeds of any sale, transfer or other disposition, (d) insurance or casualty proceeds, indemnity payments, damage recovery proceeds or condemnation awards (or payments in lieu thereof) or (e) other proceeds that would not be included in Consolidated EBITDA.

"***Interpolated Rate***" shall mean, in relation to the LIBO Rate, the EURIBO Rate or the Bank Bill Rate for any Borrowing, the rate which results from interpolating on a linear basis between: (a) (x) in the case of the LIBO Rate, the rate published by ICE Benchmark Administration Limited (or another commercially available source as designated by the Administrative Agent from time to time) for the LIBO Rate, (y) in the case of the EURIBO Rate, the rate appearing on the Reuters screen (or another commercially available source as designated by the Administrative Agent from time to time) for the EURIBO Rate, or (z) in the case of the Bank Bill Rate, the BBSY Screen Rate (or if the BBSY Screen Rate ceases to be available, such other source as the Administrative Agent may specify from time to time after consultation with Parent), in each case, for the longest period (for which that rate is available) which is less than the Interest Period for such Borrowing and (b) the rate appearing on such screen or other source, as the case may be, for the shortest period (for which that rate is available) which exceeds the Interest Period for such Borrowing, (x) in the case of the LIBO Rate, as of approximately 11:00 a.m., London time, two Business Days prior to, (y) in the case of the EURIBO Rate, as of approximately 11:00 a.m., Brussels time, two Target Days prior to, or (z) in the case of the Bank Bill Rate, as of approximately 10:30 a.m., Sydney time, on the date of, the commencement of such Interest Period.

"***ISDA Master Agreement***" shall mean the Master Agreement (Multicurrency-Cross Border) published by the International Swap and Derivatives Association, Inc., as in effect from time to time.

"***Issuing Bank***" shall mean, as the context may require, (a) each Revolving Credit Lender party hereto as of the Closing Date, acting through any of its Affiliates or branches, in its capacity as an issuer of Letters of Credit hereunder, (b) any Lender that may become an Issuing Bank pursuant to Section 2.23(i) or 2.26, with respect to Letters of Credit issued by such Lender, and (c) with respect to the Existing Letter of Credit, the Lender that issued the Existing Letter of Credit, acting through its branch identified on Schedule 1.01(b), in its capacity as an issuer thereof. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates or branches of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate or branch with respect to Letters of Credit issued by such Affiliate or branch.

"***Issuing Bank Fees***" shall have the meaning assigned to such term in Section 2.05(c).

"***Joint Bookrunners***" shall mean, collectively, Credit Suisse Securities (USA) LLC, Citibank, N.A., Crédit Agricole Corporate and Investment Bank, ING Bank N.V. and Macquarie Capital (USA) Inc. (each of the foregoing acting through such of its affiliates or branches as it deems appropriate), in their capacities as joint lead arrangers and joint bookrunners.

"***Judgment Currency***" shall have the meaning assigned to such term in Section 9.16(b).

"***Junior Incremental Equivalent Indebtedness***" shall mean any Incremental Equivalent Indebtedness that is not secured by Liens on the Collateral ranking pari passu with the Liens securing the Obligations.

"***L/C Commitment***" shall mean the commitment of each Issuing Bank to issue Letters of Credit pursuant to Section 2.23. In no event shall the total amount of the L/C Commitments exceed the Letter of Credit Sublimit.

"***L/C Disbursement***" shall mean a payment or disbursement made by an Issuing Bank pursuant to a Letter of Credit.

"***L/C Exposure***" shall mean, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit denominated in dollars at such time, (b) the Dollar Equivalent of the aggregate undrawn amount of all outstanding Letters of Credit denominated in Alternative Currencies at such time, (c) the aggregate amount of all L/C Disbursements denominated in dollars that have not yet been reimbursed by the Borrowers at such time and (d) the Dollar Equivalent of the aggregate amount of all L/C Disbursements denominated in Alternative Currencies that have not yet been reimbursed by the Borrowers at such time. The L/C Exposure of any Revolving Credit Lender or Extending Revolving Credit Lender at any time shall equal its Pro Rata Percentage (determined on an aggregate basis) of the total L/C Exposure at such time.

"***L/C Participation Fee***" shall have the meaning assigned to such term in Section 2.05(c).

"***Latest Maturity Date***" shall mean, at any date of determination, the latest maturity date applicable to any Loan or Commitment hereunder at such time, including the latest maturity date of any Refinancing Term Loan, any Refinancing Term Commitment, any Extended Term Loan, any Extended Revolving Credit Commitment and any Incremental Term Loans, in each case as extended in accordance with this Agreement from time to time.

"***LCT Election***" shall mean Parent's election to treat a specified transaction as a Limited Condition Transaction.

"***LCT Test Date***" shall have the meaning assigned to such term in Section 1.05(b).

"***Lenders***" shall mean (a) the persons listed on Schedule 2.01 (other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance) and (b) any person that has become a party hereto pursuant to an Assignment and Acceptance or pursuant to an Incremental Assumption Agreement.

"***Letter of Credit***" shall mean (a) any letter of credit issued pursuant to Section 2.23 (which letter of credit shall be a standby letter of credit unless otherwise agreed by the relevant Issuing Bank in its sole discretion) and (b) the Existing Letter of Credit.

"***Letter of Credit Expiration Date***" shall have the meaning assigned to such term in Section 2.23(c).

"***Letter of Credit Sublimit***" means an amount equal to the lesser of (a) $30,000,000 and (b) the Total Revolving Credit Commitment; provided that, notwithstanding anything herein to the contrary, no individual Issuing Bank shall have any obligation to issue Letters of Credit hereunder in excess of $20,000,000 (unless otherwise consented to by the Administrative Agent and the applicable Issuing Bank, but subject, in any event, to the Letter of Credit Sublimit).

"***LIBO Rate***" shall mean, with respect to any Eurocurrency Borrowing denominated in dollars for any Interest Period, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of the relevant Interest Period (as specified in the applicable Borrowing Request) by reference to the Intercontinental Exchange Benchmark Administration Ltd. rates for deposits in dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the Intercontinental Exchange Benchmark Administration Ltd. (or any successor or substitute agency) as an authorized information vendor for the purpose of displaying such rates), for a period equal to such Interest Period; *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBO Rate" for the relevant Interest Period shall be (a) the Interpolated Rate, for a period equal in length to such Interest Period or (b) if such rate is not available at such time for any other reason, a comparable successor rate that is, at such time, broadly accepted by the syndicated loan market for loans denominated in Dollars in lieu of the "LIBO Rate", as determined by the Administrative Agent, or, if no such broadly accepted comparable successor rate exists at such time, a successor index rate as the Administrative Agent may determine with the consent of Parent and the Required Lenders. Notwithstanding the foregoing, (i) except to the extent otherwise provided in the applicable Incremental Assumption Agreement, the "LIBO Rate" in respect of any Interest Period applicable to any Term Borrowings will be deemed to be zero per annum if the LIBO Rate for such Interest Period calculated pursuant to the foregoing provisions would otherwise be less than zero per annum and (ii) if the LIBO Rate applicable to any Revolving Loan for any Interest Period, determined as provided above, would otherwise be less than zero, then the LIBO Rate applicable to such Revolving Loan for such Interest Period will be deemed to be zero.

"***Lien***" shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, encumbrance, charge or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"***Limited Condition Transaction***" shall mean a Permitted Acquisition or other investment permitted by this Agreement, including by means of a merger, amalgamation or consolidation, by Parent or one or more of its Restricted Subsidiaries, the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing.

"***Liquidity***" shall mean, on any date, the sum of (i) Unrestricted Cash and (ii) undrawn Revolving Credit Commitments and Extended Revolving Credit Commitments (if any) on such date.

"***Loan Documents***" shall mean this Agreement, the Letters of Credit, any Intercreditor Agreement, the Guarantee Agreement, the Security Documents, each Borrowing Subsidiary Agreement, each Borrowing Subsidiary Termination, each Incremental Assumption Agreement (if any), each Refinancing Amendment (if any), each Extension Amendment (if any), the promissory notes, if any, executed and delivered pursuant to Section 2.04(e) and any other document executed by or on behalf of any of the Loan Parties (including any officer or employee thereof) and delivered to any of the Secured Parties in connection with the foregoing.

"***Loan Parties***" shall mean the Borrowers and the Guarantors.

"***Loans***" shall mean the Revolving Loans and the Term Loans.

"***Local Time***" shall mean:

(a) solely for purposes of Section 2.23(e) and the obligation of any Borrower to reimburse any L/C Disbursement and for purposes of Section 2.02(f), in relation to any such reimbursement obligation, participation obligation or deemed Borrowing with respect to an L/C Disbursement relating to a Letter of Credit issued for the account of (i) any U.S. Borrower (or with respect to which any U.S. Borrower is a co-applicant), New York City time, (ii) Parent or any Subsidiary Borrower incorporated or organized under the laws of Australia (or with respect to which Parent or such Subsidiary Borrower is a co-applicant), Melbourne time, and (iii) SpeedCast HK or any other Subsidiary Borrower incorporated or organized under the laws of Hong Kong (or with respect to which SpeedCast HK or such other Subsidiary Borrower is a co-applicant), Hong Kong time; and

(b) in relation to any Borrowing or other payment obligation (not referred to in clause (a) of this definition) denominated in (i) dollars, New York City time, (b) Australian Dollars, Melbourne time, and (c) Euros, Brussels time.

"***Margin Stock***" shall have the meaning assigned to such term in Regulation U.

"***Market Capitalization***" means, as of any date of a declaration of a dividend pursuant to Section 6.06(a)(vi), an amount equal to (a) the number of shares of Parent's common stock publicly disclosed as outstanding in the most recent filing of Parent with the Australian Securities and Investments Commission as of such date of declaration multiplied by (b) the arithmetic mean of the closing prices per share of such common stock ASX for the 30 consecutive trading days immediately preceding such date of declaration.

"***Material Adverse Effect***" shall mean (a) a material adverse effect on the business, assets, financial condition or operating results of Parent and its Restricted Subsidiaries, taken as a whole, (b) material impairment of the ability of any Borrower or of the Loan Parties (taken as a whole) to perform their obligations under the Loan Documents or (c) material impairment of the rights of, remedies of or benefits available to the Lenders under any Loan Document.

"***Material Asset Sale***" shall mean any sale, transfer, lease or other disposition by Parent or any Restricted Subsidiary to any person other than Parent or a Restricted Subsidiary of any Equity Interests in, a person, or a division or line of business or other business unit of a person or any other assets, if such person, division, line of business, other business unit or other assets

contributed (i) more than 10.0% of or (ii) a negative EBITDA contribution of greater than 10.0% (on an absolute value basis) of the Consolidated EBITDA of Parent and the Restricted Subsidiaries during the most recently ended Test Period preceding the date of such transaction.

"***Material Owned Real Property***" shall mean real property which is owned by Parent or a Subsidiary Guarantor with a fair market value in excess of $5,000,000.

"***Maximum Rate***" shall have the meaning assigned to such term in Section 9.09.

"***Minimum Collateral Amount***" shall mean, at any time, (a) with respect to cash collateral consisting of cash or deposit account balances, (i) in the case of any cash collateralization pursuant to Section 2.28, an amount equal to 105% (or such other rate required by any Issuing Bank with respect to Letters of Credit denominated in any Alternative Currency) of the Fronting Exposure of the Issuing Banks with respect to Letters of Credit issued and outstanding at such time, (ii) in the case of any cash collateralization pursuant to the last paragraph of Section 7.01 or pursuant to Section 7.02 or upon the occurrence of the Letter of Credit Expiration Date or earlier termination of the L/C Commitments, an amount equal to 105% (or such other rate required by any Issuing Bank with respect to Letters of Credit denominated in any Alternative Currency) of the maximum stated amount of (x) each Letter of Credit outstanding at such time and (y) in the case of any cash collateralization pursuant to the last paragraph of Section 7.01 or pursuant to Section 7.02, each Contract Letter of Credit outstanding at such time, and (iii) in the case of any cash collateralization pursuant to Section 2.13(a) or 2.13(b), an amount equal to 105% (or such other rate required by any Issuing Bank with respect to Letters of Credit denominated in any Alternative Currency) of the excess L/C Exposure at such time (as referred to in such Section 2.13(a) or 2.13(b), as applicable) and (b) otherwise, an amount determined by the Administrative Agent and, with respect to the Letters of Credit issued by an Issuing Bank, such Issuing Bank, in each case in their sole discretion.

"***Moody's***" shall mean Moody's Investors Service, Inc., or any successor thereto.

"***Mortgaged Properties***" shall mean the Material Owned Real Properties with respect to which a Mortgage is executed and delivered in accordance with Section 6 of the Agreed Security Principles or Section 5.11.

"***Mortgages***" shall mean the mortgages, deeds of trust, assignments of leases and rents, modifications and other security documents delivered pursuant to Section 6 of the Agreed Security Principles or Section 5.11, each in form and substance reasonably acceptable to the Agents.

"***Multiemployer Plan***" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"***Net Cash Proceeds***" shall mean (a) with respect to any Asset Sale, the cash proceeds received by Parent or any Restricted Subsidiary (including cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received and including all insurance settlements and condemnation awards) to the extent in excess of $10,000,000 in the aggregate in any period of two consecutive fiscal half-year periods (it being understood that, in the event such proceeds exceed $10,000,000 in the aggregate for any such period, all of such

proceeds shall constitute "Net Cash Proceeds", except for any amounts permitted to be netted pursuant to this clause (a) and subject to the proviso to this clause (a)), net of (i) transaction expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, transfer and similar taxes and Parent's good faith estimate of income taxes paid or payable in connection with the receipt of such cash proceeds), (ii) amounts provided as a reserve, in accordance with GAAP, including pursuant to any escrow arrangement, against any liabilities under any indemnification obligations or purchase price adjustment associated with such Asset Sale (*provided* that, to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Cash Proceeds), (iii) in the case of insurance settlements and condemnation awards, amounts previously paid by Parent and its Restricted Subsidiaries to replace or restore the affected property, and (iv) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness for borrowed money which is secured by the asset sold in such Asset Sale and is required to be repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such asset); *provided, however*, that if (A) Parent shall deliver a certificate of a Financial Officer to the Administrative Agent on or before the tenth Business Day following receipt thereof, which certificate shall set forth Parent's intent to reinvest such proceeds (1) in assets of like type and value, (2) to purchase other assets relevant to the business of Parent and its Restricted Subsidiaries or (3) towards the purchase price for a Permitted Acquisition, in any such case, within 365 days of receipt of such proceeds and (B) no Default or Event of Default shall have occurred and shall be continuing at the time of such certificate, such proceeds shall not constitute Net Cash Proceeds except to the extent not so used at the end of such 365-day period, at which time such proceeds shall be deemed to be Net Cash Proceeds (provided that, if any Borrower or any of its Restricted Subsidiaries has entered into a binding contract to so reinvest such proceeds during such 365-day period following receipt of such proceeds, then such proceeds shall only be deemed to be Net Cash Proceed to the extent not so reinvested within 365 days after the expiration of such initial 365-day period), and (b) with respect to any issuance or incurrence of Indebtedness or any Equity Issuance, the cash proceeds thereof, net of all taxes and customary fees, commissions, costs and other expenses (including reasonable broker's fees or commissions, legal fees, accounting fees, investment banking fees and other professional fees, and underwriter's discounts and commissions) incurred in connection therewith.

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

"***Non-U.S. Alternative Rate***" shall mean, with respect to any Loans in any Alternative Currency, as of any day, the rate of interest determined by the Administrative Agent to be representative of its or the applicable Lenders' cost of funds, as applicable, to extend or maintain Loans in such Alternative Currency under this Agreement on such day.

"***Non-U.S. Alternative Rate Loans***" shall mean any Loans in any Alternative Currency the rate of interest applicable to which is the Non-U.S. Alternative Rate. Notwithstanding anything to the contrary contained herein, Loans may be made or maintained as Non-U.S. Alternative Rate Loans only to the extent specified in Section 2.08 or 2.15.

"***Non-U.S. Benefit Event***" shall mean, with respect to any Non-U.S. Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or

in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Non-U.S. Pension Plan or to appoint a trustee or similar official to administer any such Non-U.S. Pension Plan, or alleging the insolvency of any such Non-U.S. Pension Plan and (d) the incurrence of any liability in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency) by any Loan Party or any of its Subsidiaries under applicable law on account of the complete or partial termination of such Non-U.S. Pension Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and could reasonably be expected to result in the incurrence of any liability by any Loan Party or any of its Subsidiaries, or the imposition on any Loan Party or any of its Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law, in each case in excess of $25,000,000 (or the Dollar Equivalent thereof in another currency).

"***Non-U.S. Lender***" shall mean any Lender that not a U.S. Person.

"***Non-U.S. Pension Plan***" shall mean any plan, fund, scheme, or program that (i) is not subject to United States law, (ii) provides retirement income to employees or results in the deferral of income by employees for periods extending to the termination of covered employment or beyond, (iii) is maintained or contributed to by any Loan Party or any Subsidiary or with respect to which any such entities could reasonably be expected to have any current, future or contingent liability or responsibility, and (iv) is maintained for or contributed to on behalf of employees whose principal place of employment is outside the United States.

"***Non-U.S. Restricted Subsidiary***" shall mean any Restricted Subsidiary that is not a U.S. Restricted Subsidiary.

"***Not Otherwise Applied***" shall mean, with reference to any amount of proceeds of any transaction, that (a) was not required to be applied to prepay the Term Loans pursuant to Section 2.13 or any Other Applicable First Priority Indebtedness pursuant to Section 2.13 or 6.09(c), and (b) was not previously applied in determining the permissibility of a transaction under the Loan Documents where such permissibility was (or may have been) contingent on receipt of such amount or utilization of such amount for a specified purpose.

"***Notice of Intent to Cure***" shall mean a written notice from Parent of its intent to cure any non-compliance with the financial covenant set forth in Section 6.10(a) delivered to the Administrative Agent in accordance with Section 6.10(b).

"***Obligations***" shall mean all obligations defined as "Obligations" in the Guarantee Agreement. Notwithstanding the foregoing, the term "Obligations" as used herein and in any other Loan Document shall exclude Excluded Swap Obligations.

"***Offshore Associate***" means an Associate:

(a) which is a non-resident of Australia and does not become a Lender or receive a payment in carrying on a business in Australia at or through a permanent establishment of the Associate in Australia; or

(b) which is a resident of Australia and which becomes a Lender or receives a payment in carrying on a business in a country outside Australia at or through a permanent establishment of the Associate in that country; and

in either case of clause (a) or (b) above, satisfies each of the following requirements:

(i) in respect of becoming a Lender, which does not become a Lender in the capacity of a dealer, manager or underwriter in relation to the invitation, or a clearing house, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Australian Corporations Act; and

(ii) in respect of receiving a payment, does not receive the payment in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Australian Corporations Act.

"***Organization Documents***" shall mean (a) with respect to any corporation, the certificate or articles of incorporation or articles of association and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction).

"***Other Applicable First Priority Indebtedness***" shall have the meaning assigned to such term in Section 2.13(j).

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

"***Other Taxes***" shall mean any current or future stamp, documentary, excise, transfer, sales, property or similar Taxes, charges or levies (including mortgage recording Taxes and similar fees) that arise from any payment made hereunder or under any other Loan Document or from the execution, delivery, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Document imposed by any Governmental Authority in the United States, the jurisdiction of any Alternative Currency or the jurisdiction in which any Borrower has a place of business other than any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made at the request of any Borrower).

"***Other Term Loans***" shall have the meaning assigned to such term in Section 2.27(b).

"***Parent***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Participant Register***" shall have the meaning assigned to such term in Section 9.04(f)(ii).

"***Participating Member State***" shall mean any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"***PBGC***" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"***Permitted Acquisitions***" shall have the meaning assigned to such term in Section 6.04(d).

"***Permitted First Priority Refinancing Debt***" shall mean any secured Indebtedness (including any Registered Equivalent Notes) incurred by any Borrower in the form of one or more series of senior secured notes or loans; provided that such Indebtedness otherwise meets the requirements contained in the proviso to the definition of "Credit Agreement Refinancing Indebtedness."

"***Permitted Investments***" shall mean:

(a) direct obligations of the United States of America or by any of its agencies or instrumentalities, in each case maturing within ten years from the date of acquisition thereof;

(b) direct obligations of any State of the United States of America (or any political subdivision or public instrumentality thereof), U.S. or non-U.S. corporations, or U.S. or non-U.S. commercial banking institutions having, at such date of acquisition, a rating of at least "A" by S&P or "A2" by Moody's, in each case maturing within eighteen months from the date of acquisition thereof;

(c) investments in commercial paper and variable rate notes maturing within one year from the date of acquisition thereof and having, at such date of acquisition, the highest short-term credit rating obtainable from S&P or from Moody's;

(d) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market, checking or demand deposit accounts issued or offered by, (i) the Administrative Agent or any U.S. office of any commercial bank organized under the laws of the United States of America or any State thereof or (ii) a commercial banking institution organized and located in a country recognized by the United States of America, in each case that has a combined capital and surplus and undivided profits of not less than $250,000,000 (or the Dollar Equivalent thereof in another currency);

(e) repurchase obligations with a term of not more than ninety days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above;

(f) (i) investments in money market funds which invest substantially all their assets in securities of the types described in clauses (a) through (e) above or (ii) enhanced yield funds or European money market funds having, at such date of acquisition, a rating of at least "A" by S&P or "A2" by Moody's and that are capable of being fully liquidated at their respective net asset values at any time within ten Business Days;

(g) dollars, Euros or the currency of any country having a long-term credit rating of at least "A" by S&P or "A2" by Moody's and any other foreign currency held by any Borrower or any of the Restricted Subsidiaries in the ordinary course of business; and

(i) other short-term investments utilized by Parent or any Non-U.S. Restricted Subsidiary in accordance with normal investment practices for cash management in investments of a type analogous to the foregoing.

"***Permitted Junior Priority Refinancing Debt***" shall mean secured Indebtedness (including any Registered Equivalent Notes) incurred by any Borrower in the form of one or more series of second lien (or other junior lien) secured notes or second lien (or other junior lien) secured loans; provided that (i) such Indebtedness is secured by the Collateral on a second priority (or other junior priority) basis to the Liens securing the Obligations and the obligations in respect of any Permitted First Priority Refinancing Debt, (ii) such Indebtedness otherwise constitutes Credit Agreement Refinancing Indebtedness and (iii) such Indebtedness meets the Permitted Other Debt Conditions. Permitted Junior Priority Refinancing Debt will include any Registered Equivalent Notes issued in exchange therefor.

"***Permitted Other Debt Conditions***" shall mean that the applicable Indebtedness does not mature or have scheduled amortization payments of principal or other payments of principal and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligations (except (x) customary asset sale, initial public offering or change of control or similar event provisions that provide for the prior repayment in full of the Loans and all other Obligations, (y) maturity payments and customary mandatory prepayments for a customary bridge financing which, subject to customary conditions, provides for automatic conversion or exchange into Indebtedness that otherwise complies with the requirements of this definition or (z) AHYDO payments), in each case prior to the Latest Maturity Date at the time such Indebtedness is incurred.

"***Permitted Refinancing***" shall mean, with respect to any Indebtedness, any refinancing, refunding, renewal, replacement or extension of such Indebtedness (for purposes of this paragraph, the "***refinanced debt***"); provided that (a) the Indebtedness resulting from such refinancing, refunding, renewal, replacement or extension (for purposes of this paragraph, the "***refinancing debt***") shall not have an aggregate principal amount greater than the aggregate principal amount of the refinanced debt plus accrued interest, fees, premiums (if any) and penalties thereon and fees and expenses associated therewith, (b) the refinancing debt has a maturity no earlier than, and a weighted average life to maturity equal to or greater than, the

refinanced debt, (c) at the time of such Permitted Refinancing, no Event of Default shall have occurred and be continuing, (d) if the refinanced debt is subordinated in right of payment to, or is secured by Liens that are subordinated to, the Liens securing the Obligations, then any such refinancing debt shall be subordinated in right of payment to, and the Liens securing such refinanced debt shall be subordinated to, the Liens securing the Obligations, as applicable, on terms no less favorable to the Lenders pursuant to a customary subordination or an Intercreditor Agreement or provisions reasonably satisfactory to the Administrative Agent and (e) any refinancing debt described in the preceding clause (d) and any other refinancing debt that is unsecured shall meet the Permitted Other Debt Conditions.

"***Permitted Repricing Amendment***" shall have the meaning assigned to such term in Section 9.08(b).

"***Permitted Unsecured Refinancing Debt***" shall mean unsecured Indebtedness (including any unsecured Registered Equivalent Notes) incurred by any Borrower in the form of one or more series of senior unsecured notes or loans; provided that such Indebtedness (a) constitutes Credit Agreement Refinancing Indebtedness and (b) meets the Permitted Other Debt Conditions.

"***person***" or ***"Person"*** shall mean any natural person, corporation, business trust, joint venture, association, company, limited liability company, partnership, other business entity or Governmental Authority.

"***Plan***" shall mean any employee pension benefit plan, as defined in Section 3(2) of ERISA, (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

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

"***Platform***" shall have the meaning assigned to such term in Section 9.01.

"***PPSA***" shall mean the Personal Property Securities Act 2009 (Cth).

"***Prime Rate***" shall have the meaning assigned to such term in the definition of the term "Alternate Base Rate".

"***Private Lenders***" shall mean Lenders other than Public Lenders.

"***Pro Rata Percentage***" of any Revolving Credit Lender or Extending Revolving Credit Lender at any time with respect to any Class of Revolving Credit Commitments or Extended Revolving Credit Commitments shall mean the percentage of the aggregate Revolving Credit Commitments or Extended Revolving Credit Commitments of such Class represented by such Lender's Revolving Credit Commitment or Extended Revolving Credit Commitment with respect to such Class. In the event the Revolving Credit Commitments or Extended Revolving Credit Commitments of a Class shall have expired or been terminated, the Pro Rata Percentages

shall be determined on the basis of the Revolving Credit Commitments or Extended Revolving Credit Commitments most recently in effect, giving effect to any subsequent assignments.

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

"***Public Lender***" shall have the meaning assigned to such term in Section 9.01.

"***Purchase Money Indebtedness***" shall mean any Indebtedness of Parent or any Restricted Subsidiary to any seller or other person incurred to finance the acquisition (including in the case of a Capital Lease Obligation or Synthetic Lease Obligation, the lease), construction, improvement or repair of any fixed or capital assets and which is (i) incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair and (ii) secured only by the assets so acquired, constructed, improved or repaired and proceeds and products thereof, accessions thereto and improvements thereon.

"***Qualified Capital Stock***" of any Person shall mean any Equity Interest of such Person that is not Disqualified Stock.

"***Receiver***" means a receiver and manager or other receiver appointed in respect of all or any part of the Collateral and shall, if allowed by law, include an administrative receiver.

"***Refinanced Debt***" shall have the meaning assigned to the term "refinanced debt" in the definition of "Credit Agreement Refinancing Indebtedness".

"***Refinancing Amendment***" shall mean an amendment to this Agreement executed by each of (a) the Borrowers, (b) the Administrative Agent, (c) each Additional Refinancing Lender and (d) each Lender that agrees to provide any portion of the Refinancing Term Loans incurred pursuant thereto, in accordance with Section 2.30.

"***Refinancing Term Commitments***" shall mean one or more term loan commitments hereunder that fund Refinancing Term Loans of the applicable Refinancing Series hereunder pursuant to a Refinancing Amendment.

"***Refinancing Term Loans***" shall mean one or more Classes of Term Loans that result from a Refinancing Amendment.

"***Register***" shall have the meaning assigned to such term in Section 9.04(d).

"***Registered Equivalent Notes***" shall mean, with respect to any notes originally issued in an offering pursuant to Rule 144A under the Securities Act or other private placement transaction under the Securities Act, substantially identical notes (having the same guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"***Regulation T***" shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation U***" shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Regulation X***" shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"***Related Business***" shall mean any business that is the same, similar or otherwise reasonably related, ancillary or complementary to the businesses of Parent and its Restricted Subsidiaries on the Closing Date.

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

"***Release***" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, emanating or migrating of any Hazardous Material in, into, onto or through the environment.

"***Remedial Action***" shall mean (a) "remedial action" as such term is defined in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601(24), and (b) all other actions required by any Governmental Authority or voluntarily undertaken to: (i) clean up, remove, treat, abate or in any other way address any Hazardous Material in the environment; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health, welfare or the environment; or (iii) perform studies and investigations in connection with, or as a precondition to, (i) or (ii) above.

"***Repayment Dates***" shall mean the Initial Term Loan Repayment Dates and, unless the context shall otherwise require, shall include any Incremental Term Loan Repayment Dates.

"***Repricing Event***" shall mean (i) any prepayment, repayment or refinancing of Term Loans with the proceeds of Indebtedness, or any conversion of Term Loans into any new or replacement tranche of term loans, in either case bearing interest at an "effective" interest rate less than the "effective" interest rate applicable to the Term Loans (as such comparative rates are reasonably determined by the Administrative Agent in consultation with Parent) and (ii) any amendment that, directly or indirectly, reduces the "effective" interest rate applicable to the Term Loans (in each case, for the purposes of any of the foregoing interest rate calculations, (x) any bona fide arrangement, underwriting, structuring or similar fees not generally shared with the applicable lenders shall be excluded, (y) original issue discount and upfront fees (which shall be deemed to constitute like amounts of original issue discount) shall be equated to interest margins in a manner consistent with generally accepted financial practice based on an assumed four-year life to maturity and (z) the fact that any interest rate may be lower following such calculation as a result of a pricing grid based on performance or credit ratings shall be disregarded).

"***Required Lenders***" shall mean, at any time, Lenders having outstanding Loans, L/C Exposure and unused Revolving Credit Commitments, Extended Revolving Credit Commitments and Term Loan Commitments representing more than 50% of the sum of all Loans outstanding,

L/C Exposure and unused Revolving Credit Commitments, Extended Revolving Credit Commitments and Term Loan Commitments at such time; *provided*, *however*, that the Revolving Loans, L/C Exposure and unused Revolving Credit Commitments and Extended Revolving Credit Commitments of any Defaulting Lender shall be disregarded in the determination of Required Lenders at any time, *provided*, *further*, that for purposes of declaring the Loans to be due and payable pursuant to Section 7.01, the outstanding Contract Credit Facility Exposure of the Lenders shall be included in their respective Loans and L/C Exposure in determining the Required Lenders. Solely for purposes of determining the Required Lenders on any date, any amounts denominated in an Alternative Currency shall be translated into dollars at the Dollar Equivalent in effect on the most recent Calculation Date.

"***Required Revolving Credit Lenders***" shall mean, at any time, Revolving Credit Lenders and Extending Revolving Credit Lenders having outstanding Revolving Loans, L/C Exposure and unused Revolving Credit Commitments and Extended Revolving Credit Commitments representing more than 50% of the sum of all Revolving Loans outstanding, L/C Exposure and unused Revolving Credit Commitments and Extended Revolving Credit Commitments (if any) at such time; *provided*, *however*, that the Revolving Loans, L/C Exposure and unused Revolving Credit Commitments and Extended Revolving Credit Commitments of any Defaulting Lender shall be disregarded in the determination of Required Revolving Credit Lenders at any time. Solely for purposes of determining the Required Revolving Credit Lenders on any date, any amounts denominated in an Alternative Currency shall be translated into dollars at the Dollar Equivalent in effect on the most recent Calculation Date.

"***Responsible Officer***" of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement (or any other person reasonably acceptable to the Administrative Agent).

"***Restricted Junior Debt Payment***" shall have the meaning assigned to such term in Section 6.09(b).

"***Restricted Payment***" shall have the meaning assigned to such term in Section 6.06(a).

"***Restricted Subsidiary***" shall mean each direct or indirect Subsidiary of Parent that is not an Unrestricted Subsidiary.

"***Revolver Extension Request***" shall have the meaning assigned to such term in Section 2.31(b).

"***Revolver Extension Series***" shall have the meaning assigned to such term in Section 2.31(b).

"***Revolving Commitment Increase***" shall have the meaning assigned to such term in Section 2.27(a).

"***Revolving Commitment Increase Lenders***" shall mean existing Revolving Credit Lenders and/or additional banks, financial institutions and other institutional lenders that become Revolving Credit Lenders pursuant to Section 2.27 and that, in each case, commit to a Revolving

Commitment Increase (it being understood and agreed that each such Lender or bank, financial institution or institutional lender may not so commit if it is an Ineligible Assignee) and that, in each case, commitment to a Revolving Commitment Increase.

"***Revolving Credit Availability Period***" shall mean the period commencing with the Closing Date and ending on the date that is 30 days prior to the applicable Revolving Credit Maturity Date.

"***Revolving Credit Borrowers***" shall mean each of the Initial Borrowers and any other Restricted Subsidiary designated as a Subsidiary Borrower by Parent, and approved by the requisite Revolving Credit Lenders and Extending Revolving Credit Lenders, in accordance with Section 9.22.

"***Revolving Credit Borrowing***" shall mean a Borrowing comprised of Revolving Loans.

"***Revolving Credit Commitment***" shall mean, with respect to each Lender, the commitment of such Lender to make Revolving Loans hereunder (and to acquire participations in Letters of Credit as provided for herein) as set forth on Schedule 2.01 (an "***Initial Revolving Credit Commitment***"), or in the Assignment and Acceptance pursuant to which such Lender assumed its Revolving Credit Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. Unless the context shall otherwise require, the term "Revolving Credit Commitments" shall include each Revolving Commitment Increase. The aggregate principal amount of the Revolving Credit Commitments on the Closing Date is $100,000,000.

"***Revolving Credit Exposure***" shall mean, with respect to any Lender at any time with respect to the Revolving Credit Commitments or any Class of Extended Revolving Credit Commitments, the sum of (a) the aggregate principal amount of all outstanding Revolving Loans of such Lender under such Class at such time denominated in dollars, (b) the Dollar Equivalent of the aggregate principal amount of all outstanding Revolving Loans of such Lender under such Class that are Alternative Currency Loans at such time and (c) the aggregate amount of such Lender's L/C Exposure under such Class at such time.

"***Revolving Credit Lender***" shall mean a Lender with a Revolving Credit Commitment, an outstanding Revolving Loan or any L/C Exposure.

"***Revolving Credit Maturity Date***" shall mean (i) with respect to the Initial Revolving Credit Commitments, the date that is five years after the Closing Date and (ii) with respect to any Class of Extended Revolving Credit Commitments, the final maturity date applicable thereto as specified in the applicable Extension Request accepted by the respective Lender or Lenders.

"***Revolving Loans***" shall mean (a) the revolving loans made by the Revolving Credit Lenders to a Borrower pursuant to Section 2.01(b) and/or (b) the revolving loans made by any Class of Extending Revolving Credit Lenders pursuant to the relevant Extension Amendment and this Agreement, as the context may require. Revolving Loans may be denominated in dollars or Alternative Currencies.

"***S&P***" shall mean S&P Global Ratings, or any successor thereto.

"***Sale and Leaseback***" shall have the meaning set forth in Section 6.03.

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

"***Sanctioned Person***" shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which the Borrowers or any of their respective Subsidiaries operate, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person directly or indirectly owned, 50 percent or more, or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

"***Sanctions***" shall mean economic or financial sanctions or trade embargoes, as well as anti-terrorism laws (including the USA PATRIOT ACT) imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any EU Member State (including the United Kingdom), Australia, Singapore, or any country in which the Borrowers or any of their respective Subsidiaries operate.

"***SEC***" shall mean the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"***Secured Hedging Agreement***" shall mean a Hedging Agreement with a Loan Party that (i) is in effect on the Closing Date with a Secured Hedging Bank that is a Joint Bookrunner, the Administrative Agent or a Lender or an Affiliate of a Joint Bookrunner, the Administrative Agent or a Lender as of the Closing Date, or (ii) is entered into after the Closing Date with any Secured Hedging Bank that is the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender at the time such Hedging Agreement is entered into.

"***Secured Hedging Bank***" shall mean, with respect to any Secured Hedging Agreement, the relevant counterparty thereto in its capacity as a party thereto and that (a) is designated a "Secured Hedging Bank" with respect to such Secured Hedging Agreement in a writing from Parent and such counterparty to the Administrative Agent (provided that, with respect to any Revolving Credit Lender or Affiliate thereof entering into a Secured Hedging Agreement on the Closing Date or following the Closing Date but on or prior to the third Business Day following the Closing Date, no such designation shall be required pursuant to this clause (a), subject to compliance with clause (b) below, if applicable), and (b) other than with respect to a counterparty already party hereto as a Lender or the Administrative Agent, delivers to the Agents a letter agreement reasonably satisfactory to them (i) appointing each of the Agents as an agent and, as applicable, trustee for it under the applicable Loan Documents and (ii) agreeing to be

bound by Sections 7.02, 9.05, 9.07, 9.08(c), 9.11, 9.15, and 9.25 and Article VIII as if it were a Lender (except where expressly referenced as a "Secured Hedging Bank").

"***Secured Parties***" shall have the meaning assigned to such term in the Guarantee Agreement.

"***Securities Act***" shall mean the United States Securities Act of 1933, as amended.

"***Security Documents***" shall mean the Security Trust Deed, each of the agreements and instruments listed on Part I of Schedule 4.01(d) hereto and, after execution and delivery thereof, Part I of Schedule 5.14 hereto and each of the security agreements, mortgages and other instruments and documents (including any Mortgages) executed and delivered pursuant to any of the foregoing or pursuant to Section 5.11 or the Agreed Security Principles.

"***Security Trust Deed***" shall mean the Security Trust Deed, substantially in the form of Exhibit E, executed by the Security Trustee, for the benefit of the Secured Parties.

"***Security Trustee***" shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

"***Singapore Companies Act***" shall mean the Companies Act, Chapter 50 of Singapore.

"***Solvent***" shall mean, with respect to (i) any person or (ii) any group of persons (taken as a whole) on any date of determination, that on such date, (a) the fair value of the assets of such person or such group of persons (taken as a whole), as the case may be, at a fair valuation, will exceed such person's or such group of persons', as the case may be, debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of such person or such group of persons (taken as a whole), as the case may be, will be greater than the amount that will be required to pay the probable liability of such person's or such group of persons', as the case may be, debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) such person or such group of persons (taken as a whole), as the case may be, will be able to pay such person's or such group of persons', as the case may be, debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) such person or such group of persons, as the case may be, will not have unreasonably small capital with which to conduct the business in which such person or such group of persons, as the case may be, is engaged as such business is now conducted and is proposed to be conducted following the Closing Date. On any date of determination, with respect to any Borrower incorporated or formed under the laws of Australia, "***Solvent***" shall also mean that on such date such Borrower is solvent in accordance with Section 95A of the Australian Corporations Act.

"***SPC***" shall have the meaning assigned to such term in Section 9.04(j).

"***Specified Equity Contribution***" shall have the meaning assigned to such term in Section 6.10(b).

"***Specified Jurisdiction***" shall mean any Eligible Jurisdiction, the United Kingdom, any member state of the European Economic Area and any Participating Member State.

"***SpeedCast America***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***SpeedCast Communications***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***SpeedCast HK***" shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

"***Statutory Reserves***" shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by any Governmental Authority to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for any category of deposits or liabilities customarily used to fund loans or by reference to which interest rates applicable to Loans are determined. Such reserve, liquid asset or similar percentages shall include those imposed pursuant to Regulation D of the Board (and for purposes of Regulation D, Eurocurrency Loans denominated in dollars shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board)). Loans shall be deemed to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any other applicable law, rule or regulation. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"***Subordinated Indebtedness***" shall mean Indebtedness of Loan Party that (i) is contractually subordinated in right of payment to the Obligations pursuant to subordination terms that are reasonably satisfactory to the Administrative Agent, (ii) matures after, and does not require any scheduled amortization or other scheduled payments of principal prior to, the date that is six months after the Latest Maturity Date, (iii) by its terms, or by the terms of any security into which it is convertible or exchangeable or otherwise, would not be required for any reason to be redeemed, repurchased or repaid on or prior to the date that is six months after the Latest Maturity Date (other than upon the occurrence of a "change of control" or upon the occurrence of an event of default or mandatory prepayment or redemption event, but only so long as any such requirement to be redeemed, repurchased or repaid upon the occurrence of such event is subject to the prior payment in full of all of the Obligations), (iv) is not convertible into or exchangeable for debt securities of Parent or any Subsidiary prior to the date that is six months after the Latest Maturity Date and (v) has terms and conditions (other than interest rate and redemption premiums), taken as a whole, that are not materially less favorable to any Loan Party than the terms and conditions customary at the time for high-yield subordinated debt securities issued in a public offering in the reasonable determination of the Administrative Agent.

"***Subordinated Indebtedness Documents***" shall mean each of the agreements, documents and instruments providing for or evidencing any Subordinated Indebtedness permitted to be issued or incurred under Section 6.01, as amended, supplemented or otherwise modified in accordance with Section 6.09(a).

"***subsidiary***" shall mean, with respect to any person (herein referred to as the "***parent***"), any corporation, partnership, limited liability company, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"***Subsidiary***" shall mean any subsidiary of Parent.

"***Subsidiary Borrowers***" shall mean each of the Initial Borrowers (other than Parent) and any other Restricted Subsidiary designated as a Subsidiary Borrower by Parent in accordance with Section 9.22.

"***Subsidiary Guarantors***" shall mean each person listed on Schedule 1.01(c) and each other person that becomes party to the Guarantee Agreement as a Guarantor, and the permitted successors and assigns of each such person; *provided*, that the term Subsidiary Guarantor shall exclude Unrestricted Subsidiaries.

"***Swap Obligation***" shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of § 1a(47) of the Commodity Exchange Act.

"***Synthetic Lease***" shall mean a lease of property or assets (other than inventory) designed to permit the lessee (a) to claim depreciation on such property or assets under U.S. tax law and (b) to treat such lease as an operating lease or not to reflect the leased property or assets on the lessee's balance sheet or statement of financial position under GAAP.

"***Synthetic Lease Obligations***" shall mean, as to any person, an amount equal to the sum of (a) the obligations of such person to pay rent or other amounts under any Synthetic Lease which are attributable to principal or that would appear on a balance sheet or statement of financial position of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations and, without duplication, (b) the amount of any purchase price payment under any Synthetic Lease assuming the lessee exercises the option to purchase the leased property at the end of the lease term.

"***Target Day***" shall mean any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system is open for the settlement of payments in Euro.

"***Tax Authority***" shall mean any revenue, customs, fiscal or governmental authority competent to impose or collect any taxation (or any interest, fine, surcharge or penalty relating thereto).

"***Tax Consolidated Group***" shall mean a Consolidated Group or a MEC Group as those terms are defined in the Australian Tax Act.

"***Tax Funding Agreement***" shall mean any agreement, deed or document which determines the funding and payment of Group Liabilities of the Head Company of a Tax Consolidated Group.

"***Tax Sharing Agreement***" shall mean an agreement between the members of a Tax Consolidated Group which takes effect as a tax sharing agreement under section 721-25 of the Australian Tax Act and which complies with the Australian Tax Act and any law, official directive, request, guidance or policy (whether or not having the effect of law) issued in connection with the Australian Tax Act.

"***Taxes***" shall mean all current or future taxes, duties, levies, imposts, deductions, charges, withholdings (including backup withholdings), assessments, fees or other charged imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"***Term Borrowing***" shall mean a Borrowing comprised of Term Loans.

"***Term Lender***" shall mean a Lender with a Term Loan Commitment or an outstanding Term Loan.

"***Term Loan Borrowers***" shall mean, (a) with respect to the Term Loans made on the Funding Date, collectively, Parent and SpeedCast Communications and (b) with respect to any Incremental Term Loan or any Other Term Loan, the Borrower(s) to whom such Term Loan is made.

"***Term Loan Commitments***" shall mean, with respect to each Lender, the commitment of such Lender to make Term Loans, including the Initial Term Loans, hereunder as set forth on Schedule 2.01, or the applicable Incremental Assumption Agreement, Refinancing Amendment or Extension Amendment, or in the Assignment and Acceptance pursuant to which such Lender assumed its Term Loan Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. Unless the context shall otherwise require, the term "Term Loan Commitments" shall include the Incremental Term Commitments and Refinancing Term Commitments.

"***Term Loan Extension Request***" shall have the meaning assigned to such term in Section 2.31(a).

"***Term Loan Extension Series***" shall have the meaning assigned to such term in Section 2.31(a).

"***Term Loan Maturity Date***" shall mean (i) with respect to the Initial Term Loans, the date that is seven years after the Closing Date, (ii) with respect to any tranche of Extended Term Loans, the final maturity date applicable thereto as specified in the applicable Extension Request accepted by the respective Lender or Lenders, (iii) with respect to any Refinancing Term Loans, the final maturity date applicable thereto as specified in the applicable Refinancing Amendment and (iv) with respect to any Incremental Term Loans, the final maturity date applicable thereto as specified in the applicable Incremental Assumption Agreement.

"***Term Loan Repayment Dates***" shall mean the Initial Term Loan Repayment Dates, the Incremental Term Loan Repayment Dates and each date specified or referenced in a Refinancing Amendment or Extension Amendment for the repayment of the principal of the Term Loans borrowed pursuant thereto.

"***Term Loans***" shall mean the Initial Term Loans and, unless the context shall otherwise require, the term "Term Loans" shall include any Incremental Term Loans, Refinancing Term Loans and Extended Term Loans.

"***Test Period***" in effect at any time shall mean the most recent period of two consecutive fiscal half-year periods of Parent ended on or prior to such time in respect of which financial statements have been or are required to be delivered pursuant to Section 5.04(a) or 5.04(b), as applicable; provided that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 5.04(a) or 5.04(b), the Test Period in effect shall be the period of two consecutive fiscal half-year periods of Parent ended on December 31, 2017.

"***Threshold Amount***" shall mean $25,000,000. In connection with any reference to the Threshold Amount of any Indebtedness, the "principal amount" of the obligations of any Borrower or any Restricted Subsidiary in respect of any Hedging Agreement at any time shall be the Agreement Value of such Hedging Agreement at such time.

"***Total Debt***" shall mean, as of any date of determination, without duplication, the aggregate principal amount of Indebtedness of Parent and its Restricted Subsidiaries outstanding as of such date, determined on a consolidated basis (other than Indebtedness of the type referred to in clauses (i), (j) and (l) of the definition of the term "Indebtedness", except to the extent of any unreimbursed drawings under Indebtedness of the type referred to in clause (j) of such definition). For purposes of calculating on any date the First Lien Net Leverage Ratio and/or the Total Net Leverage Ratio, the amount of Total Debt on such date shall be reduced by the amount of any Unrestricted Cash on such date; *provided* that, for the avoidance of doubt, the amount of such reduction shall not include on the applicable date of determination any Unrestricted Cash that constitutes the proceeds received by Parent or the Restricted Subsidiaries from the incurrence of Indebtedness, the incurrence of which Indebtedness required the testing on such date of any First Lien Net Leverage Ratio or Total Net Leverage Ratio.

"***Total Net Leverage Ratio***" shall mean, as of any date of determination, the ratio of (a) Total Debt on such date to (b) Consolidated EBITDA for the most recent Test Period ended on or prior to such date; *provided* that to the extent any Permitted Acquisition or Material Asset Sale has occurred during such Test Period (or after the end of such Test Period but on or prior to the date of such determination), Consolidated EBITDA shall be determined for such Test Period on a pro forma basis for such occurrences in accordance with Section 1.05.

"***Total Revolving Credit Commitment***" shall mean, at any time, the aggregate amount of the Revolving Credit Commitments and each Class of Extended Revolving Credit Commitments of all Lenders in effect at such time. The initial Total Revolving Credit Commitment is $100,000,000.

"***Transactions***" shall mean, collectively, (a) the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party and the making of the borrowings hereunder, (b) the consummation of the Existing Syndicated Facility Agreement Refinancing and (c) the payment of related fees and expenses.

"***Transferee***" shall mean any transferee or assignee, including a participation holder, of any Agent, any Lender or any Issuing Bank.

"***Type***", when used in respect of any Loan or Borrowing, shall refer to the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined and the currency in which such Loan or the Loans comprising such Borrowing is denominated. For purposes hereof, the term "***Rate***" shall include the Adjusted LIBO Rate, the Bank Bill Rate, the Alternate Base Rate and the rate with respect to any Non-U.S. Alternative Rate Loan, and currency shall include dollars and any Alternative Currency permitted hereunder.

"***UCC***" shall mean the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"***Undisclosed Administration***" shall mean, in relation to a Lender or its direct or indirect parent company, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or its direct or indirect parent company is subject to home jurisdiction supervision if, and solely for so long as, applicable law requires that such appointment is not to be publicly disclosed.

"***Unfunded Advances/Participations***" shall mean (a) with respect to the Administrative Agent, the aggregate amount, if any (i) made available to a Borrower on the assumption that each Lender has made its portion of the applicable Borrowing available to the Administrative Agent as contemplated by Section 2.02(d) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by such Borrower or made available to the Administrative Agent by any such Lender and (b) with respect to any Issuing Bank, the aggregate amount, if any, of participations in respect of any outstanding L/C Disbursement that shall not have been funded by the Revolving Credit Lenders or Extending Revolving Credit Lenders, as applicable, in accordance with Sections 2.23(d) and 2.02(f).

"***Unrestricted Cash***" shall mean, at any time, the aggregate amount of cash and Permitted Investments held in accounts of Parent and the Restricted Subsidiaries, to the extent that the use of such cash or Permitted Investments for application to the payment of the Obligations is not prohibited by law or any contract or other agreement and such cash and Permitted Investments are free and clear of all Liens (other than Liens in favor of any of the Agents and other Liens permitted under Sections 6.02(b), 6.02(w)(i)(A) and 6.02(w)(iii)).

"***Unrestricted Subsidiary***" shall mean each Subsidiary listed on Schedule 1.01(e), and each other Subsidiary that is designated as an Unrestricted Subsidiary by Parent pursuant to and in compliance with Section 6.12, in each case, unless and until such Subsidiary is designated or redesignated as a Restricted Subsidiary pursuant to and in compliance with Section 6.12. No Unrestricted Subsidiary may own any Equity Interests of a Restricted Subsidiary.

"***U.S. Borrowers***" shall mean SpeedCast America, SpeedCast Communications and each other Subsidiary Borrower (if any) that is a U.S. Restricted Subsidiary.

"***U.S. Person***" shall mean any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"***U.S. Restricted Subsidiary***" shall mean a Restricted Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"***U.S. Tax Compliance Certificate***" shall have the meaning assigned to such term in Section 2.20(f)(ii)(B)(3).

"***USA PATRIOT Act***" shall mean The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"***Voluntary Specified Prepayment***" shall mean, with respect to any ECF Period, to the extent financed with Internally Generated Cash, a voluntary prepayment of principal of Term Loans pursuant to Section 2.12(a) made during such ECF Period or made following such ECF Period but prior to the making of any mandatory prepayment under Section 2.13(d) in respect of such ECF Period (to the extent not reducing Excess Cash Flow for any prior ECF Period or the amount required to be prepaid pursuant to Section 2.13(d) for any prior ECF Period); provided that, in the notice of such voluntary prepayment, Parent shall have specified in writing that such prepayment shall be treated as a "Voluntary Specified Prepayment" hereunder.

"***wholly owned Subsidiary***" of any person shall mean a subsidiary of such person of which securities (except for directors' and foreign nationals' qualifying shares) or other ownership interests representing 100% of the outstanding Equity Interests are, at the time any determination is being made, owned, controlled or held by such person or one or more wholly owned subsidiaries of such person or by such person and one or more wholly owned subsidiaries of such person.

"***wholly owned Restricted Subsidiary***" shall mean a wholly owned Subsidiary of Parent that is a Restricted Subsidiary.

"***Withdrawal Liability***" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"***Withholding Agent***" shall have the meaning assigned to such term in Section 2.20(g).

"***Write-Down and Conversion Powers***" shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

"***Yield***" shall mean, as to any Indebtedness, the effective yield on such Indebtedness as determined by the Administrative Agent, taking into account the applicable interest rate margins, any interest rate floors or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (x) the original stated life of such Indebtedness and (y) the four years following the date of incurrence thereof) payable generally to the institutions providing such Indebtedness, but excluding any bona fide arrangement fees, structuring fees, commitment fees, underwriting fees or similar fees payable to any lead arranger (or its affiliates) in connection with the commitment or syndication of such Indebtedness and excluding any trading discount applicable to such Indebtedness at such time.

"***Yield Differential***" shall have the meaning assigned to such term in Section 2.27(b).

SECTION 1.02. ***Terms Generally***.

(a) The definitions in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall"; and the words "asset" and "property" shall be construed as having the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, (a) any reference in this Agreement to any Loan Document shall mean such Loan Document as amended, restated, supplemented or otherwise modified from time to time in each case, in accordance with the express terms of such Loan Document, (b) any reference in this Agreement to any law or regulation shall mean such law or regulation as amended, restated, supplemented or otherwise modified from time to time, and (c) all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided*, *however*, that if Parent notifies the Administrative Agent that Parent wishes to amend any covenant in Article VI or any related definition, or the provisions relating to Excess Cash Flow, to eliminate the effect of any change in GAAP occurring after the date of this Agreement on the operation of such covenant or provisions relating to Excess Cash Flow (or if the Administrative Agent notifies Parent that the Required Lenders wish to amend Article VI or any related definition, or provisions relating to Excess Cash Flow, for such purpose), then Parent's and its Restricted Subsidiaries' compliance with such covenant or provisions relating to Excess Cash Flow shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to Parent and the Required Lenders. Notwithstanding anything to the contrary herein, (i) all accounting and financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without giving effect to any election under U.S. Financial Accounting Standards Board ASC 825-10, or its equivalent under Australian Accounting Standards Board Accounting Standards (including under AASB No. 7, 132 and 139) to value any Indebtedness or other liabilities of any Loan Party or Subsidiary at "fair value", as defined therein and (ii) for purposes of determining the outstanding amount of any Indebtedness,

any original issue discount with respect to such Indebtedness shall not be deducted in determining the outstanding amount of such Indebtedness.

(b) Notwithstanding anything to the contrary contained in clause (a) above or the definition of "Capital Lease Obligations," if any operating lease is reclassified as a finance or capital lease subsequent to the Closing Date as a result of a change in GAAP after the Closing Date or, if a lease entered into subsequent to the Closing Date would have been classified as an operating lease if it existed on the Closing Date, then such leases shall continue to be treated as operating leases for all purposes of the Loan Documents (provided that together with all financial statements delivered to the Administrative Agent in accordance with the terms of this Agreement after the date of such accounting change, the Parent shall deliver a schedule showing the adjustments necessary to reconcile such financial statements with GAAP as in effect immediately prior to such accounting change).

SECTION 1.03. ***Exchange Rates***. On each Calculation Date, the Administrative Agent shall determine the Exchange Rate as of such Calculation Date to be used for calculating relevant Dollar Equivalent and Alternative Currency Equivalent amounts. The Exchange Rates so determined shall become effective on such Calculation Date, shall remain effective until the next succeeding Calculation Date and shall for all purposes of this Agreement (other than any provision expressly requiring the use of a current Exchange Rate) be the Exchange Rates employed in converting any amounts between the applicable currencies.

SECTION 1.04. ***Classification of Loans and Borrowings***. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a "Revolving Loan") or by Type (*e.g.*, a "Eurocurrency Loan") or by Class and Type (*e.g.*, a "Eurocurrency Revolving Loan"). Borrowings also may be classified and referred to by Class (*e.g.*, a "Revolving Credit Borrowing") or by Type (*e.g.*, a "Eurocurrency Borrowing") or by Class and Type (*e.g.*, a "Eurocurrency Revolving Credit Borrowing").

SECTION 1.05. ***Pro Forma Calculations; Limited Condition Transactions***.

(a) For any Test Period, for purposes of (a) determining compliance with Section 6.10(a), (b) making all other calculations of the First Lien Net Leverage Ratio and/or the Total Net Leverage Ratio with respect to such Test Period and (c) making all other pro forma calculations expressly required to be made under this Agreement or any other Loan Document, such calculations shall give pro forma effect to all Permitted Acquisitions, all Material Asset Sales and each issuance, incurrence or assumption of Indebtedness (with any such Indebtedness being deemed to be amortized over such Test Period in accordance with its terms) that has occurred during such Test Period (and, for purposes of any pro forma calculation (other than described in clause (a) above or for purposes of calculating Excess Cash Flow or determining the "Applicable Rate" or the "ECF Percentage"), such calculations shall give pro forma effect to all Permitted Acquisitions, all Material Asset Sales and each issuance, incurrence or assumption of Indebtedness (with any such Indebtedness being deemed to be amortized over such Test Period in accordance with its terms) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation is made) as if they had occurred on the first day of such Test Period, including (i) in the case of any Permitted Acquisition, (notwithstanding clause (b) of the proviso in the definition of Consolidated Net Income) the Consolidated EBITDA of any

Acquired Entity acquired by Parent or any Restricted Subsidiary pursuant to a Permitted Acquisition during such Test Period shall be included on a pro forma basis for such Test Period and (ii) in the case of any Permitted Acquisitions or Material Asset Sales, pro forma adjustments for Cost Savings/Synergies. In making any determination on a pro forma basis, consolidated interest expense with respect to any Indebtedness bearing floating interest rates shall be computed as if the rates that would have been in effect during the Test Period for which pro forma effect is being given had been actually in effect during such Test Period.

(b) Notwithstanding anything to the contrary in this Agreement, solely for the purpose of measuring and/or determining compliance with the relevant financial ratios and basket availability with respect to the incurrence of any Indebtedness (including any Incremental Term Loans) or Liens or the making of any investments, Restricted Payments, Restricted Junior Debt Payments or Asset Sales or the designation of any Restricted Subsidiaries or Unrestricted Subsidiaries, in each case, in connection with a Limited Condition Transaction, if Parent has made an LCT Election with respect to such Limited Condition Transaction, the date of determination of whether any such action is permitted hereunder, shall be deemed to be at the election of Parent, either (x) the date on which the definitive agreements for such Limited Condition Transaction are entered into or (y) the date on which such Limited Condition Transaction is consummated (the "***LCT Test Date***"), and if, after giving pro forma effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recent Test Period ending prior to the LCT Test Date, Parent could have taken such action on the relevant LCT Test Date in compliance with such financial ratio or basket, such financial ratio or basket shall be deemed to have been complied with; provided that the foregoing shall not apply to the financial covenant set forth in Section 6.10(a). If Parent has made an LCT Election for any Limited Condition Transaction, then in connection with any subsequent calculation of any financial ratio or basket availability on or following the relevant LCT Test Date and prior to the earlier of (1) the date on which such Limited Condition Transaction is consummated or (2) the date that the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such financial ratio or basket availability shall be calculated (and tested) (A) on a pro forma basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated until such time as the applicable Limited Condition Transaction has actually closed or the definitive agreement with respect thereto expires or has been terminated and (B) with respect to any Restricted Payment, on a standalone basis without giving effect to such Limited Condition Transaction and the other transactions in connection therewith.

SECTION 1.06. ***Certain Calculations relating to Incremental Commitments and Incremental Equivalent Indebtedness***. Notwithstanding anything to the contrary herein, in connection with any Incremental Commitments or Incremental Equivalent Indebtedness, the Parent shall select utilization under clauses (A) and (B) of the definition of Incremental Amount (and each subclause thereof) (or, in the case of Incremental Equivalent Indebtedness, clauses (A) and (B) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable), in its sole discretion and, if both clauses (A) and (B) of the definition of Incremental Amount (or, in the case of Incremental Equivalent Indebtedness, clauses (A) and (B) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable) are available and the Parent does not make an election between such clauses, the Parent will be

deemed to have elected to first utilize clause (B) of the definition of Incremental Amount (or, in the case of Incremental Equivalent Indebtedness, clause (B) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable). The Parent may reclassify at any time any Incremental Commitments and/or Incremental Equivalent Indebtedness originally designated as incurred under any subclause of clause (A) of the definition of Incremental Amount (or, in the case of Incremental Equivalent Indebtedness, clause (A) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable) as having been incurred under any other subclause of clause (A) of the definition of Incremental Amount or under any relevant subclause of clause (B) of the definition of Incremental Amount (or, in the case of Incremental Equivalent Indebtedness, under any other subclause of clause (A) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable, or under any relevant subclause of clause (B) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable), so long as, at the time of such reclassification, the Borrowers would be permitted to incur the aggregate principal amount of indebtedness being so reclassified pursuant to such subclause of clause (B) of the definition of Incremental Amount (or, in the case of Incremental Equivalent Indebtedness, clause (B) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable), with the relevant leverage ratio to be calculated on a pro forma basis (for purposes of clarity, with any such reclassification having the effect of increasing the Borrowers' ability to incur indebtedness under the applicable subclause of clause (A) of the definition of Incremental Amount as of the date of such reclassification by the amount of indebtedness so reclassified (or, in the case of Incremental Equivalent Indebtedness, the applicable subclause of clause (A) of Section 6.01(x)(i) or 6.01(x)(ii), as applicable).

ARTICLE II

The Credits

SECTION 2.01. ***Commitments and Loans***. (a) Subject to the terms and conditions and relying upon the representations and warranties herein set forth, each Initial Term Lender agrees, severally and not jointly, to make Initial Term Loans to the Term Loan Borrowers, in dollars, on the Funding Date, in accordance with the terms hereof, in an aggregate principal amount not to exceed its Initial Term Loan Commitment.

(b) Subject to the terms and conditions and relying upon the representations and warranties herein set forth, each Revolving Credit Lender agrees, severally and not jointly, to make Revolving Loans to any of the Revolving Credit Borrowers, at any time and from time to time during the Revolving Credit Availability Period, and until the earlier of the applicable Revolving Credit Maturity Date and the termination of the Revolving Credit Commitment of such Revolving Credit Lender in accordance with the terms hereof, in dollars, Euros, Australian Dollars and any other Alternative Currency approved in accordance with clause (a) of the definition of Alternative Currency, in an aggregate principal amount at any time outstanding that will not result in such Revolving Credit Lender's Revolving Credit Exposure exceeding such Revolving Credit Lender's Revolving Credit Commitment (which, for the avoidance of doubt, shall be calculated after giving effect to any deemed utilization of such Revolving Credit Lender's Revolving Credit Commitment in connection with any Contract Credit Facility Exposure outstanding at such time).

(c) Subject to the terms and conditions and relying upon the representations and warranties herein set forth, each Lender having an Incremental Term Loan Commitment

agrees, severally and not jointly, to make Incremental Term Loans to one or more Borrowers as shall be designated in the applicable Incremental Assumption Agreement, in an aggregate principal amount not to exceed its Incremental Term Loan Commitment and otherwise on the terms and subject to the conditions set forth in any Incremental Assumption Agreement to which such Lender may become a party.

(d) Within the limits set forth in Section 2.01(b) and subject to the terms, conditions and limitations set forth herein, the Borrowers may borrow, pay or prepay and reborrow Revolving Loans. Amounts paid or prepaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. ***Loans***. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their applicable Term Loan Commitments or Revolving Credit Commitments; *provided*, *however*, that the failure of any Lender to make any Loan shall not in itself relieve any other Lender of its obligation to lend hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to make any Loan required to be made by such other Lender). Except for Loans deemed made pursuant to Section 2.02(f), the Loans comprising any Borrowing shall be in an aggregate principal amount that is (i) an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum (except with respect to any Incremental Term Loan, to the extent otherwise provided in the applicable Incremental Assumption Agreement) or (ii) equal to the remaining available balance of the applicable Commitments.

(b) Subject to Sections 2.02(f), 2.08 and 2.15, (i) each Dollar Borrowing made by any U.S. Borrower shall be comprised entirely of ABR Loans or Eurocurrency Loans as such U.S. Borrower may request pursuant to Section 2.03 and (ii) each Dollar Borrowing made by a Borrower (other than a U.S. Borrower), and each Alternative Currency Borrowing, shall be comprised entirely of Fixed Rate Loans. Each Lender may at its option make any Loan (including any Alternative Currency Loan) by causing any U.S. or non-U.S. branch or other Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement. Borrowings of more than one Type may be outstanding at the same time; *provided*, *however*, that no Borrower shall be entitled to request any Borrowing that, if made, would result in more than fifteen (15) Fixed Rate Borrowings outstanding hereunder at any time. For purposes of the foregoing, Borrowings having different Interest Periods or denominated in different currencies, regardless of whether they commence on the same date, shall be considered separate Borrowings.

(c) Except with respect to Loans made pursuant to Section 2.02(f), each Lender shall make each Dollar Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds to such account as the Administrative Agent may designate not later than 11:00 a.m., Local Time, and the Administrative Agent shall, promptly upon receipt thereof, credit the amounts so received to an account as designated by Parent on behalf of the applicable Borrower in the applicable Borrowing Request or, if a Borrowing shall not occur on such date because any condition precedent herein specified shall not have been met, return the amounts so received to the respective Lenders. Each Lender shall make each Alternative Currency Loan to be made by it hereunder on the proposed date thereof by wire

transfer of immediately available funds to such account as the Administrative Agent may designate for such purposes not later than 11:00 a.m., Local Time, and the Administrative Agent shall, promptly upon receipt thereof, credit the amounts so received to an account as designated by the applicable Borrower in the applicable Borrowing Request or, if a Borrowing shall not occur on such date because any condition precedent herein specified shall not have been met, return the amounts so received to the respective Lenders.

(d) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's portion of such Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of such Borrowing in accordance with Section 2.02(c) above and the Administrative Agent may, in reliance upon such assumption, make available to the applicable Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, such Lender and the applicable Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to such Borrower to but excluding the date such amount is repaid to the Administrative Agent at (i) in the case of any Borrower, a rate per annum equal to the interest rate applicable at the time to the Loans comprising such Borrowing and (ii) in the case of such Lender, a rate determined by the Administrative Agent to represent its cost of overnight or short-term funds in the applicable currency (which determination shall be conclusive absent manifest error). If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement.

(e) Notwithstanding any other provision of this Agreement, no Borrower shall be entitled to request any Interest Period with respect to any Fixed Rate Borrowing that would end after the applicable Revolving Credit Maturity Date, the Term Loan Maturity Date or the Incremental Term Loan Maturity Date, as the case may be.

(f) If any Issuing Bank shall not have received from any Borrower the payment required to be made by it pursuant to Section 2.23(e) within the time specified in such Section, such Issuing Bank will promptly notify the Administrative Agent of the L/C Disbursement and the Administrative Agent will promptly notify each Revolving Credit Lender and each Extending Revolving Credit Lender that has a participation under Section 2.23(d) in the relevant Letter Credit of such L/C Disbursement (and, as applicable, the Dollar Equivalent thereof) and its Pro Rata Percentage thereof. In the case of an L/C Disbursement denominated in dollars, each applicable Revolving Credit Lender and Extending Revolving Credit Lender shall pay by wire transfer of immediately available funds to the Administrative Agent not later than 10:00 a.m., Local Time, on the second Business Day following such notice, an amount in dollars equal to such Lender's Pro Rata Percentage of such L/C Disbursement, and the Administrative Agent will promptly pay to the applicable Issuing Bank amounts so received by it from the Revolving Credit Lenders and Extending Revolving Credit Lenders. In the case of an L/C Disbursement denominated in Euro, Australian Dollars or any other Alternative Currency approved pursuant to clause (a) of the definition of Alternative Currency, each applicable Revolving Credit Lender and Extending Revolving Credit Lender shall pay by wire transfer of

immediately available funds to the Administrative Agent not later than 10:00 a.m., Local Time, on the second Business Day following such notice, an amount in such Alternative Currency equal to such Lender's Pro Rata Percentage of such L/C Disbursement, and the Administrative Agent will promptly pay to the applicable Issuing Bank amounts so received by it from the Revolving Credit Lenders and Extending Revolving Credit Lenders. In the case of an L/C Disbursement denominated in any other Alternative Currency, each applicable Revolving Credit Lender and Extending Revolving Credit Lender shall pay by wire transfer of immediately available funds to the Administrative Agent not later than 10:00 a.m., Local Time, on the second Business Day following such notice, an amount in dollars equal to such Lender's Pro Rata Percentage of the Dollar Equivalent of such L/C Disbursement, and the Administrative Agent will promptly pay to the applicable Issuing Bank amounts so received by it from the Revolving Credit Lenders and Extending Revolving Credit Lenders; provided that, if such Revolving Credit Lender or Extending Revolving Credit Lender shall have approved the relevant Alternative Currency, then such Revolving Credit Lender or Extending Revolving Credit Lender, as the case may be, shall so pay an amount in the relevant Alternative Currency equal to such Lender's Pro Rata Percentage of the amount of such L/C Disbursement. It is understood and agreed that, if the conditions precedent to borrowing set forth in Sections 4.02(b) and (c) have been satisfied, then the amount so paid by each Revolving Credit Lender or Extending Revolving Credit Lender pursuant to this Section 2.02(f) shall be deemed to constitute a Revolving Loan of such Lender to the relevant Borrower obligated to reimburse the relevant L/C Disbursement (which, if such payment (1) was in dollars, shall be an ABR Revolving Loan of an equal amount denominated in dollars, (2) was in Euros, Australian Dollars or any other Alternative Currency approved pursuant to clause (a) of the definition of Alternative Currency, shall be a Revolving Loan of an equal amount denominated in such Alternative Currency with an Interest Period of one month's duration commencing on the date such Lender was required to fund its participation obligation or (3) was in any other Alternative Currency, shall be an ABR Revolving Loan denominated in dollars in an amount equal to the Dollar Equivalent of such payment, calculated using the applicable Exchange Rate on the date of such deemed Borrowing) and, to the extent of such payment, the obligations of the relevant Borrower in respect of such L/C Disbursement shall be discharged and replaced with the resulting Revolving Credit Borrowing. It is further understood and agreed that, if such conditions precedent to borrowing have not been satisfied, then any such amount paid by any Revolving Credit Lender or Extending Revolving Credit Lender pursuant to this Section 2.02(f) shall not constitute a Loan (except for purposes of Section 6.10(a)) and shall not relieve the relevant Borrowers from their obligation to reimburse such L/C Disbursement. The Administrative Agent will promptly pay to the applicable Issuing Bank any amounts received by it from any Borrower pursuant to Section 2.23(e) prior to the time that any Revolving Credit Lender or Extending Revolving Credit Lender makes any payment pursuant to this Section 2.02(f); any such amounts received by the Administrative Agent thereafter will be promptly remitted by the Administrative Agent to the Revolving Credit Lenders and Extending Revolving Credit Lenders that shall have made such payments and to the applicable Issuing Bank, as their interests may appear. If any Revolving Credit Lender or Extending Revolving Credit Lender shall not have made its Pro Rata Percentage of such L/C Disbursement available to the Administrative Agent as provided above, such Lender and the applicable Borrower severally agree to pay interest on such amount, for each day from and including the date such amount is required to be paid in accordance with this Section 2.02(f) to but excluding the date such amount is paid, to the Administrative Agent for the account of the applicable Issuing Bank

at (i) in the case of any Borrower, a rate per annum equal to the interest rate applicable to Revolving Loans pursuant to Section 2.06(a), and (ii) in the case of such Lender, for the first such day, a rate determined by the Administrative Agent to represent its cost of overnight funds in the applicable currency, and for each day thereafter, (A) if such L/C Disbursement is denominated in dollars, the Alternate Base Rate, and (B) if such L/C Disbursement is denominated in an Alternative Currency, a rate per annum reasonably determined by the applicable Issuing Bank to represent the cost to such Issuing Bank of funding such L/C Disbursement.

SECTION 2.03. ***Borrowing Procedure***. In order to request a Borrowing (other than a deemed Borrowing pursuant to Section 2.02(f), as to which this Section 2.03 shall not apply), the applicable Borrower shall hand deliver or fax to the Administrative Agent a duly completed Borrowing Request (or telephone the Administrative Agent, promptly confirmed with a written and duly completed Borrowing Request) (a) in the case of a Eurocurrency Borrowing (other than an Alternative Currency Borrowing or the initial Borrowing of Term Loans hereunder on the Funding Date or any Revolving Credit Borrowing in dollars on the Funding Date), not later than 12:00 (noon), Local Time, three Business Days before a proposed Borrowing, (b) in the case of an Alternative Currency Borrowing, not later than 12:00 (noon), Local Time, three Business Days (or, in the case of an Alternative Currency Borrowing denominated in Australian Dollars, four Business Days) before the date of the proposed Borrowing, (c) in the case of an ABR Borrowing, not later than 1:00 p.m., New York City time, one Business Day before a proposed Borrowing and (d) in the case of the initial Borrowing of Term Loans hereunder on the Funding Date or any Revolving Credit Borrowing in dollars on the Funding Date, not later than 11:00 p.m., New York City time, one Business Day before the Closing Date. Each Borrowing Request (including a telephonic Borrowing Request) shall be irrevocable, shall be signed by the applicable Borrower and shall specify the following information: (i) whether such Borrowing is to be a Term Borrowing or a Revolving Credit Borrowing, (ii) if such Borrowing is to be a Revolving Credit Borrowing, whether such Borrowing is to be a Dollar Borrowing or an Alternative Currency Borrowing; (iii) if such Borrowing is to be denominated in dollars, whether it is to be a Eurocurrency Borrowing or an ABR Borrowing; (iv) the date of such Borrowing (which shall be a Business Day); (v) the number and location of the account to which funds are to be disbursed (which shall be an account that complies with the requirements of Section 2.02(c)); (vi) the amount of such Borrowing; (vii) if such Borrowing is to be an Alternative Currency Borrowing, the Alternative Currency of such Borrowing; and (viii) if such Borrowing is to be a Fixed Rate Borrowing, the initial Interest Period with respect thereto; *provided*, *however*, that, notwithstanding any contrary specification in any Borrowing Request, each requested Borrowing shall comply with the requirements set forth in Section 2.02. If no election as to the currency of a Borrowing is specified in any such Borrowing Request, then the requested Borrowing shall be denominated in dollars. If no election as to the Type of Borrowing is specified in any such Borrowing Request, then the requested Borrowing shall be an ABR Borrowing if denominated in dollars or a Fixed Rate Borrowing if denominated in an Alternative Currency. If no Interest Period with respect to any Fixed Rate Borrowing is specified in any such Borrowing Request, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.03 (and the contents thereof), of each Lender's portion of the requested

Borrowing and the account to which Loans made in connection with the requested Borrowing are to be wired.

SECTION 2.04. ***Evidence of Debt; Repayment of Loans***. (a) (i) Each Revolving Credit Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender, on the applicable Revolving Credit Maturity Date, the then unpaid principal amount of each Revolving Loan of such Lender made to such Revolving Credit Borrower, and (ii) each Term Loan Borrower hereby unconditionally promises to pay to the Administrative Agent, for the account of each Initial Term Lender, the principal amount of each Initial Term Loan of such Initial Term Lender as provided in Section 2.11(a).

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(c) The Administrative Agent shall maintain accounts in which it will record (i) the amount of each Loan made hereunder, the Class and Type thereof and, if applicable, the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from each Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from each Borrower or any Guarantor and each Lender's share thereof.

(d) Subject to Section 9.04(d), the entries made in the accounts maintained pursuant to Sections 2.04(b) and 2.04(c) above shall be prima facie evidence of the existence and amounts of the obligations therein recorded; *provided*, *however*, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligations of any Borrower to repay the Loans made to such Borrower in accordance with their terms.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the applicable Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in substantially the form set forth in Exhibit H-1 or H-2, as applicable, or otherwise in a form and substance reasonably acceptable to the Administrative Agent and Parent.

SECTION 2.05. ***Fees***. (a) Parent agrees to pay to each Lender in dollars, through the Administrative Agent, on the last Business Day of March, June, September and December in each year and on each date on which any Revolving Credit Commitment or Extended Revolving Credit Commitment, as applicable, of such Lender shall expire or be terminated as provided herein, a facility fee (a "***Facility Fee***") equal to Applicable Rate on the daily unused amount of the Revolving Credit Commitments and the Extended Revolving Credit Commitments of such Lender (calculated without giving effect to any deemed utilization thereof in connection with any Contract Credit Facility Exposure) during the preceding quarter (or other period commencing on the Closing Date or ending with the Revolving Credit Maturity Date or ending with the date on which the Revolving Credit Commitments of such Lender shall expire or

be terminated (or, in the case of the Facility Fee with respect to any Extended Revolving Credit Commitment, ending with the date on which the Extended Revolving Credit Commitments of such Lender shall expire or be terminated)). All Facility Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Facility Fee due to each Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the Revolving Credit Commitment of such Lender (or, in the case of the Facility Fee with respect to any Extended Revolving Credit Commitment, the date on which the Extended Revolving Credit Commitment of such Lender) shall expire or be terminated as provided herein and there is not any remaining Revolving Credit Exposure.

(b) Parent agrees to pay to each Agent in dollars, for its own account, the agency fees from time to time agreed to in writing by the Borrowers and such Agent (the "***Agent Fees***").

(c) Parent agrees to pay (i) to each Revolving Credit Lender and each Extending Revolving Credit Lender, through the Administrative Agent, on the last Business Day of March, June, September and December of each year and on the date on which the Revolving Credit Commitment of such Lender shall be terminated as provided herein (or, in the case of such fee payable to any Extending Revolving Credit Lender, on the date on which the Extended Revolving Credit Commitment of such Lender shall be terminated as provided herein), a fee (an "***L/C Participation Fee***") calculated on such Lender's Pro Rata Percentage of the daily aggregate L/C Exposure (excluding the portion thereof attributable to unreimbursed L/C Disbursements) during the preceding quarter (or shorter period commencing with the date on which any L/C Exposure arises hereunder or ending with the Revolving Credit Maturity Date or ending with the date on which all Letters of Credit have been canceled or have expired and the Revolving Credit Commitments and Extended Revolving Credit Commitments of all Lenders shall have been terminated) at a rate per annum equal to the Applicable Rate from time to time in effect for the L/C Participation Fee, and (ii) to the applicable Issuing Bank with respect to each Letter of Credit issued by such Issuing Bank, on the last Business Day of March, June, September and December of each year and on the date on which the Revolving Credit Commitments or any Class of Extended Revolving Credit Commitments are terminated, a fronting fee which shall accrue at a rate equal to 0.125% per annum on the average daily amount of the L/C Exposure applicable to such Letter of Credit (excluding any portion thereof attributable to unreimbursed L/C Disbursements) during the period from and including the date such Letter of Credit is issued to but excluding the later of the date of termination of the relevant Class of Commitments and the date on which there ceases to be any L/C Exposure with respect to such Letter of Credit, as well as the applicable Issuing Bank's standard fees with respect to any back-to-back arrangements with such Issuing Bank's branches or Affiliates in connection with any Letter of Credit (x) denominated in an Alternative Currency and (y) governed by the laws of a jurisdiction other than the State of New York or required by the beneficiary of such Letter of Credit to be issued by such branch or Affiliate (collectively, the "***Issuing Bank Fees***"); provided that, with respect to any Letter of Credit denominated in any Alternative Currency, the L/C Participation Fee and such fronting fee shall accrue in such Alternative Currency at the relevant rate per annum and shall be paid in an amount equal to the Dollar Equivalent of such L/C Participation Fee or such fronting fee, as applicable, so accrued, as determined on the date such L/C Participation Fee or such fronting fee, as applicable, is due and payable, using the applicable

Exchange Rate on such date. All L/C Participation Fees and Issuing Bank Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(d) Parent agrees to pay to each Initial Term Lender, through the Administrative Agent, on the Funding Date, an upfront fee (the "***Initial Term Loan Upfront Fees***") equal to 0.50% of the Initial Term Loan Commitment of such Initial Term Lender on such date; *provided* that each Initial Term Lender may elect to effect its Initial Term Loan Upfront Fee in the form of original issue discount (by reducing the amount of the Initial Term Loan advanced by it in the amount of its Initial Term Loan Upfront Fee).

(e) All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that the Issuing Bank Fees shall be paid directly to each Issuing Bank. Once paid, none of the Fees shall be refundable under any circumstances, absent manifest error in the calculation of such Fees.

SECTION 2.06. ***Interest on Loans***. (a) Subject to the provisions of Section 2.07, the Loans comprising each ABR Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, and calculated from and including the date of such Borrowing to but excluding the date of repayment thereof) at a rate per annum equal to the sum of (i) the Alternate Base Rate and (ii) the Applicable Rate for such Loans in effect from time to time.

(b) Subject to the provisions of Section 2.07, each Non-U.S. Alternative Rate Loan shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days or, in the case of Non-U.S. Alternative Rate Loans denominated in Euros or Australian Dollars, 365 or 366 days, as the case may be) at a rate per annum equal to the sum of (i) the applicable Non-U.S. Alternative Rate and (ii) the Applicable Rate for ABR Revolving Loans in effect from time to time.

(c) Subject to the provisions of Section 2.07, the Loans comprising each Fixed Rate Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days or, in the case of Fixed Rate Loans denominated in Australian Dollars, 365 or 366 days, as the case may be) at a rate per annum equal to the sum of (i) the Adjusted LIBO Rate (or, in the case of Loans denominated in Australian Dollars, the Bank Bill Rate) for the Interest Period in effect for such Borrowing and (ii) the Applicable Rate for such Loans in effect from time to time.

(d) Interest on each Loan shall be payable (i) on the Interest Payment Dates applicable to such Loan except as otherwise provided in this Agreement and (ii) in the currency in which such Loan is denominated. The applicable Alternate Base Rate, Adjusted LIBO Rate or Bank Bill Rate for each Interest Period or day within an Interest Period, as the case may be, shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.07. ***Default Interest***. Upon the occurrence and during the continuance of an Event of Default, if any Borrower shall default in the payment of the principal

of or interest on any Loan made to such Borrower or any other amount becoming due from such Borrower hereunder, by acceleration or otherwise, or under any other Loan Document, such Borrower shall on demand from time to time pay interest, to the extent permitted by law, on such defaulted amount to but excluding the date of actual payment (after as well as before judgment) (a) in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to Section 2.06 plus 2%, (b) in the case of reimbursement obligations with respect to any L/C Disbursement, the rate that would otherwise be applicable thereto pursuant to Section 2.23(h) plus 2%, and (c) in the case of any interest payable on any Loan or reimbursement obligation with respect to any L/C Disbursement, any Facility Fee or other amount payable hereunder, at a rate per annum equal to the rate applicable to ABR Loans that are Initial Term Loans or Revolving Loans, as applicable, plus 2%.

SECTION 2.08. ***Alternate Rate of Interest***. In the event, and on each occasion, that (a) on the day two Business Days prior to the commencement of any Interest Period for a Eurocurrency Borrowing, the Administrative Agent shall have determined that (i) deposits in the principal amounts of the Loans comprising such Borrowing are not generally available in the relevant market, (ii) the rates at which such deposits are being offered will not adequately and fairly reflect the cost to any Lender of making or maintaining its Eurocurrency Loan during such Interest Period, or (iii) reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the EURIBO Rate, or (b) before 5:00 p.m. (Sydney time) on the Business Day after the first day of an Interest Period for a Bank Bill Rate Borrowing, the Administrative Agent receives a notification from a Lender or Lenders (whose Loans in a Bank Bill Rate Borrowing collectively exceed 35% of the relevant Bank Bill Rate Borrowing) that as a result of market circumstances not limited to it (whether or not those circumstances, or their effect on any such Lender's cost of funds, subsist on the date it becomes a Lender), the cost to it of funding its portion of that Bank Bill Rate Borrowing (from whatever source it may reasonably select) would be in excess of the Bank Bill Rate, as the case may be, the Administrative Agent shall, as soon as practicable thereafter, give written or fax notice explaining such determination or notification to the applicable Borrower and the Lenders. In the event of any such determination by the Administrative Agent under clause (a) above, until the Administrative Agent shall have advised such Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any request by such Borrower for a Eurocurrency Borrowing denominated in dollars pursuant to Section 2.03 or 2.10 shall be deemed to be a request for an ABR Borrowing and any request by such Borrower for a Eurocurrency Borrowing denominated in any Alternative Currency pursuant to Section 2.03 or 2.10 shall be deemed to be a request for a Non-U.S. Alternative Rate Loan, and in the event of any such notification to the Administrative Agent under clause (b) above, the Bank Bill Rate shall be the Non-U.S. Alternative Rate for Australian Dollars, *provided* that, if the Administrative Agent or Parent so requires, the Administrative Agent and Parent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest with respect to any Fixed Rate Loan denominated in an Alternative Currency (and any substitute basis of interest pursuant to this proviso shall only apply with the prior consent of all the Administrative Agent, the Lenders providing such Loan in such Alternative Currency and Parent, and then shall be binding on all such parties). Each determination by the Administrative Agent or a Lender hereunder shall be conclusive absent manifest error.

SECTION 2.09. ***Termination and Reduction of Commitments***. (a) The Initial Term Loan Commitments shall automatically terminate upon the making of the Term Loans on the Funding Date. Any Revolving Credit Commitments shall automatically terminate on the Revolving Credit Maturity Date. Any L/C Commitment shall automatically terminate on the earlier to occur of (i) the termination of the Revolving Credit Commitments and (ii) the Letter of Credit Expiration Date. Any Incremental Term Loan Commitment shall terminate as provided in the applicable Incremental Assumption Agreement.

(b) Upon at least three Business Days' prior irrevocable written or fax notice to the Administrative Agent, Parent may at any time in whole permanently terminate, or from time to time in part permanently reduce, the Initial Term Loan Commitments, the Revolving Credit Commitments or any Extended Revolving Credit Commitments; *provided*, *however*, that (i) each partial reduction of the Initial Term Loan Commitments, the Revolving Credit Commitments or any Extended Revolving Credit Commitments shall be in an integral multiple of $1,000,000 and in a minimum amount of $5,000,000, and (ii) with respect to any such termination or reduction of the Revolving Credit Commitments and/or any Class of Extended Revolving Credit Commitments, (x) no such Class of Commitments shall be reduced to an amount that is less than the aggregate amount of the Revolving Credit Exposure of all Lenders under such Class, and (y) the Total Revolving Credit Commitment shall not be reduced to an amount that is less than the sum of (1) the Aggregate Revolving Credit Exposure at the time and (2) the Aggregate Contract Credit Facilities Exposure at such time. Notwithstanding anything to the contrary contained in this Section 2.09(b), a termination notice of the Initial Term Loan Commitments, the Revolving Credit Commitments or any Extended Revolving Credit Commitments delivered by Parent may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by Parent (by written or fax notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. If, after giving effect to any reduction of the Revolving Credit Commitments and/or any Extended Revolving Credit Commitments, the Letter of Credit Sublimit exceeds the Total Revolving Credit Commitment, then the Letter of Credit Sublimit and the L/C Commitments shall be automatically reduced by the amount of such excess. The amount of any partial reduction of the Revolving Credit Commitments and/or any Extended Revolving Credit Commitments shall not otherwise be applied to the Letter of Credit Sublimit or the L/C Commitments unless otherwise specified by Parent.

(c) Each reduction in the Term Loan Commitments, the Revolving Credit Commitments or any Class of Extended Revolving Credit Commitments hereunder shall be made ratably among the Lenders of such Class in accordance with their Commitments under such Class. Parent shall pay to the Administrative Agent for the account of the applicable Lenders, on the date of each termination or reduction of any Revolving Credit Commitments or any Extended Revolving Credit Commitments, the Facility Fees on the amount of the Commitments so terminated or reduced, accrued to but excluding the date of such termination or reduction.

SECTION 2.10. ***Conversion and Continuation of Borrowings***. Each Borrower shall have the right at any time upon prior irrevocable notice to the Administrative Agent (a) not later than 1:00 p.m., New York City time, one Business Day prior to conversion, to convert any Eurocurrency Borrowing denominated in dollars into an ABR Borrowing, (b) not

later than 12:00 (noon), Local Time, three Business Days prior to conversion or continuation (or in the case of a continuation of a Fixed Rate Borrowing denominated in Australian Dollars, four Business Days prior to continuation), to convert any ABR Borrowing into a Eurocurrency Borrowing denominated in dollars or to continue any Fixed Rate Borrowing as a Fixed Rate Borrowing in the same currency for an additional Interest Period, and (c) not later than 12:00 (noon), Local Time, three Business Days prior to conversion (or in the case of a conversion of a Fixed Rate Borrowing denominated in Australian Dollars, four Business Days prior to conversion), to convert the Interest Period with respect to any Fixed Rate Borrowing to another permissible Interest Period, subject in each case to the following:

(i) each conversion or continuation shall be made pro rata among the Lenders in accordance with the respective principal amounts of the Loans comprising the converted or continued Borrowing;

(ii) if less than all the outstanding principal amount of any Borrowing shall be converted or continued, then each resulting Borrowing shall satisfy the limitations specified in Sections 2.02(a) and 2.02(b) regarding the principal amount and maximum number of Borrowings of the relevant Type;

(iii) each conversion shall be effected by each Lender and the Administrative Agent by recording for the account of such Lender the new Loan of such Lender resulting from such conversion and reducing the Loan (or portion thereof) of such Lender being converted by an equivalent principal amount;

(iv) accrued interest on any Fixed Rate Loan (or portion thereof) being converted shall be paid by such Borrower at the time of conversion;

(v) if any Fixed Rate Borrowing is converted at a time other than the end of the Interest Period applicable thereto, such Borrower shall pay, upon demand, any amounts due to the Lenders pursuant to Section 2.16;

(vi) any portion of a Borrowing (other than an Alternative Currency Borrowing) maturing or required to be repaid in less than 14 days may not be converted into or continued as a Fixed Rate Borrowing;

(vii) any portion of a Eurocurrency Borrowing denominated in dollars that cannot be converted into or continued as a Eurocurrency Borrowing by reason of the immediately preceding clause shall be automatically converted at the end of the Interest Period in effect for such Borrowing into an ABR Borrowing, and any portion of an Alternative Currency Borrowing required to be repaid in less than 14 days may be converted, with the consent of the Administrative Agent (which shall not be unreasonably withheld), to an Interest Period ending on the date that such Borrowing is required to be repaid;

(viii) no Interest Period may be selected for any Eurocurrency Term Borrowing that would end later than a Repayment Date, occurring on or after the first day of such Interest Period if, after giving effect to such selection, the aggregate outstanding amount of (A) the Eurocurrency Term Borrowings with Interest Periods ending on or prior to

such Repayment Date and (B) the ABR Term Borrowings would not be at least equal to the principal amount of Term Borrowings to be paid on such Repayment Date; and

(ix) upon notice to any Borrower from the Administrative Agent given at the request of the Required Lenders, after the occurrence and during the continuance of a Default or Event of Default, (A) no outstanding Dollar Borrowing may be converted into, or continued as, a Eurocurrency Borrowing, (B) unless repaid, each Eurocurrency Borrowing denominated in dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto and (C) no Interest Period in excess of one month may be selected for any Alternative Currency Borrowing.

Each notice pursuant to this Section 2.10 shall be irrevocable and shall refer to this Agreement and specify (i) the identity and amount of the Borrowing that the applicable Borrower requests be converted or continued, (ii) whether such Borrowing is to be converted to or continued as a Fixed Rate Borrowing or an ABR Borrowing, (iii) if such notice requests a conversion, the date of such conversion (which shall be a Business Day) and (iv) if such Borrowing is to be converted to or continued as a Fixed Rate Borrowing, the Interest Period with respect thereto. If no Interest Period is specified in any such notice with respect to any conversion to or continuation as a Fixed Rate Borrowing, such Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall advise the Lenders of any notice given pursuant to this Section 2.10 and of each Lender's portion of any converted or continued Borrowing. If such Borrower shall not have given notice in accordance with this Section 2.10 to continue any Borrowing into a subsequent Interest Period (and shall not otherwise have given notice in accordance with this Section 2.10 to convert such Borrowing), such Borrowing shall, at the end of the Interest Period applicable thereto (unless repaid pursuant to the terms hereof), (i) in the case of a Dollar Borrowing, automatically be continued as an ABR Borrowing and (ii) in the case of an Alternative Currency Borrowing, automatically be continued into a new Interest Period of one month's duration. Notwithstanding any contrary provisions herein, the currency of an outstanding Borrowing may not be changed in connection with any conversion or continuation of such Borrowing.

SECTION 2.11. ***Repayment of Term Borrowings***. (a) The Term Loan Borrowers shall pay to the Administrative Agent, for the account of the Initial Term Lenders, on the last Business Day of each March, June, September and December of each year (each such date being called a "***Initial Term Loan Repayment Date***"), commencing on the last Business Day of September 2018, a principal amount of the Initial Term Loans (as adjusted from time to time pursuant to Sections 2.12(b), 2.13(f), 2.27(d), 2.31 and 2.32) equal to 0.25% of the aggregate principal amount of the Initial Term Loans outstanding on the Funding Date, with the balance payable on the Term Loan Maturity Date, together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment.

(b) To the extent not previously paid, all Term Loans shall be due and payable on the Term Loan Maturity Date, together with accrued and unpaid interest on the principal amount to be paid to but excluding the date of payment.

(c) The applicable Borrower shall pay to the Administrative Agent, for the account of the Lenders, on each Incremental Term Loan Repayment Date, a principal amount of

the Other Term Loans (as adjusted from time to time pursuant to Sections 2.12(b), 2.13(f), 2.27(d), 2.31 and 2.32) equal to the amount set forth in the applicable Incremental Assumption Agreement, together in each case with accrued and unpaid interest on the principal amount to be paid to, but excluding, the date of such payment.

(d) All repayments pursuant to this Section 2.11 shall be subject to Section 2.16, but shall otherwise be without premium or penalty.

SECTION 2.12. ***Prepayment***. (a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, upon prior written or fax notice (or telephone notice promptly confirmed by written or fax notice) to the Administrative Agent (i) in the case of a prepayment of a Fixed Rate Borrowing, given before 12:00 (noon), Local Time, three Business Days before such prepayment and (ii) in the case of a prepayment of ABR Loans or Non-U.S. Alternative Rate Loans, given before 1:00 p.m. Local Time, one Business Day before such prepayment; *provided, however,* that each partial prepayment shall be in an amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum.

(b) Voluntary prepayments of Term Loans shall be applied as directed by the Parent in the notice described in clause (a) above.

(c) Each notice of prepayment shall specify the prepayment date and the principal amount of each Borrowing (or portion thereof) of such Borrower to be prepaid, shall be irrevocable and shall commit the applicable Borrower to prepay such Borrowing by the amount stated therein on the date stated therein. All prepayments under this Section 2.12 shall be subject to Section 2.16 but, except as provided in Section 2.12(d), otherwise without premium or penalty. Notwithstanding anything to the contrary contained in this Section 2.12(c), a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by Parent (by written or fax notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. All prepayments under this Section 2.12 shall be accompanied by accrued interest on the principal amount being prepaid to but excluding the date of payment.

(d) Notwithstanding any provision to the contrary herein and prior to the six-month anniversary of the Funding Date, at the time of (a) any voluntary prepayment of principal of Term Loans by the Borrowers pursuant to Section 2.12 or any mandatory repayment of principal of Term Loans pursuant to Section 2.13(e) (including as a result of a refinancing in full of the Term Loans), in each case, with the Net Cash Proceeds of any incurrence or issuance of any Indebtedness bearing interest at an "effective" interest rate less than the "effective" interest rate applicable to the Term Loans (as such comparative rates are reasonably determined by the Administrative Agent in consultation with Parent) and (b) the effectiveness of any Repricing Event, the Borrowers shall pay to the Administrative Agent, for the ratable account of each Lender with Term Loans that are prepaid, repaid, converted or subject to a pricing reduction, as applicable, in connection with such prepayment, repayment or Repricing Event (including each Lender that refuses to consent to an amendment, waiver or other modification with respect to a Repricing Event and is replaced as a Lender under Section 2.21), a fee in an amount equal to 1.00% of (x) in the case of a prepayment or repayment of principal of Term Loans, the aggregate

principal amount of such prepayment or repayment, (y) in the case of a Repricing Event described in clause (i) of the definition thereof, the aggregate principal amount of all Term Loans prepaid (or converted) in connection with such Repricing Event and (z) in the case of a Repricing Event described in clause (ii) of the definition thereof, the aggregate principal amount of all Term Loans outstanding on such date that are subject to an effective pricing reduction pursuant to such Repricing Event. Such fees shall be earned, due and payable upon the date of such prepayment, repayment or the effectiveness of such Repricing Event, as the case may be. The terms of this Section 2.12(d) (or any provision of this Agreement that makes express reference to this Section 2.12(d)) may not be waived, amended or modified to decrease the amount of any such payment or extend the payment date pursuant to this Section 2.12(d) (or any provision of this Agreement that makes express reference to this Section 2.12(d)), except pursuant to an agreement or agreements in writing entered into by Parent, the Administrative Agent and each Term Lender directly adversely affected thereby.

SECTION 2.13. ***Mandatory Prepayments***.

(a) In the event of any termination of all the Revolving Credit Commitments or any Class of Extended Revolving Credit Commitments, each Borrower shall, on the date of such termination, repay or prepay all of its outstanding Revolving Credit Borrowings with respect to such Class and replace or cause to be canceled (or make other arrangements reasonably satisfactory to the Administrative Agent and each Issuing Bank with respect to) all Letters of Credit outstanding under such Class. If at any time, as a result of any partial reduction or termination of the Revolving Credit Commitments or any Extended Revolving Credit Commitments, fluctuations in exchange rates or otherwise, (i) the aggregate amount of the Revolving Credit Exposure of all Lenders under any Class would exceed the aggregate amount of the Commitments of all Lenders under such Class, or (ii) the Aggregate Revolving Credit Exposure plus the Aggregate Contract Credit Facilities Exposure would exceed the Total Revolving Credit Commitment, then the applicable Borrower or Borrowers shall (x) on the date of such reduction or termination of any such Commitments or (y) within one Business Day following notice from the Administrative Agent of any such fluctuation in exchange rate or otherwise, repay or prepay Revolving Credit Borrowings and/or cash collateralize Letters of Credit in accordance with Section 2.13(b) in an amount sufficient to eliminate such excess; provided that, if such excess is caused by fluctuations in exchange rates, no such prepayment or cash collateralization will be required to the extent that (1) the aggregate amount of the Revolving Credit Exposure of all Lenders under any Class is not more than 110% of the aggregate amount of the Commitments of all Lenders under such Class and (2) the sum of (A) the Aggregate Revolving Credit Exposure and (B) the Aggregate Contract Credit Facilities Exposure is not more than 110% of the Total Revolving Credit Commitment.

(b) Within two Business Days of receipt of notice and upon the request of the Administrative Agent, if the L/C Exposure shall exceed the Letter of Credit Sublimit on any Calculation Date, whether as a result of fluctuations in exchange rates or otherwise, the applicable Borrower or Borrowers shall (i) deposit in an account with the Collateral Agent or the Security Trustee, for the benefit of the Revolving Credit Lenders and/or Extending Revolving Credit Lenders, as applicable, an amount in cash (payable in the currency of any outstanding Letter of Credit at such time) equal to the Minimum Collateral Amount with respect to such excess as of such date in accordance with the cash collateralization provisions set forth in

Section 2.23(j) or (ii) provide a backstop letter of credit in a face amount equal to the Minimum Collateral Amount with respect to such excess as of such date from an issuer and pursuant to arrangements reasonably satisfactory to the Administrative Agent and the applicable Issuing Bank; provided that, if such excess is caused by fluctuations in exchange rates, no such action will be required to the extent that the L/C Exposure at such time is not more than 110% of the Letter of Credit Sublimit.

(c) Not later than the tenth Business Day following the receipt of Net Cash Proceeds by Parent or any Restricted Subsidiary in respect of any Asset Sale, other than (i) any Asset Sales in the ordinary course of business permitted by clause (ii) or (iii) of Section 6.05(b), the Term Loan Borrowers shall apply 100% of the Net Cash Proceeds received with respect thereto to prepay outstanding Term Loans in accordance with Section 2.13(f) in an aggregate principal amount equal to 100% of such Net Cash Proceeds.

(d) In the event that the First Lien Net Leverage Ratio as of the end of any ECF Period exceeds 3.00 to 1.00, then no later than ten (10) Business Days after the date on which the financial statements with respect to such ECF Period are delivered pursuant to Section 5.04(a) (or, if earlier, ten (10) Business Days after the date on which such financial statements were required to be delivered pursuant to Section 5.04(a)), the Term Loan Borrowers shall prepay outstanding Term Loans in accordance with Section 2.13(f) in an aggregate principal amount equal to the excess of (i) the ECF Percentage for such ECF Period of Excess Cash Flow for such ECF Period over (ii) to the extent not deducted in the calculation of Excess Cash Flow, the aggregate amount of Voluntary Specified Prepayments made with respect to such ECF Period.

(e) In the event that Parent or any Restricted Subsidiary shall receive Net Cash Proceeds from the issuance or incurrence of any Indebtedness by Parent or any Restricted Subsidiary (other than any cash proceeds from the issuance or incurrence of Indebtedness permitted pursuant to Section 6.01 (other than Credit Agreement Refinancing Indebtedness)), then the Term Loan Borrowers shall, substantially simultaneously with (and in any event not later than the third Business Day next following) the receipt of such Net Cash Proceeds by Parent or any Restricted Subsidiary, apply an amount equal to 100% of such Net Cash Proceeds to prepay outstanding Term Loans in accordance with Section 2.13(f).

(f) Except as otherwise provided in any Refinancing Amendment, Extension Amendment or any Incremental Assumption Agreement or as otherwise provided herein, mandatory prepayments of outstanding Term Loans under this Agreement shall be (i) first, allocated pro rata among each Class of Term Loans and applied in the direct order of maturity against the scheduled installments of principal due in respect of such Class of Term Loans under Sections 2.11(a) and 2.11(c), respectively, in the first four calendar quarters following the date of such prepayment, (ii) second, allocated pro rata among each Class of Term Loans and applied pro rata against the remaining scheduled installments of principal due in respect of such Class of Term Loans under Sections 2.11(a) and 2.11(c), respectively, (iii) third, once all the Term Loans have been repaid in full, applied to prepay the principal balance of any outstanding Revolving Loans and Contract Loans on a pro rata basis and (iv) fourth, to cash collateralize outstanding Letters of Credit and Contract Letters of Credit by depositing the remaining amount in a cash collateral account established with the Collateral Agent or the Security Trustee, for the benefit of

the Issuing Banks and Revolving Credit Lenders and/or Extending Revolving Credit Lenders, as applicable, on a pro rata basis; provided, that in the case of the foregoing clauses (iii) and (iv), there shall be no corresponding permanent reduction of the Revolving Credit Commitments, any Extended Revolving Credit Commitments or any Contract Credit Facility Commitment. Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt.

(g) Parent shall deliver to the Administrative Agent, at the time of each prepayment required under this Section 2.13, (i) a certificate signed by a Financial Officer of Parent setting forth in reasonable detail the calculation of the amount of such prepayment and (ii) to the extent practicable, at least three Business Days' prior written notice of such prepayment. Each notice of prepayment shall specify the prepayment date, the Type of each Loan being prepaid and the principal amount of each Loan (or portion thereof) to be prepaid. All prepayments of Borrowings under this Section 2.13 shall be subject to Section 2.16 and, in the case of Section 2.13(e), Section 2.12(d), but shall otherwise be without premium or penalty, and shall be accompanied by accrued and unpaid interest on the principal amount to be prepaid to but excluding the date of payment.

(h) Notwithstanding any of the other provisions of Section 2.13, so long as no Default or Event of Default shall have occurred and be continuing, if, on any date on which a prepayment would otherwise be required to be made pursuant to clause (c) or (d) of this Section 2.13, the aggregate amount of Net Cash Proceeds or Excess Cash Flow required by such clause to be applied to prepay Loans on such date is less than or equal to $1,000,000, the Term Loan Borrowers may defer such prepayment until the first date on which the aggregate amount of Net Cash Proceeds or other amounts otherwise required under clause (c) or (d) of this Section 2.13 to be applied to prepay Loans exceeds $1,000,000. During such deferral period the Term Loan Borrowers may apply all or any part of such aggregate amount to prepay Revolving Loans and may, subject to the fulfillment of the applicable conditions set forth in Article IV, reborrow such amounts (which amounts, to the extent originally constituting Net Cash Proceeds, shall be deemed to retain their original character as Net Cash Proceeds when so reborrowed) for application as required by this Section 2.13. Upon the occurrence of a Default or an Event of Default during any such deferral period, the Term Loan Borrowers shall immediately prepay the Loans in the amount of all Net Cash Proceeds or Excess Cash Flow received by the Term Loan Borrowers and other amounts, as applicable, that are required to be applied to prepay Loans under this Section 2.13 (without giving effect to the first and second sentences of this clause (h)) but which have not previously been so applied.

(i) Notwithstanding any of the other provisions of Section 2.13, each Term Lender may elect not to accept all (but not less than all) of its pro rata percentage of any mandatory prepayment (any such Term Lender, a "***Declining Lender***", and any such declined amounts, the "***Declined Amounts***") of Term Loans required to be made pursuant to clauses (c), (d) and (e) of this Section 2.13 by providing written notice (each, a "***Rejection Notice***") to the Administrative Agent no later than 5:00 p.m., New York City time, on the Business Day of such Lender's receipt of notice from the Administrative Agent regarding such prepayment; provided, however, in no event may the proceeds of any Credit Agreement Refinancing Indebtedness be rejected. If a Term Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above such failure will be deemed an acceptance of the total amount of

such mandatory prepayment of Term Loans. Any Declined Amounts shall be offered to Term Lenders that are not Declining Lenders on a pro rata basis, and any Declined Amounts remaining thereafter shall be applied to prepay other Indebtedness to the extent required by the terms thereof and, after giving effect thereto, any remaining amounts may be retained by the Term Loan Borrowers and deemed to increase the Cumulative Retained Excess Cash Flow Amount.

(j) Notwithstanding any of the other provisions of Section 2.13, if at the time that any prepayment pursuant to clauses (c) or (e) (other than with respect to Credit Agreement Refinancing Indebtedness) of this Section 2.13 would be required, the Term Loan Borrowers are required to prepay or offer to repurchase any Permitted First Priority Refinancing Debt or Incremental Equivalent Indebtedness (to the extent secured by Liens on the Collateral ranking pari passu basis with the Obligations) and the Permitted Refinancing of any such Indebtedness, in each case pursuant to the terms of the documentation governing such Indebtedness, with the Net Cash Proceeds of such Asset Sale or casualty or other event (such Permitted First Priority Refinancing Debt or Incremental Equivalent Indebtedness (or the Permitted Refinancing of any such Indebtedness) required to be prepaid or offered to be so repurchased, "***Other Applicable First Priority Indebtedness***"), then the Term Loan Borrowers may apply such Net Cash Proceeds required to be prepaid hereunder on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable First Priority Indebtedness at such time; provided that the portion of such Net Cash Proceeds allocated to the Other Applicable First Priority Indebtedness shall not exceed the amount of such Net Cash Proceeds required to be allocated to the Other Applicable First Priority Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such Net Cash Proceeds shall be allocated to the Term Loans in accordance with the terms hereof) to the prepayment of the Term Loans and to the prepayment or repurchase of Other Applicable First Priority Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to clause (c) or (e) (other than with respect to Credit Agreement Refinancing Indebtedness) of this Section 2.13, as applicable, shall be reduced accordingly; provided, further, that to the extent the holders of Other Applicable First Priority Indebtedness decline to have such indebtedness prepaid or repurchased, the declined amount shall promptly (and in any event within five Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof.

SECTION 2.14. ***Reserve Requirements; Change in Circumstances***. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall change the basis of taxation of payments to any Agent, any Lender or any Issuing Bank of the principal of or interest on any Fixed Rate Loan made by such Lender or any Fees or other amounts payable under any Loan Document (other than changes in respect of Indemnified Taxes, Taxes described in clauses (ii), (iii), (iv) and (v) of the definition of Excluded Taxes and Connection Income Taxes), or shall impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement against assets of, deposits with or for the account of or credit extended by any Lender or any Issuing Bank (except any such reserve requirement which is reflected in the Adjusted LIBO Rate, the EURIBO Rate or the Bank Bill Rate, as the case may be) or shall impose on such Lender or such Issuing Bank or the London interbank market (or other relevant interbank market) any other condition affecting this Agreement or Fixed Rate Loans made by such Lender or any Letter of Credit or participation therein, and the result of any of the foregoing shall be to increase the cost to such Lender or such Issuing Bank of making or maintaining any

Fixed Rate Loan or increase the cost to any Lender of issuing or maintaining any Letter of Credit or purchasing or maintaining a participation therein or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or otherwise) by an amount deemed by such Lender or such Issuing Bank to be material, then the applicable Borrower(s) will pay to such Lender or such Issuing Bank, as the case may be, upon demand such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank shall have determined that any Change in Law (including any regarding liquidity or capital adequacy) has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made or participations in Letters of Credit purchased by such Lender pursuant hereto or the Letters of Credit issued by such Issuing Bank pursuant hereto to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to liquidity or capital adequacy) by an amount deemed by such Lender or such Issuing Bank to be material, then from time to time the applicable Borrower(s) shall pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as applicable, as specified in clause (a) or (b) above and setting forth in reasonable detail the basis for, and calculation of, such amount or amounts shall be delivered to the Borrowers and shall be conclusive absent manifest error. Notwithstanding anything in this Section 2.14 to the contrary, no Lender or Issuing Bank shall be entitled to any additional amount or amounts under this Section 2.14 unless and only if such Lender or Issuing Bank is generally seeking similar compensation from similarly situated borrowers (which are parties to credit or loan documentation containing a provision similar to this Section 2.14), as determined by such Lender or Issuing Bank in its reasonable discretion. The applicable Borrower(s) shall pay such Lender or such Issuing Bank the amount shown as due on any such certificate delivered by it within 10 days after its receipt of the same.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation. The protection of this Section shall be available to each Lender and each Issuing Bank regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, agreement, guideline or other change or condition that shall have occurred or been imposed.

SECTION 2.15. ***Change in Legality***. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall make it unlawful for any Lender to make or maintain any Fixed Rate Loan or to give effect to its obligations as contemplated hereby with

respect to any Fixed Rate Loan, then, by written notice to the Borrowers and to the Administrative Agent:

(i) such Lender may declare that Fixed Rate Loans in the affected currency will not thereafter (for the duration of such unlawfulness) be made by such Lender hereunder (or be continued for additional Interest Periods) and ABR Loans and Non-U.S. Alternative Rate Loans will not thereafter (for such duration) be converted into Fixed Rate Loans in the affected currency, whereupon any request for a Fixed Rate Borrowing in the affected currency (or to convert an ABR Borrowing or a Non-U.S. Alternative Rate Loan to a Fixed Rate Borrowing in the affected currency or to continue a Fixed Rate Borrowing in the affected currency for an additional Interest Period) shall, as to such Lender only, be deemed a request for an ABR Loan (in the case of Dollar Loans) or Non-U.S. Alternative Rate Loans (in the case of Alternative Currency Loans) (or a request to continue an ABR Loan or a Non-U.S. Alternative Rate Loan as such for an additional Interest Period or to convert a Fixed Rate Loan into an ABR Loan or a Non-U.S. Alternative Rate Loan, as the case may be), unless such declaration shall be subsequently withdrawn; and

(ii) such Lender may require that all outstanding Fixed Rate Loans in the affected currency made by it be converted to ABR Loans (in the case of Dollar Loans) or Non-U.S. Alternative Rate Loans (in the case of Alternative Currency Loans) in which event all such Fixed Rate Loans shall be automatically converted to such ABR Loans or Non-U.S. Alternative Rate Loans as of the effective date of such notice as provided in clause (b) below.

(iii) In the event any Lender shall exercise its rights under (i) or (ii) above, all payments and prepayments of principal that would otherwise have been applied to repay the Fixed Rate Loans that would have been made by such Lender or the converted Fixed Rate Loans of such Lender shall instead be applied to repay the ABR Loans or the Non-U.S. Alternative Rate Loans made by such Lender in lieu of, or resulting from the conversion of, such Fixed Rate Loans.

(b) For purposes of this Section 2.15, a notice to Parent by any Lender shall be effective as to each Fixed Rate Loan made by such Lender, if lawful, on the last day of the Interest Period currently applicable to such Fixed Rate Loan; in all other cases such notice shall be effective on the date of receipt by Parent.

SECTION 2.16. ***Indemnity***. Each applicable Borrower shall indemnify each Lender against any loss or expense, including any break-funding cost or any loss sustained in converting between any Alternative Currency and dollars, as the case may be, that such Lender may sustain or incur as a consequence of (a) any event, other than a default by such Lender in the performance of its obligations hereunder, which results in (i) such Lender receiving or being deemed to receive any amount on account of the principal of any Fixed Rate Loan prior to the end of the Interest Period in effect therefor, (ii) the conversion of any (A) Fixed Rate Loan to an ABR Loan or Non-U.S. Alternative Rate Loan or (B) Interest Period with respect to any Fixed Rate Loan, in each case other than on the last day of the Interest Period in effect therefor, or (iii) any Fixed Rate Loan to be made by such Lender (including any Fixed Rate Loan to be made

pursuant to a conversion or continuation under Section 2.10) not being made after notice of such Loan shall have been given by the applicable Borrower hereunder (any of the events referred to in this clause (a) being called a "***Breakage Event***") or (b) any default in the making of any payment or prepayment required to be made hereunder. In the case of any Breakage Event, such loss shall include an amount equal to the excess, as reasonably determined by such Lender, of (i) its cost of obtaining funds for the Fixed Rate Loan that is the subject of such Breakage Event for the period from the date of such Breakage Event to the last day of the Interest Period in effect (or that would have been in effect) for such Loan over (ii) the amount of interest likely to be realized by such Lender in redeploying the funds released or not utilized by reason of such Breakage Event for such period. A certificate of any Lender setting forth any amount or amounts which such Lender is entitled to receive pursuant to this Section 2.16, together with a reasonably detailed calculation thereof, shall be delivered to the applicable Borrower and shall be conclusive absent manifest error.

SECTION 2.17. ***Pro Rata Treatment***. Subject to Section 2.30 and 2.31 and except as required under Section 2.15 or 2.29, each Borrowing, each payment or prepayment of principal of any Borrowing (except Discounted Prepayment Offers made by any Borrower as expressly provided in Section 2.32), each payment of interest on a Borrowing, each payment of the Facility Fees, each reduction of any Class of Commitments and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type shall be allocated pro rata among the Lenders in accordance with their respective applicable Commitments (or, if such Commitments shall have expired or been terminated, in accordance with the respective principal amounts of their outstanding Loans). For purposes of determining the available Revolving Credit Commitments and Extended Revolving Credit Commitments of the Lenders at any time, the Aggregate Contract Credit Facilities Exposure shall be deemed to have utilized the Revolving Credit Commitments and Extended Revolving Credit Commitments of the Lenders (including those Lenders which are not Contract Credit Facility Lenders with Contract Credit Facility Exposure outstanding at such time) pro rata in accordance with such Commitments. Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar or applicable Alternative Currency amount.

SECTION 2.18. ***Sharing of Setoffs***. Each Lender agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against any Borrower or any other Loan Party, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, judicial management, insolvency, examinership or other similar law or otherwise, or by any other means, obtain payment (voluntary or involuntary) in respect of any of its Loans or participations in L/C Disbursements as a result of which the unpaid principal portion of its Loans and participations in L/C Disbursements and accrued interest thereon shall be proportionately less than the unpaid portion of the Loans and participations in L/C Disbursements and accrued interest thereon of any other Lender, it shall be deemed simultaneously to have purchased from such other Lender at face value, and shall promptly pay to such other Lender the purchase price for, a participation in the Loans and participations in L/C Disbursements, as the case may be, and interest thereon of such other Lender, so that the benefit of all such payments shall be shared by the Lenders ratably in

accordance with the aggregate amount of the principal of and accrued interest on their respective Loans and participations in L/C Disbursements; *provided*, *however*, that (a) if any such purchase or purchases or adjustments shall be made pursuant to this Section 2.18 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustment restored without interest, and (b) the provisions of this Section 2.18 shall not be construed to apply to any payment made by any Loan Party pursuant to and in accordance with the express terms of this Agreement (including any payment received pursuant to Section 2.15). Each Borrower expressly consents to the foregoing arrangements and agrees that any Lender holding a participation in a Loan or L/C Disbursement deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by such Borrower to such Lender by reason thereof as fully as if such Lender had made a Loan directly to such Borrower in the amount of such participation.

SECTION 2.19. ***Payments***. (a) Each Borrower shall make each payment (including principal of or interest on any Borrowing or any L/C Disbursement or any Fees or other amounts) hereunder and under any other Loan Document prior to (i) 1:00 p.m., Local Time, on the date when due, in the case of any amount payable in dollars, and (ii) 12:00 (noon), Local Time, on the date when due, in the case of any amount payable in any Alternative Currency (except as otherwise specified in Section 2.23(e)), in each case, in immediately available funds, without setoff, defense or counterclaim. Each such payment (other than Issuing Bank Fees, which shall be paid directly to each Issuing Bank to which such fees are payable) shall be made to such account as shall from time to time be specified in a writing delivered to Parent and each Borrower by the Administrative Agent. All Alternative Currency Loans hereunder shall be denominated and made, and all payments hereunder or under any other Loan Document in respect thereof (whether of principal, interest, fees or otherwise) shall be made, in such Alternative Currency. All Dollar Loans hereunder shall be denominated and made, and all payments of principal and interest, Fees or otherwise hereunder or under any other Loan Document in respect thereof shall be made, in dollars, except as otherwise expressly provided herein. Unless otherwise agreed by the applicable Borrower and each Lender to receive any such payment, all other amounts due hereunder or under any other Loan Document shall be payable in dollars.

(b) Whenever any payment (including principal of or interest on any Borrowing or any Fees or other amounts) hereunder or under any other Loan Document shall become due, or otherwise would occur, on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or Fees, if applicable.

SECTION 2.20. ***Taxes***. For purposes of this Section, (x) the term "Lender" shall include any Issuing Bank or Transferee of a Lender or Issuing Bank, and (y) the term "Administrative Agent" shall include any Transferee of the Administrative Agent and, other than for purposes of clauses (e) and (f) below, each other Agent or any Transferee thereof.

(a) Any and all payments by or on behalf of any Loan Party hereunder and under any other Loan Document shall be made, in accordance with Section 2.19, free and clear of and without deduction for any Taxes imposed by any Governmental Authority, except as

required by applicable law. If any Loan Party shall be required under applicable law to deduct any Taxes from or in respect of any sum payable hereunder or under any other Loan Document to the Administrative Agent or any Lender, (i) if such Taxes are Indemnified Taxes, the applicable Loan Party shall pay an additional amount (an "***additional amount***") as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.20) the Lender shall receive an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) such Loan Party shall make such deductions and (iii) such Loan Party shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, each Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Each Loan Party will indemnify the Administrative Agent and each Lender for the full amount of Indemnified Taxes attributable to it (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Administrative Agent or such Lender, as the case may be, and any liability (including penalties, interest and expenses (including reasonable attorney's fees and expenses)) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability prepared by the Administrative Agent or a Lender, or the Administrative Agent on its behalf, absent manifest error, shall be final, conclusive and binding for all purposes. Such indemnification shall be made within ten (10) Business Days after the date the Administrative Agent or any Lender makes written demand therefor.

(d) Each Lender shall severally indemnify the Administrative Agent, within ten (10) Business Days after demand therefor, for (i) any Indemnified Taxes and Other Taxes attributable to such Lender (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(f)(ii) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (d).

(e) As soon as practicable after the date of any payment of Indemnified Taxes or Other Taxes by any Borrower or any other Loan Party to the relevant Governmental Authority, such Borrower or such other Loan Party will deliver to the Administrative Agent, at its address referred to in Section 9.01, the original or a certified copy of a receipt issued by such Governmental Authority evidencing payment thereof.

(f) (i) Each Lender that is entitled to an exemption from, or reduction of, withholding Tax with respect to payments by such Borrower under this Agreement and the other Loan Documents shall deliver to such Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by such Borrower (including, for the avoidance of doubt, applicable Australian law, which documentation shall include such Lender's Australian Business Number or Tax File Number or details of a relevant exemption) as will permit such payments to be made without withholding or at a reduced rate. For the avoidance of doubt, this clause (f)(i) does not apply with respect to an exemption from the Australian Withholding Tax under section 128F of the Australian Tax Act. In addition, any Lender, if reasonably requested by any Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law (including, for the avoidance of doubt, applicable Australian law) or reasonably requested by any Borrower or the Administrative Agent as will enable any Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify any Borrower and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary in this Section 2.20(f), the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that any Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person holding a Loan or Commitment extended to such Borrower shall deliver to such Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Non-U.S. Lender holding a Loan or Commitment extended to such Borrower shall, to the extent it is legally entitled to do so, deliver to such Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other

applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of such Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-4 on behalf of each such direct and indirect partner; and

(C) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to such Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit such Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(g) If a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the applicable Loan Party or Administrative Agent (such applicable party a "***Withholding Agent***"), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably

requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) Nothing contained in this Section 2.20 or 2.21 shall require any Lender or the Administrative Agent to make available any of its Tax returns (or any other information that it deems to be confidential or proprietary).

(i) Each party's obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) If any party determines, in its sole discretion exercised in good faith, that it has received a refund or a credit in respect of any Taxes as to which it has been indemnified pursuant to this Section 2.20 (including by the payment of additional amounts pursuant to such sections), it shall reduce the additional amount owed to such party pursuant to Section 2.20(a) by such credit or it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund or credit, as applicable), net of all out of pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund or credit, as applicable). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (j) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund or credit, as applicable, to such Governmental Authority. Notwithstanding anything to the contrary in this clause (j), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (j) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund or credit, as applicable, had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This clause (j) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

SECTION 2.21. ***Australian Tax Matters***.

(a) *Syndicated Facilities Agreement*. The parties agree that this agreement is a "syndicated facility agreement" for the purposes of Section 128F(11) of the Australian Tax Act.

(b) *Joint Bookrunners' representations, warranties and undertakings*. In respect of the Term Loans only, each Joint Bookrunner undertakes, represents and warrants to the Borrowers as follows:

(i) On behalf of Parent the Joint Bookrunners in the aggregate have made invitations to become a Lender under this Agreement:

(A) to at least ten parties, each of whom, as at the date the relevant invitation is made, the relevant officers of the Joint Bookrunners involved in the transaction on a day to day basis believe carries on the business of providing finance or investing or dealing in securities in the course of operating in financial markets, for the purposes of Section 128F(3A)(a)(i) of the Australian Tax Act and each of whom has been disclosed to Parent; or

(B) in an electronic form that is used by financial markets for dealing in debentures (as defined in Section 128F(9) of the Australian Tax Act) or debt interests (as defined in Sections 974-15 and 974-20 of the Australian Tax Act) such as Reuters or Bloomberg.

(ii) At least 10 of the parties to whom the Joint Bookrunners in the aggregate have made invitations referred to in clause (b)(i)(A) above are not, as at the date the invitations are made, to the knowledge of the relevant officers of the Joint Bookrunners involved in the transaction, Associates of any of the others of those 10 offerees.

(iii) None of the Joint Bookrunners have made and will not make offers or invitations referred to in clause (b)(i)(A) above to parties whom its relevant officers involved in the transaction on a day to day basis are aware are Offshore Associates of Parent.

(iv) Any amounts borrowed pursuant to Section 2.01 are paid directly from the respective Lender to Parent's Australian bank account and shall not be received by Parent through any intermediary, including any account belonging to the Joint Bookrunners.

(c) *Parent's confirmation.*

(i) Parent confirms that none of the potential offerees whose names were disclosed to it by any of the Joint Bookrunners before the date of this Agreement were known or suspected by it to be an Offshore Associate of Parent or an Associate of any other such offeree.

(ii) Parent will immediately advise the Joint Bookrunners or the Administrative Agent if the potential offerees or invitees disclosed to it by any of the Joint Bookrunners or the Administrative Agent are known or suspected by it to be an Offshore Associate of Parent or an Associate of any other offeree.

(iii) In respect of the Revolving Loans only, the Borrowers undertake, represent and warrant to the Revolving Credit Lenders as follows:

(A) the Borrowers have made invitations to become a Revolving Credit Lender under this Agreement:

(1) to at least ten parties, each of whom, as at the date the relevant invitation is made, carries on the business of providing finance or investing or dealing in securities in the course of operating in financial markets, for the purposes of Section 128F(3A)(a)(i) of the Australian Tax Act; or

(2) in an electronic form that is used by financial markets for dealing in debentures (as defined in Section 128F(9) of the Australian Tax Act) or debt interests (as defined in Sections 974-15 and 974-20 of the Australian Tax Act) such as Reuters or Bloomberg.

(B) At least 10 of the parties to whom the Borrowers have made invitations referred to in clause (c)(iii)(A)(1) above are not, as at the date the invitations are made, to the knowledge of the relevant officers of the Borrowers, Associates of any of the others of those 10 offerees.

(C) No Borrower has made or will make offers or invitations referred to in this clause (c) to parties who are Offshore Associates of the Borrowers.

(iv) Any amounts borrowed pursuant to Section 2.01 are paid directly from the respective Lender to Parent's Australian bank account and shall not be received by Parent through any intermediary, including any account belonging to the Joint Bookrunners.

(d) *Lenders' representations and warranties*. Each Lender represents and warrants to the Borrowers that:

(i) if it received an invitation under Section 2.21(b)(i)(A), at the time it received the invitation it was carrying on the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets; and

(ii) it is not an Offshore Associate of Parent.

(e) *Information*. Each Joint Bookrunner and each Lender will provide to the Borrowers when reasonably requested by the Borrowers any factual information in its possession or which it is reasonably able to provide to assist the Borrowers to demonstrate (based upon tax advice received by the Borrowers) that Section 128F of the Australian Tax Act has been satisfied where to do so will not in any of the Joint Bookrunners' or Lender's reasonable opinion breach any law or regulation or any duty of confidence.

(f) *Cooperation if Section 128F requirements not satisfied.* If, for any reason, the requirements of Section 128F of the Australian Tax Act have not been satisfied in relation to interest payable on Loans (except to an Offshore Associate of a Borrower), then on request by the Administrative Agent, any of the Joint Bookrunners or a Borrower, each party shall cooperate and take steps reasonably requested with a view to satisfying those requirements:

(i) where the Administrative Agent, any of the Joint Bookrunners or a Lender breached Section 2.21(b) or Section 2.21(d), at the cost of that party; or

(ii) in all other cases, at the cost of the Borrowers.

(g) *Australian Withholding Tax*. Any Australian Withholding Tax payable in respect of a Loan will be payable by the relevant Borrower in accordance with Section 2.20(a).

SECTION 2.22. ***Assignment of Commitments Under Certain Circumstances; Duty to Mitigate***. (a) In the event (i) any Lender or an Issuing Bank delivers a certificate requesting compensation pursuant to Section 2.14, (ii) any Lender or an Issuing Bank delivers a notice described in Section 2.15, (iii) any Borrower is required to pay any additional amount to any Lender or an Issuing Bank or any Governmental Authority on account of any Lender or an Issuing Bank pursuant to Section 2.20 or 2.21, (iv) any Lender refuses to consent to a proposed amendment, waiver, consent or other modification of this Agreement or any other Loan Documents which has been approved by the Required Lenders or Required Revolving Credit Lenders, as applicable, and which additionally requires the consent of such Lender for approval pursuant to Section 9.08(b) or (v) any Lender becomes a Defaulting Lender, any Borrower may, at its sole expense and effort (including with respect to the processing and recordation fee referred to in Section 9.04(b)), upon notice to such Lender or such Issuing Bank and the Administrative Agent, require such Lender or such Issuing Bank to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or Section 2.20 or 2.21) and obligations under this Agreement (or, in the case of clause (iv) above, at the option of such Borrower, either all its interests, rights and obligations under this Agreement or all its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, amendment, waiver or other modification) to an assignee (other than any Ineligible Assignee) that shall assume such assigned obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (A) such assignment shall not conflict with any law, rule or regulation or order of any court or other Governmental Authority having jurisdiction, (B) such Borrower shall have received the prior written consent of the Administrative Agent (and, if a Revolving Credit Commitment or Extended Revolving Credit Commitment is being assigned, of the Issuing Banks), which consent shall not be unreasonably withheld, and (C) such Borrower or such assignee shall have paid to the affected Lender or Issuing Bank in immediately available funds (and in the currency or currencies in which payment would be required if all amounts were to be paid by such Borrower) an amount equal to the sum of the principal of and interest accrued to the date of such payment on the outstanding Loans or L/C Disbursements of such Lender or such Issuing Bank, respectively, plus all Fees and other amounts accrued for the account of such Lender or such Issuing Bank hereunder (including any amounts under Section 2.14 and Section 2.16), in each case with respect to the Loans or Commitments subject to such assignment and (D) if such assignment is in connection with a Lender that refuses to consent to an amendment, waiver or other modification with respect to a Repricing Event, the Term Loan Borrowers shall pay to such Lender the premium or fee (if any) set forth in Section 2.12(d) on or prior to the date of the consummation of such assignment; *provided, further,* that, if prior to any such transfer and assignment the circumstances or event that resulted in such Lender's or such Issuing Bank's claim for compensation under Section 2.14 or notice under Section 2.15 or the amounts paid pursuant to Section 2.20 or 2.21, as the case may be, cease to cause such Lender or such Issuing Bank to suffer increased costs or reductions in amounts received or receivable or reduction in return on capital, or cease to have the consequences specified in Section 2.15, or cease to result in amounts being payable under

Section 2.20 or 2.21, as the case may be (including as a result of any action taken by such Lender or such Issuing Bank pursuant to clause (b) below), or if such Lender or such Issuing Bank shall waive its right to claim further compensation under Section 2.14 in respect of such circumstances or event or shall withdraw its notice under Section 2.15 or shall waive its right to further payments under Section 2.20 or 2.21 in respect of such circumstances or event or shall consent to the proposed amendment, waiver, consent or other modification, as the case may be, then such Lender or such Issuing Bank shall not thereafter be required to make any such transfer and assignment hereunder. Any such Lender or Issuing Bank shall be deemed to have consented to an assignment under this Section 2.22(a) if it does not execute and deliver an Assignment and Acceptance to the Administrative Agent within two Business Days after having received a request therefor.

(b) If (i) any Lender or an Issuing Bank shall request compensation under Section 2.14, (ii) any Lender or an Issuing Bank delivers a notice described in Section 2.15 or (iii) any Borrower is required to pay any additional amount to any Lender or an Issuing Bank or any Governmental Authority on account of any Lender or an Issuing Bank, pursuant to Section 2.20 or 2.21, then such Lender or such Issuing Bank shall use reasonable efforts (which shall not require such Lender or such Issuing Bank to incur an unreimbursed loss or unreimbursed cost or expense or otherwise take any action inconsistent with its internal policies or legal or regulatory restrictions or suffer any disadvantage or burden deemed by it to be significant) (A) to file any certificate or document reasonably requested in writing by such Borrower or (B) to assign its rights and delegate and transfer its obligations hereunder to another of its offices, branches or Affiliates, if such filing or assignment would materially reduce its claims for compensation under Section 2.14 or enable it to withdraw its notice pursuant to Section 2.15 or would materially reduce amounts payable pursuant to Section 2.20 or 2.21, as the case may be, in the future. Parent hereby agrees to pay all reasonable costs and expenses incurred by any Lender or any Issuing Bank in connection with any such filing or assignment, delegation and transfer.

SECTION 2.23. ***Letters of Credit***. (a) Subject to the terms and conditions set forth herein, (i) the Existing Letter of Credit shall, upon the Funding Date and without any further action on the part of the applicable Issuing Bank or any other person, be deemed for all purposes to have been issued by the applicable Issuing Bank as a Letter of Credit hereunder, and (ii) any Borrower may request the issuance of a Letter of Credit for its own account or for the account of any Restricted Subsidiary that is not a Borrower (in which case such Borrower and such Restricted Subsidiary shall be co-applicants with respect to such Letter of Credit), in form and substance reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time while the L/C Commitments and Revolving Credit Commitments remain in effect. This Section shall not be construed to impose an obligation upon an Issuing Bank to issue any Letter of Credit that is inconsistent with the terms and conditions of this Agreement. Notwithstanding anything to the contrary contained in this Section 2.23 or elsewhere in this Agreement, no Issuing Bank shall be required to issue any Letter of Credit, (x) for the account of any Restricted Subsidiary that is not a Borrower, unless such Issuing Bank shall have received and be reasonably satisfied with all documentation and other information related to such Restricted Subsidiary required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act (or such Restricted Subsidiary previously satisfied such requirements as a co-applicant under a Letter of Credit previously issued by such Issuing Bank hereunder), (y) if any order, judgment

or decree of any Governmental Authority or arbitrator by its terms shall purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit or if the issuance of such Letter of Credit would violate any applicable law, rule or regulation binding upon such Issuing Bank or one or more policies of such Issuing Bank applicable to letters of credit generally, or (z) in the event that a Revolving Credit Lender or Extending Revolving Credit Lender is a Defaulting Lender, unless such Issuing Bank has entered into arrangements satisfactory to it and Parent to eliminate such Issuing Bank's risk with respect to the participation in Letters of Credit by all such Defaulting Lenders, including by (1) reallocating all or any part of such Defaulting Lenders' participation in Letters of Credit among the Non-Defaulting Lenders and/or (2) cash collateralizing such Defaulting Lenders' Pro Rata Percentage of each L/C Disbursement, in any such case, in accordance with Section 2.28.

(b) ***Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions.*** In order to request the issuance of a Letter of Credit (or to amend, renew or extend an existing Letter of Credit), the applicable Borrower (and, if applicable, the relevant Restricted Subsidiary co-applicant) shall deliver or fax to the Issuing Bank being requested to issue such Letter of Credit and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, specifying the date of issuance, amendment, renewal or extension, the date on which such Letter of Credit is to expire (which shall comply with clause (c) below), the amount and currency (which must be dollars or an Alternative Currency) of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare such Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if, and upon issuance, amendment, renewal or extension of each Letter of Credit the applicable Borrower shall be deemed to represent and warrant that, after giving effect to such issuance, amendment, renewal or extension (i) the L/C Exposure shall not exceed the Letter of Credit Sublimit, (ii) the aggregate amount of the Revolving Credit Exposure of all Lenders under any Class shall not exceed the aggregate amount of the Commitments of all Lenders under such Class, and (iii) the sum of (x) the Aggregate Revolving Credit Exposure and (y) the Aggregate Contract Credit Facilities Exposure shall not exceed the Total Revolving Credit Commitment.

(c) ***Expiration Date.*** Unless such Letter of Credit expires by its terms on an earlier date, each Letter of Credit shall expire at the close of business on the earlier of the date that is 12 months after the date of the issuance of such Letter of Credit and, unless such Letter of Credit is cash collateralized in the Minimum Collateral Amount, the date that is five Business Days prior to the Revolving Credit Maturity Date with respect to the Revolving Credit Commitments (such date, the "***Letter of Credit Expiration Date***"); *provided*, that a Letter of Credit may, upon the request of the applicable Borrower, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of 12 months or less (but not beyond the Letter of Credit Expiration Date, unless such Letter of Credit is cash collateralized from and after the Letter of Credit Expiration Date in the Minimum Collateral Amount) unless the applicable Issuing Bank notifies the beneficiary thereof at least 30 days (or such longer period as may be specified in such Letter of Credit) prior to the then-applicable expiration date that such Letter of Credit will not be renewed. Notwithstanding the foregoing, if requested by a Borrower and agreed to by an Issuing Bank in its sole discretion, a Letter of Credit may be issued by such Issuing Bank with an expiration date beyond 12 months (which in

no event shall extend beyond the Letter of Credit Expiration Date, unless such Letter of Credit is cash collateralized from and after the Letter of Credit Expiration Date in the Minimum Collateral Amount).

(d) ***Participations.*** By the issuance of a Letter of Credit (or, in the case of the Existing Letter of Credit, deemed issuance on the Funding Date) and without any further action on the part of such Issuing Bank or the Lenders, the applicable Issuing Bank hereby grants to each Revolving Credit Lender and each Extending Revolving Credit Lender, and each such Lender hereby acquires from the applicable Issuing Bank, a participation in such Letter of Credit equal to such Lender's Pro Rata Percentage of the aggregate amount available to be drawn under such Letter of Credit, effective upon the issuance of such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Credit Lender and each Extending Revolving Credit Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's Pro Rata Percentage of each L/C Disbursement made by such Issuing Bank and not reimbursed by the applicable Borrower (or, if applicable, another party pursuant to its obligations under any other Loan Document) in respect of such Letter of Credit forthwith on the date due as provided in Section 2.02(f) and in the same currency as such L/C Disbursement (or, to the extent permitted in Section 2.02(f), in dollars in an amount equal to the Dollar Equivalent thereof). Each Revolving Credit Lender and Extending Revolving Credit Lender acknowledges and agrees that its obligation to acquire participations pursuant to this clause (d) in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or an Event of Default or the fact that, as a result of fluctuations in exchange rates, such Lender's Revolving Credit Exposure at any time with respect to any Class of Commitments might exceed its Commitment under such Class at such time (including after giving effect to any deemed utilization thereof by any Contract Credit Facility Exposure outstanding at such time) (in which case Sections 2.13(a) and 2.13(b) would apply), and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) ***Reimbursement.*** If an Issuing Bank shall make any L/C Disbursement denominated in dollars, the applicable Borrower shall pay to the Administrative Agent an amount equal to such L/C Disbursement by 1:00 p.m., Local Time, on the Business Day that such Borrower shall have received notice from the applicable Issuing Bank that payment of such draft will be made, or, if such Borrower shall have received such notice later than 10:00 a.m., Local Time, on any Business Day, not later than 10:00 a.m., Local Time, on the immediately following Business Day. If an Issuing Bank shall make any L/C Disbursement denominated in any Alternative Currency, the applicable Borrower shall pay to the Administrative Agent an amount in such Alternative Currency equal to such L/C Disbursement 1:00 p.m., Local Time, on the Business Day that such Borrower shall have received notice from the applicable Issuing Bank that payment of such draft will be made, or, if such Borrower shall have received such notice later than 10:00 a.m., Local Time, on any Business Day, not later than 10:00 a.m., Local Time, on the immediately following Business Day.

(f) ***Obligations Absolute.*** Each Borrower's obligations to reimburse L/C Disbursements as provided in clause (e) above shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, under any and all circumstances whatsoever, and irrespective of:

(i) any lack of validity or enforceability of any Letter of Credit or any Loan Document, or any term or provision therein;

(ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Letter of Credit or any Loan Document;

(iii) the existence of any claim, setoff, defense or other right that any Borrower, any other party guaranteeing, or otherwise obligated with, such Borrower, any Subsidiary or other Affiliate thereof or any other person may at any time have against the beneficiary under any Letter of Credit, the applicable Issuing Bank, the Administrative Agent or any Lender or any other person, whether in connection with this Agreement, any other Loan Document or any other related or unrelated agreement or transaction;

(iv) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit; and

(vi) any other act or omission to act or delay of any kind of an Issuing Bank, the Lenders, the Administrative Agent or any other person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of any Borrower's obligations hereunder.

Without limiting the generality of the foregoing, it is expressly understood and agreed that the absolute and unconditional obligation of each Borrower hereunder to reimburse L/C Disbursements will not be excused by the gross negligence or willful misconduct of an Issuing Bank. However, the foregoing shall not be construed to excuse an Issuing Bank from liability to any Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by each Borrower to the extent permitted by applicable law) suffered by any Borrower that are caused by an Issuing Bank's gross negligence or willful misconduct in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof; it is understood that an Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary and, in making any payment under any Letter of Credit (i) an Issuing Bank's exclusive reliance on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including reliance on the amount of any draft presented under such Letter of Credit, whether or not the amount due to the beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect, if such document on its face appears to be in order, and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever and (ii) any noncompliance in any immaterial respect of the documents presented under such Letter of Credit

with the terms thereof shall, in each case, be deemed not to constitute willful misconduct or gross negligence of an Issuing Bank.

(g) ***Disbursement Procedures.*** The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall as promptly as possible give telephonic notification, confirmed by fax, to the Administrative Agent and the applicable Borrower of such demand for payment and whether such Issuing Bank has made or will make an L/C Disbursement thereunder; *provided* that any failure to give or delay in giving such notice shall not relieve any Borrower of its obligation to reimburse such Issuing Bank and the Revolving Credit Lenders and/or Extending Revolving Credit Lenders with respect to any such L/C Disbursement. The Administrative Agent shall promptly give notice thereof to each Revolving Credit Lender and Extending Revolving Credit Lender that has a participation under Section 2.23(d) in such Letter of Credit.

(h) ***Interim Interest.*** If an Issuing Bank shall make any L/C Disbursement in respect of a Letter of Credit, then, unless the applicable Borrower shall reimburse such L/C Disbursement in full on such date, the unpaid amount thereof shall bear interest for the account of such Issuing Bank, for each day from and including the date of such L/C Disbursement, to but excluding the earlier of the date of payment by such Borrower or the date on which interest shall commence to accrue thereon as provided in Section 2.02(f), (i) in the case of any L/C Disbursement denominated in Dollars, at the rate per annum that would apply to an ABR Revolving Loan, (ii) in the case of any L/C Disbursement denominated in Euros or Australian Dollars, at the rate per annum that would apply to a Fixed Rate Revolving Loan denominated in such Alternative Currency with an Interest Period of one month's duration, and (iii) in the case of any L/C Disbursement denominated in any other Alternative Currency, at a rate per annum reasonably determined by the applicable Issuing Bank to represent the cost to such Issuing Bank of funding such L/C Disbursement plus the Applicable Rate applicable to Fixed Rate Revolving Loans at such time.

(i) ***Resignation or Removal of an Issuing Bank.*** An Issuing Bank that no longer has any Revolving Credit Commitments, Extended Revolving Credit Commitments or Revolving Loans may resign at any time by giving 30 days' prior written notice to the Administrative Agent, the Lenders and Parent, and may be removed at any time by Parent by notice to such Issuing Bank, the Administrative Agent and the Lenders. Upon the acceptance of any appointment as an Issuing Bank hereunder by a Lender that shall agree to serve as a successor Issuing Bank, such successor shall succeed to and become vested with all the interests, rights and obligations of the retiring Issuing Bank and the retiring Issuing Bank shall be discharged from its obligations to issue additional Letters of Credit hereunder and to further amend, extend or renew any of its existing Letters of Credit. At the time such removal or resignation shall become effective, Parent shall pay all accrued and unpaid fees pursuant to Section 2.05(c)(ii). The acceptance of any appointment as an Issuing Bank hereunder by a successor Lender shall be evidenced by an agreement entered into by such successor, in a form satisfactory to Parent and the Administrative Agent, and, from and after the effective date of such agreement, (i) such successor Lender shall have all the rights and obligations of the previous Issuing Bank under this Agreement and the other Loan Documents and (ii) references herein and in the other Loan Documents to the term "Issuing Bank" shall be deemed to refer to

such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the resignation or removal of an Issuing Bank hereunder, the retiring Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation or removal, but shall not be required to issue additional Letters of Credit.

(j) ***Cash Collateralization.*** If (i) any Event of Default shall occur and be continuing, (ii) if any cash collateral is required pursuant to Section 2.28, or (iii) any Letter of Credit is required to be cash collateralized pursuant to Section 2.13(a) or 2.13(b), the applicable Borrowers shall, on the Business Day after (or, in the case of Section 2.13(b), on the second Business Day after) Parent receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of any Loans has been accelerated, Revolving Credit Lenders and Extending Revolving Credit Lenders holding participations in outstanding Letters of Credit representing greater than 50% of the aggregate undrawn amount of all outstanding Letters of Credit) thereof and of the amount to be deposited, deposit in an account with the Collateral Agent or the Security Trustee, for the benefit of the Revolving Credit Lenders, the Extending Revolving Credit Lenders and the Issuing Banks, an amount in cash in the currency determined by the Administrative Agent equal to the relevant Minimum Collateral Amount as of such date; provided that, in any event with respect to any Borrower described in clause (g), (h) or (i) of Section 7.01, the obligation of the Borrowers to cash collateralize the outstanding Letters of Credit and Contract Letters of Credit shall automatically become effective, without presentment, demand, protest or any other notice of any kind. Such deposit shall be held by the Collateral Agent and/or the Security Trustee as collateral for the payment and performance of the Obligations. The Collateral Agent and/or the Security Trustee shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits in Permitted Investments, which investments shall be made at the option and sole discretion of the Collateral Agent or the Security Trustee, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall (x) automatically be applied by the Administrative Agent to reimburse any Issuing Bank for L/C Disbursements for which it has not been reimbursed, (y) be held for the satisfaction of the reimbursement obligations of the applicable Borrowers for the L/C Exposure at such time and (z) if the maturity of any Loans has been accelerated (but subject to the consent of Revolving Credit Lenders and Extending Revolving Credit Lenders holding participations in outstanding Letters of Credit representing greater than 50% of the aggregate undrawn amount of all outstanding Letters of Credit), be applied to satisfy the Obligations of the applicable Borrowers. If any Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three Business Days after all Events of Default have been cured or waived, to the extent that such cash collateral is not otherwise required at such time pursuant to Section 2.13(a), 2.13(b) and/or 2.28 and the Letter of Credit Expiration Date has not occurred. If any Borrower is required to provide an amount of cash collateral pursuant to clause (iii) of the first sentence of this clause (j), such amount shall be returned to such Borrower from time to time after any written request for such return to the extent that the Administrative Agent and the Issuing Banks determine that there exists excess cash collateral with respect to the L/C Exposure at such time, in any such case, so long as no Event of Default exists, the Letter of Credit Expiration Date has not occurred and such

cash collateral is not otherwise required at such time pursuant to Section 2.28. Each Borrower hereby grants to each of the Agents, for the benefit of the Issuing Banks, and agrees to maintain, a first priority security interest in all such cash collateral as security for such Borrower's obligation to reimburse the Administrative Agent pursuant to Section 2.23(e) and/or the Defaulting Lenders' obligation to fund participations in respect of Letters of Credit. If at any time any Agent determines that cash collateral is subject to any right or claim of any Person other than the Agents and the Issuing Banks as herein provided, or that the total amount of such cash collateral is less than the amount required pursuant to this clause (j), the applicable Borrowers will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional cash collateral in an amount sufficient to eliminate such deficiency.

(k) ***Bank Guarantees.*** If requested by any Borrower and agreed to by the applicable Issuing Bank, an Issuing Bank may issue one or more bank guarantees in lieu of a Letter of Credit, in which event all references in this Agreement to Letters of Credit in connection with the Revolving Credit Commitments and/or Extended Revolving Credit Commitments shall apply to each such bank guarantee, *mutatis mutandis*; *provided* that, notwithstanding the provisions of the first sentence of Section 2.23(c), if requested by a Borrower and agreed to by the applicable Issuing Bank, any such bank guarantee may expire later than the date that is 12 months after the date of the issuance of such bank guarantee (which in no event shall extend beyond the Letter of Credit Expiration Date, unless such bank guarantee is cash collateralized from and after the Letter of Credit Expiration Date in the Minimum Collateral Amount).

(l) ***Provisions Related to Extended Revolving Credit Commitments***. If the Letter of Credit Expiration Date (as defined in Section 2.23(c)) occurs prior to the expiry date of any Letter of Credit, then (i) if consented to by the Issuing Bank which issued such Letter of Credit, if one or more other Classes of Extended Revolving Credit Commitments in respect of which the Letter of Credit Expiration Date shall not have so occurred are then in effect, such Letter of Credit for which consent has been obtained shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Credit Lenders and Extending Revolving Credit Lenders to purchase participations therein and to make Revolving Loans and payments in respect thereof pursuant to Section 2.23(d)) under (and ratably participated in by Lenders pursuant to) the Revolving Credit Commitments in respect of such non-terminating tranches up to an aggregate amount not to exceed the aggregate amount of the unutilized Extended Revolving Credit Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and (ii) to the extent not reallocated pursuant to immediately preceding clause (i), the Borrowers shall cash collateralize any such Letter of Credit in accordance with Section 2.23(j). Upon the maturity date of any tranche of Revolving Credit Commitments or Extended Revolving Credit Commitments, the Letter of Credit Sublimit may be reduced as agreed between the Administrative Agent, the Issuing Banks and Parent, without the consent of any other Person.

SECTION 2.24. ***Borrowers***.

(a) All Obligations of the Term Loan Borrowers with respect to the Term Loans shall be joint and several Obligations of each Term Loan Borrower, and the Obligations of

any Term Loan Borrower hereunder with respect to the Term Loans, to the extent such Term Loan Borrower did not receive the proceeds (notwithstanding the use of such proceeds) or the benefit of the Term Loans borrowed hereunder, shall, if any such Obligations would otherwise be held or determined to be void, voidable, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under this Section 2.24(a) in any action or proceeding involving any state corporate law, or any applicable state, federal or foreign bankruptcy, judicial management, insolvency, reorganization or other law affecting the rights of creditors generally (collectively, the "***Fraudulent Transfer Laws***"), without any further action by such Term Loan Borrower, be automatically limited and reduced to the highest amount (after giving effect to any right of contribution) that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding, in each case after giving effect to all other liabilities of such Term Loan Borrower, contingent or otherwise, that are relevant under the Fraudulent Transfer Laws (specifically excluding, however, any liabilities of such Term Loan Borrower in respect of intercompany Indebtedness or other intercompany obligations to any other Loan Party or Affiliates of any other Loan Party to the extent that such Indebtedness or other obligations would be discharged in an amount equal to the amount paid by such Loan Party hereunder) and after giving effect as assets to the value (as determined under the applicable provisions of the Fraudulent Transfer Laws) of any rights to subrogation or contribution of such Term Loan Borrower pursuant to (i) applicable law or (ii) any agreement providing for an equitable allocation among such Term Loan Borrower and other Affiliates of any Loan Party of Obligations arising under guarantees by such parties.

(b) Until the Obligations shall have been indefeasibly paid in full in cash, each Borrower shall withhold exercise of any right of subrogation, contribution or any other right to enforce any remedy which it now has or may hereafter have against the other Borrower or any other Guarantor of the Obligations. Each Borrower further agrees that, to the extent the waiver of its rights of subrogation, contribution and remedies as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any such rights such Borrower may have against the other Borrower, any collateral or security or any such other Guarantor, shall be junior and subordinate to any rights any Agent may have against the other Borrower, any such collateral or security, and any such other Guarantor.

(c) Each Borrower hereby waives, for the benefit of the Secured Parties: (i) any right to require any Secured Party, as a condition of payment or performance by such Borrower, to (w) proceed against any other Borrower, any guarantor (including any other Guarantor) of the Obligations or any other Person, (x) proceed against or exhaust any security held from any other Borrower, any Guarantor or any other Person, (y) proceed against or have resort to any balance of any deposit account or credit on the books of any Secured Party in favor of any other Borrower or any other Person, or (z) pursue any other remedy in the power of any Secured Party whatsoever; (ii) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any other Borrower or any Guarantor including any defense based on or arising out of the lack of validity or enforceability of this Agreement or any other Loan Document, any of the Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by any Agent or any other Secured Party; (iii) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (iv) notices, demands, presentment, protests, notices of

protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Obligations or any agreement related thereto, notices of any extension of credit to any Borrower and notices of any of the matters referred to in this Section 2.24 and any right to consent to any thereof; (v) any defense based upon any Secured Party's errors or omissions in the administration of the Obligations, except behavior which amounts to gross negligence or willful misconduct; (vi) (A) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Borrower's obligations hereunder, (B) the benefit of any statute of limitations affecting such Borrower's liability hereunder or the enforcement hereof, (C) any rights to set offs, recoupments and counterclaims, and (D) promptness, diligence and any requirement that any Secured Party protect, secure, perfect or insure any security interest or lien or any property subject thereto; and (vii) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

(d) Each Subsidiary Borrower hereby appoints Parent as its agent, attorney-in-fact and representative for purposes of (i) making any borrowing requests or other requests required under this Agreement and the other Loan Documents, (ii) the giving and receipt of notices by and to the Borrowers under this Agreement and the other Loan Documents, (iii) the delivery of any documents, agreements, instruments, requests, consents, approvals, certificates, reports, statements or written materials required to be delivered by the Borrowers under this Agreement and the other Loan Documents, (iv) making any determination, selection, designation or judgment, including, without limitation, those requiring the satisfaction or the discretion of the Borrowers, under this Agreement or the other Loan Documents and (v) all other purposes incidental to any of the foregoing.

(e) Each Subsidiary Borrower agrees that any action taken by Parent as the agent, attorney-in-fact and representative of such Subsidiary Borrower shall be binding upon such Subsidiary Borrower to the same extent as if directly taken by such Subsidiary Borrower and that each Agent, each Lender and each Issuing Bank shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, approval, report, statement, instrument, agreement, document or other writing believed by it to be genuine and to have been signed or sent by Parent.

(f) Each Borrower and each party hereto agrees that, notwithstanding any implication to the contrary, payments of principal, interest, fees, charges and other amounts designated by this Agreement or the terms of any other Loan Document to be made by the Borrowers may be paid to the recipient by Parent directly in each case.

SECTION 2.25. ***Reporting Requirements of the Issuing Banks***. Within two Business Days following the last day of each calendar month, each Issuing Bank shall deliver to the Administrative Agent (and the Administrative Agent shall make available to any Lender upon request) a report detailing all activity during the preceding month with respect to any Letters of Credit issued by such Issuing Bank, including the face amount, the account party, the beneficiary and the expiration date of such Letters of Credit and any other information with respect thereto as may be requested by the Administrative Agent.

SECTION 2.26. ***Additional Issuing Banks***. The Borrowers may, at any time and from time to time with the consent of the Administrative Agent (which consent shall not be unreasonably withheld) and such Lender, designate one or more additional Lenders to act as an Issuing Bank under the terms of this Agreement, in each case, subject to terms and conditions agreed to by the Borrowers, the Administrative Agent and such Lender. Any Lender designated as an issuing bank pursuant to this Section 2.26 shall be deemed to be an "Issuing Bank" (in addition to being a Lender) in respect of Letters of Credit issued or to be issued by such Lender and, with respect to such Letters of Credit, such term shall thereafter apply to such Issuing Bank and such Lender.

SECTION 2.27. ***Incremental Commitments***.

(a) Each Borrower may, by written notice to the Administrative Agent from time to time, request (i) Incremental Term Loan Commitments from one or more Incremental Term Lenders, none of which may be Ineligible Assignees and/or (ii) one or more increases in the amount of Revolving Credit Commitments of any Class (a "***Revolving Commitment Increase***" and, together with any Incremental Term Loan Commitments, the "***Incremental Commitments***"), collectively, in an aggregate amount not to exceed an amount equal to the sum of the following (the "***Incremental Amount***"):

(A) an amount equal to (i) $143,000,000, minus (ii) the sum of (x) the aggregate amount of all Incremental Commitments established pursuant to this clause (A) prior to such time, and (y) the aggregate amount of Incremental Equivalent Indebtedness incurred pursuant to clause (A) of Section 6.01(x)(i) and clause (A) of Section 6.01(x)(ii) prior to such time (except to the extent such Incremental Equivalent Indebtedness has been voluntarily prepaid as of the relevant time of determination with funds other than the proceeds of other long-term Indebtedness, which, in the case of such a prepayment of a revolving or redrawable facility, is accompanied by a voluntary permanent commitment reduction in an amount corresponding to such prepayment), plus (iii) the amount of any voluntary prepayments in respect of the Initial Term Loans and, to the extent incurred as a fixed incremental amount pursuant to this clause (A), any Incremental Term Loans, in any such case, except to the extent funded with the proceeds of other long-term Indebtedness, plus (iv) the amount of any voluntary permanent reductions of Revolving Credit Commitments and, to the extent incurred as a fixed incremental amount pursuant to this clause (A), any Revolving Commitment Increase, in any such case, except to the extent funded with the proceeds of long-term Indebtedness or replaced with commitments for other long-term Indebtedness; plus

(B) such other amount so long as on and as of the date of the incurrence of such Incremental Commitment and as of the last day of the most recently ended Test Period, (i) with respect to Incremental Equivalent Indebtedness secured by Liens on any Collateral ranking pari passu with the Liens securing the Obligations, the First Lien Net Leverage Ratio is no more than 2.80 to 1.00, (ii) with respect to Incremental Equivalent Indebtedness secured by Liens on any Collateral ranking junior to the Liens securing the Obligations, the Total Net Leverage Ratio is no more than 3.30 to 1.00, or (iii) with respect to Incremental Equivalent Indebtedness that is unsecured, the Total Net Leverage Ratio is no more than 3.80 to 1.00, in any such case determined on a pro forma basis and

assuming the relevant Incremental Commitment is fully drawn but excluding (1) the aggregate amount of all Incremental Commitments concurrently established or concurrently drawn pursuant to clause (A) above, and (2) the aggregate amount of Incremental Equivalent Indebtedness concurrently incurred pursuant to clause (A) of Section 6.01(x)(i) or clause (A) of Section 6.01(x)(ii)) (which, in the case of a Limited Condition Transaction, the First Lien Net Leverage Ratio or the Total Net Leverage Ratio, as applicable, pursuant to this clause (B) may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction and will not be tested upon consummation thereof, if otherwise agreed by the Incremental Lenders providing the applicable Incremental Commitments).

(b) Each Incremental Term Commitment shall be in minimum increments of $1,000,000 and an aggregate principal amount not less than $10,000,000, and each Revolving Commitment Increase shall be in minimum increments of $1,000,000 and an aggregate principal amount not less than $5,000,000, or, in each case, such lesser aggregate principal amount equal to the remaining availability of the Incremental Amount. The notice referred to in Section 2.27(a) shall set forth (i) the amount of the Incremental Commitments being requested, (ii) the date on which such Incremental Commitments are requested to become effective (which shall not be less than 10 Business Days nor more than 60 days after the date of such notice, unless waived by the Administrative Agent) and (iii) whether such Incremental Commitments are (A) commitments to make additional Term Loans or commitments to make term loans with terms different from the Initial Term Loans ("***Other Term Loans***") or (B) commitments to increase the amount of Revolving Credit Commitments. Each Borrower may seek Incremental Term Loan Commitments and/or Revolving Commitment Increases from existing Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) and additional banks, financial institutions and other institutional lenders who will become Incremental Term Lenders and/or Revolving Credit Lenders in connection therewith (it being understood and agreed that each such Lender or bank, financial institution or institutional lender may not so participate if it is an Ineligible Assignee or any consent that would have been required under Section 9.04(b) as if it were an assignee shall not have been obtained). Such Borrower and each such Incremental Term Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment and/or Revolving Commitment Increase of each such Person. The terms and provisions of the Incremental Term Loans shall be identical to those of the Initial Term Loans except as otherwise set forth herein or in the Incremental Assumption Agreement. For the avoidance of doubt, the terms and provisions applicable to a Revolving Commitment Increase shall be identical to those of the Class of Revolving Credit Commitments being increased (except with respect to arrangement, underwriting, structuring, upfront and similar fees). The Incremental Term Loans shall rank pari passu in right of payment with the Initial Term Loans, may be secured or unsecured, and, if secured, shall rank pari passu or junior in right of security with the Initial Term Loans and not be secured by property or assets other than the Collateral. Without the prior written consent of the Required Lenders, (i) the final maturity date of any Other Term Loans shall be no earlier than the Maturity Date then in effect for the Initial Term Loans (and for each other Class of Term Loans that, pursuant to the applicable Incremental Assumption Agreement, Refinancing Amendment or Extension Amendment, generally or specifically provides the Lenders with respect to such Class of Term Loans with the benefits of this provision), (ii) the weighted average life to maturity of the Other

Term Loans shall be no shorter than the average life to maturity of each Class of Term Loans then outstanding and (iii) any Other Term Loans shall not be guaranteed by any Person other than a Loan Party. With respect to any Other Term Loans (other than any such Other Term Loans that have a stated maturity date occurring more than two (2) years after the Latest Maturity Date then in effect), if the initial Yield on such Other Term Loans exceeds the then applicable Yield on the Initial Term Loans (and each other Class of Term Loans that, pursuant to the applicable Incremental Assumption Agreement, Refinancing Amendment or Extension Amendment, generally or specifically provides the Lenders with respect to such Class of Term Loans with the benefits of this provision) then in effect for Eurocurrency Term Loans by more than 50 basis points (the amount of such excess above 50 basis points being referred to herein as the "***Yield Differential***"), then the Applicable Rate then in effect for such Term Loans shall automatically be increased by the Yield Differential, effective upon the making of such Other Term Loans (it being agreed that any such increase required due to the application of any Adjusted LIBO Rate "floor", Alternate Base Rate "floor" or similar "floor" on any such Other Term Loans shall be effected solely through an increase in (or implementation of, as applicable) a "floor" applicable to the Initial Term Loans and other relevant existing Term Loans). The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitment and Incremental Term Loans and/or Revolving Commitment Increase evidenced thereby, and the Administrative Agent and Parent may revise this Agreement to evidence such amendments.

(c) Notwithstanding the foregoing, no Incremental Term Loan Commitment or Revolving Commitment Increase shall become effective under this Section 2.27 unless (i) on the date of such effectiveness, the conditions set forth in Sections 4.02(b) and (c) shall be satisfied and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer of Parent; provided, however, that, in the case of Incremental Term Loans or Revolving Commitment Increases incurred to finance a Limited Condition Transaction, such requirements shall be subject to customary "SunGard" conditionality (including waiver or non-requirement of (1) the representations hereunder other than "specified representations and warranties" (which shall include the representations and warranties set forth in Sections 3.01, 3.02, 3.03, 3.11, 3.12, 3.13, 3.19, 3.22, 3.23, 3.24 and 3.26) and representations and warranties relating to the Limited Condition Transaction and (2) the absence of a Default or Event of Default (other than with respect to a Default or Event of Default under Section 7.01(b), (c), (g), (h) or (i) and any other Default or Event of Default that is a condition to the effectiveness of the Limited Condition Transaction)), in each case if otherwise agreed by the Incremental Lenders providing such Incremental Term Loan Commitment and/or Revolving Commitment Increase, (ii) except as otherwise specified in the applicable Incremental Assumption Agreement, the Administrative Agent shall have received (with sufficient copies for each of the Incremental Term Lenders and/or relevant Revolving Credit Lenders) legal opinions, board resolutions and other closing certificates reasonably requested by the Administrative Agent and consistent with those delivered on the Closing Date under Section 4.01, (iii) all fees and expenses owing in respect of such Incremental Term Loan Commitment and/or Revolving Commitment Increase to the Administrative Agent and the Lenders shall have been paid in full and (iv) to the extent not consistent with this Agreement, the other terms and documentation in

respect of the Incremental Term Loans and/or Revolving Commitment Increase shall otherwise be reasonably satisfactory to the Administrative Agent, unless such terms apply after the Latest Maturity Date then in effect.

(d) Each of the parties hereto hereby agrees that the Administrative Agent may, in consultation with Parent, take any and all action as may be reasonably necessary to ensure that all Incremental Term Loans (other than Other Term Loans), when originally made, are included in each Borrowing of outstanding Initial Term Loans on a pro rata basis. This may be accomplished by requiring each outstanding Eurocurrency Term Borrowing to be converted into an ABR Term Borrowing on the date of each Incremental Term Loan, or by allocating a portion of each Incremental Term Loan to each outstanding Eurocurrency Term Borrowing on a pro rata basis. Any conversion of Eurocurrency Term Loans to ABR Term Loans required by the preceding sentence shall be subject to Section 2.16. If any Incremental Term Loan is to be allocated to an existing Interest Period for a Eurocurrency Term Borrowing, then the interest rate thereon for such Interest Period and the other economic consequences thereof shall be as set forth in the applicable Incremental Assumption Agreement. In addition, to the extent any Incremental Term Loans are not Other Term Loans, (i) the scheduled amortization payments under Section 2.11(a) required to be made after the making of such Incremental Term Loans shall be ratably increased by the aggregate principal amount of such Incremental Term Loans and shall be further increased for all applicable Lenders on a pro rata basis to the extent necessary to avoid any reduction in the amortization payments to which the applicable Term Lenders were entitled before such recalculation, and (ii) in the event that, prior to the incurrence of any Incremental Term Loans that are not Other Term Loans, the then-outstanding Initial Term Loans have scheduled amortization payments under Section 2.11(a) that are less than 0.25% of the aggregate principal amount of such Initial Term Loans when initially incurred, then at the Parent's option, (x) the scheduled amortization payments of such Initial Term Loans on the effective date of such Incremental Term Loans shall be increased to be equal quarterly installments of principal equal to 0.25% of the aggregate principal amount of such Initial Term Loans originally incurred or (y) the scheduled amortization payment of the Incremental Term Loans shall equal such smaller percentage applicable to such Initial Term Loans on such scheduled amortization payment date(s) (reflected as a percentage of the aggregate principal amount of such Incremental Term Loans), so long as, in the event this clause (y) is applicable, and for the avoidance of doubt, such percentage is expressly set forth in the Incremental Assumption Agreement with respect to such Incremental Term Loans.

(e) Upon the date on which a Revolving Commitment Increase is effected pursuant to this Section 2.27 (the "***Increase Effective Date***"), (i) each of the Revolving Credit Lenders of the relevant Class immediately prior to such increase will automatically and without further act be deemed to have assigned to each of the Revolving Commitment Increase Lenders, and each of the Revolving Commitment Increase Lenders shall automatically and without further act be deemed to have purchased from each such existing Revolving Credit Lender, a portion of such Revolving Credit Lender's participations hereunder in outstanding Letters of Credit under such Class and Lenders, at the principal amount thereof, such interests in the Revolving Loans outstanding under such Class on such Increase Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such participations and Revolving Loans under such Class will be held by existing Revolving Credit Lenders under such Class and Revolving Commitment Increase Lenders ratably in accordance with their Revolving Credit

Commitments after giving effect to the addition of such Revolving Commitment Increase to the Revolving Credit Commitments for such Class, (ii) each Revolving Commitment Increase shall be deemed for all purposes a Revolving Credit Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Loan and (iii) each Revolving Commitment Increase Lender shall become a Lender with respect to the Revolving Commitment Increase and all matters relating thereto. The Administrative Agent and the Lenders hereby agree that the minimum borrowing and prepayment requirements in Sections 2.02(a) and 2.12 of this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

SECTION 2.28. ***Defaulting Lenders***. (a) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 7.01 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank hereunder; third, to cash collateralize, in accordance with Section 2.23(j), the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender; fourth, as the applicable Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the applicable Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (B) cash collateralize, in accordance with Section 2.23(j), the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement; sixth, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to a Borrower as a result of any judgment of a court of competent jurisdiction obtained by a Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made or the related

Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Disbursements owed to, all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or L/C Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Disbursements are held by the applicable Revolving Credit Lenders and applicable Extending Revolving Credit Lenders *pro rata* in accordance with their applicable Pro Rata Percentages without giving effect to Section 2.28(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 2.28(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) (A) The Facility Fees otherwise payable to any Defaulting Lender in respect of the unused portion of such Defaulting Lender's Revolving Credit Commitments and Extended Revolving Credit Commitments shall not be payable for so long as, and with respect to the period during which, such Lender is a Defaulting Lender.

(B) Each Defaulting Lender shall be entitled to receive L/C Participation Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Percentage of the stated amount of Letters of Credit for which it has provided cash collateral pursuant to Section 2.23(j).

(C) With respect to any Facility Fee or L/C Participation Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the applicable Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the Issuing Banks, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender and (z) not be required to pay the remaining amount of any such fee.

(iv) All or any part of such Defaulting Lender's participation in L/C Disbursements shall be reallocated among the Non-Defaulting Lenders in accordance with their respective applicable Pro Rata Percentages (calculated without regard to such Defaulting Lender's applicable Revolving Credit Commitment and Extended Revolving Credit Commitment) but only to the extent that (A) the conditions set forth in Section 4.02(b) and (c) are satisfied at the time of such reallocation (and, unless the applicable Borrower shall have otherwise notified the Administrative Agent at such time, the applicable Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time) and (B) such reallocation does not cause any Non-Defaulting Lender's Revolving Credit Exposure with respect to any Class of Commitments to exceed such Non-Defaulting Lender's Commitment under such Class (which, for the avoidance of doubt, shall be calculated after giving effect to any deemed

utilization of such Non-Defaulting Lender's Commitment in connection with any Contract Credit Facility Exposure outstanding at such time). Subject to Section 9.23, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from such Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the applicable Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, cash collateralize, in accordance with Section 2.23(j), the Issuing Banks' Fronting Exposure (after giving effect to any reallocation that may be partially effected under clause (iv) above); *provided*, that, any cash, or portion thereof, as applicable, provided by a Borrower as cash collateral under this clause (v) shall be promptly released and returned to the applicable Borrower upon the cessation of the circumstances giving rise to the obligation of such Borrower to provide such cash collateral under this clause (v).

(b) If each Borrower, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held *pro rata* by the Lenders in accordance with their applicable Revolving Credit Commitments or Extended Revolving Credit Commitments, as applicable (without giving effect to Section 2.28(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the applicable Borrower while that Lender was a Defaulting Lender; *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender having been a Defaulting Lender.

(c) So long as any Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

SECTION 2.29. ***Contract Credit Facilities***. (a) Subject to the terms and conditions set forth herein, at any time and from time to time during the Revolving Credit Availability Period, any Borrower may enter into one or more Contract Credit Facilities with a Revolving Credit Lender; *provided* that (i) the sum of the Aggregate Revolving Credit Exposure and the Aggregate Contract Credit Facilities Exposure at any time shall not exceed the Total Revolving Credit Commitment, (ii) the Aggregate Contract Credit Facilities Exposure at any time shall not exceed $30,000,000 and (iii) the aggregate principal amount of all Contract Credit Facility Commitments at any time shall not exceed $30,000,000. A Revolving Credit Lender's entry into a Contract Credit Facility with a Borrower, the making of Contract Loans pursuant thereto, the issuance, amendment, extension or renewal of any Contract Letters of Credit

pursuant thereto and/or any payments or disbursements made pursuant to any such Contract Letter of Credit shall not reduce availability under such Revolving Credit Lender's Revolving Credit Commitments or Extended Revolving Credit Commitments hereunder, except to the extent expressly provided in Section 2.17.

(b) At least two Business Days prior to its entry into a Contract Credit Facility with a Revolving Credit Lender, the applicable Borrower shall deliver to the Administrative Agent written notice thereof, signed by such Borrower, that specifies the following information: (i) the Revolving Credit Lender counterparty to such Contract Credit Facility, (ii) the aggregate principal amount of such Revolving Credit Lender's Contract Credit Facility Commitment thereunder, (iii) whether such Contract Credit Facility is for the making of Contract Loans and/or the issuance of Contract Letters of Credit and any sublimits applicable to Contract Loans and/or Contract Letters of Credit thereunder, (iv) the currencies in which Contract Loans may be made available and/or Contract Letters of Credit may be issued under such Contract Credit Facility and any sublimits applicable to any such currency (all of which shall be reasonably acceptable to the Administrative Agent), (v) the interest rate applicable to the Contract Loans thereunder, (vi) the letter of credit fees applicable to Contract Letters of Credit thereunder and the interest rate applicable to unreimbursed payments or disbursements under any such Contract Letter of Credit, and (vii) the maturity date of such Contract Credit Facility; *provided* that no Contract Credit Facility shall mature on a date earlier than the Revolving Credit Maturity Date (it being understood and agreed that each Contract Credit Facility shall be subject to Article VII). Not later than 5:00 p.m., New York City time, two Business Days prior to the borrowing of any Contract Loans under any Contract Credit Facility or the issuance, amendment (in the event such amendment increases or decreases the undrawn amount), extension or renewal of any Contract Letter of Credit, the applicable Borrower shall deliver to the Administrative Agent written notice thereof, signed by such Borrower, that specifies: (x) in the case of a Contract Loan, the amount, date and currency of such borrowing and (y) in the case of a Contract Letter of Credit, the amount, expiration date and currency of such Contract Letter of Credit, whether such credit event is an issuance, amendment, extension or renewal and the date thereof. Unless notified by the applicable Borrower prior to 5:00 p.m., New York City time, one Business Day prior to the proposed date of such borrowing or such issuance, amendment, extension or renewal, as the case may be, that the request for such borrowing or such other credit event has been revoked or the requested credit event otherwise was not made by the Lender thereunder, the available Revolving Credit Commitments and Extended Revolving Credit Commitments shall be deemed to have been used in an aggregate amount equal to (1) in the case of a Contract Loan, the amount of such requested borrowing and (2) in the case of an issuance of a Contract Letter of Credit (or any increase to the amount of an existing Contract Letter of Credit), the amount of such Contract Letter of Credit requested to be issued (or, as applicable, any increase to the amount of an existing Contract Letter of Credit). The Administrative Agent shall promptly thereafter notify each Revolving Credit Lender and Extending Revolving Credit Lender of the amount by which its Revolving Credit Commitments or Extended Revolving Credit Commitments, as the case may be, shall be deemed utilized as a result of such Contract Loan or such issuance of, or increase to the amount of, such Contract Letter of Credit.

(c) Upon receipt by the Administrative Agent from the applicable Borrower of notice satisfactory to the Administrative Agent that an outstanding Contract Loan has been repaid in full (which notice shall, among other things, specify the amount so repaid and the

currency in which such Contract Loan was denominated), then the Revolving Credit Commitments and Extended Revolving Credit Commitments deemed utilized in connection with the incurrence of such Contract Loan shall be deemed immediately available (subject in all respects to the other requirements for availability under this Agreement). Upon receipt by the Administrative Agent from the applicable Borrower of notice satisfactory to the Administrative Agent that an outstanding Contract Letter of Credit has been cancelled, terminated or reduced (and no reimbursement obligations of any Borrower remain outstanding with respect thereto) (which notice shall, among other things, specify the amount and currency of such Contract Letter of Credit so cancelled or terminated or, in the case of a partial reduction to the amount of such Contract Letter of Credit, the amount of such reduction, the remaining amount of such Contract Letter of Credit and the currency in which it is denominated), then the Revolving Credit Commitments and Extended Revolving Credit Commitments deemed utilized in connection with such Contract Letter of Credit shall be deemed immediately available (or, in the case of a partial reduction to the amount of such Contract Letter of Credit, shall be deemed immediately available to the extent previously deemed utilized by the amount of such reduction) (subject in all respects to the other requirements for availability under this Agreement). The Administrative Agent shall promptly thereafter notify each Revolving Credit Lender and Extending Revolving Credit Lender of the applicable Class of any such change to the deemed utilization of such Lender's Commitments pursuant to this clause (c); *provided* that the failure of the Administrative Agent to so notify the Revolving Credit Lenders and Extending Revolving Credit Lenders of such availability shall not affect the applicable Borrower's ability to make use thereof in accordance with this Agreement.

SECTION 2.30. ***Refinancing Facilities***.

(a) On one or more occasions after the Funding Date, the Term Loan Borrowers may obtain, from any Lender or any Additional Refinancing Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Term Loans then outstanding under this Agreement (which for purposes of this Section 2.30(a) will be deemed to include any then outstanding Refinancing Term Loans or Incremental Term Loans), in the form of Refinancing Term Loans or Refinancing Term Commitments incurred under this Agreement pursuant to a Refinancing Amendment.

(b) Each issuance of Credit Agreement Refinancing Indebtedness under Section 2.30(a) shall be in an aggregate principal amount that is (x) not less than $50,000,000 and (y) an integral multiple of $5,000,000 in excess thereof.

(c) Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to a Refinancing Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Credit Agreement Refinancing Indebtedness incurred pursuant thereto and (ii) make such other changes to this Agreement and the other Loan Documents consistent with the provisions and intent of clause (iv) of Section 9.08(e) and (iii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and Parent, to effect the provisions of this Section 2.30, and the Required Lenders hereby expressly authorize the Administrative Agent to enter into any such Refinancing Amendment.

(d) This Section 2.30 shall supersede any provisions in Section 2.17 or Section 9.08(b) to the contrary.

SECTION 2.31. ***Extension of Term Loans; Extension of Revolving Credit Commitments***.

(a) *Extension of Term Loans*. Parent may at any time and from time to time request that all or a portion of the Term Loans of a given Class (each, an "***Existing Term Loan Tranche***") be amended to extend the scheduled maturity date(s) with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so amended, "***Extended Term Loans***") and to provide for other terms consistent with this Section 2.31. In order to establish any Extended Term Loans, Parent shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Tranche) (each, a "***Term Loan Extension Request***") setting forth the proposed terms of the Extended Term Loans to be established, which shall (x) be identical as offered to each Lender under such Existing Term Loan Tranche (including as to the proposed interest rates and fees payable) and offered pro rata to each Lender under such Existing Term Loan Tranche and (y) be identical to the Term Loans under the Existing Term Loan Tranche from which such Extended Term Loans are to be amended, except that: (i) all or any of the scheduled amortization payments of principal of the Extended Term Loans may be delayed to later dates than the scheduled amortization payments of principal of the Term Loans of such Existing Term Loan Tranche, to the extent provided in the applicable Extension Amendment; (ii) the Yield with respect to the Extended Term Loans (whether in the form of interest rate margin, upfront fees, original issue discount or otherwise) may be different than the Yield for the Term Loans of such Existing Term Loan Tranche, in each case, to the extent provided in the applicable Extension Amendment and subject to Section 2.12(d); (iii) the Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Term Loans); and (iv) Extended Term Loans may have call protection as may be agreed by Parent and the Lenders thereof; provided that no Extended Term Loans may be optionally prepaid prior to the date on which all Term Loans with an earlier final stated maturity (including Term Loans under the Existing Term Loan Tranche from which they were amended) are repaid in full, unless such optional prepayment is accompanied by at least a pro rata optional prepayment of such other Term Loans; provided, however, that (A) no Default or Event of Default shall have occurred and be continuing at the time a Term Loan Extension Request is delivered to Lenders; (B) such Extended Term Loans shall be secured by the Collateral, and Guaranteed by the Guarantors, on a pari passu basis with the Obligations pursuant to the Security Documents and shall not be secured by any property or assets other than Collateral or Guaranteed by any person other than a Guarantor; (C) in no event shall the final maturity date of any Extended Term Loans of a given Term Loan Extension Series at the time of establishment thereof be earlier than the then Latest Maturity Date of any then-existing Term Loans hereunder; (D) the weighted average life to maturity of any Extended Term Loans of a given Term Loan Extension Series at the time of establishment thereof shall be no shorter (other than by virtue of amortization or prepayment of such Indebtedness prior to the time of incurrence of such Extended Term Loans) than the remaining weighted average life to maturity of any Existing Term Loan Tranche; (E) all documentation in respect of such Extension Amendment shall be consistent with the foregoing; and (F) any Extended Term Loans may participate on a

pro rata basis or less than a pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Term Loan Extension Request. Any Extended Term Loans amended pursuant to any Term Loan Extension Request shall be designated a series (each, a "***Term Loan Extension Series***") of Extended Term Loans for all purposes of this Agreement; provided that any Extended Term Loans amended from an Existing Term Loan Tranche may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Term Loan Extension Series with respect to such Existing Term Loan Tranche. Each Term Loan Extension Series of Extended Term Loans incurred under this Section 2.31 shall be in an aggregate principal amount that is not less than $20,000,000.

(b) *Extension of Revolving Credit Commitments*. Parent may at any time and from time to time request that all or a portion of the Revolving Credit Commitments or Extended Revolving Credit Commitments of a given Class (each, an "***Existing Revolver Tranche***") be amended to extend the maturity date with respect to all or a portion of any principal amount of such Revolving Credit Commitments or Extended Revolving Credit Commitments (any such Revolving Credit Commitments or Extended Revolving Credit Commitments which have been so amended, "***Extended Revolving Credit Commitments***") and to provide for other terms consistent with this Section 2.31. In order to establish any Extended Revolving Credit Commitments, Parent shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Revolver Tranche) (each, a "***Revolver Extension Request***") setting forth the proposed terms of the Extended Revolving Credit Commitments to be established, which shall (x) be identical as offered to each Lender under such Existing Revolver Tranche (including as to the proposed interest rates and fees payable) and offered pro rata to each Lender under such Existing Revolver Tranche and (y) be identical to the Commitments under the Existing Revolver Tranche from which such Extended Revolving Credit Commitments are to be amended, except that: (i) the maturity date of the Extended Revolving Credit Commitments may be delayed to a later date than the maturity date of the Commitments of such Existing Revolver Tranche, to the extent provided in the applicable Extension Amendment; (ii) the Yield with respect to extensions of credit under the Extended Revolving Credit Commitments (whether in the form of interest rate margin, upfront fees, original issue discount or otherwise) may be different than the Yield for extensions of credit under the Commitments of such Existing Revolver Tranche, in each case, to the extent provided in the applicable Extension Amendment; (iii) the Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Revolving Credit Commitments); and (iv) all borrowings under the applicable Commitments (i.e., the Existing Revolver Tranche and the Extended Revolving Credit Commitments of the applicable Revolver Extension Series) and repayments thereunder shall be made on a pro rata basis (except for (I) payments of interest and fees at different rates on Extended Revolving Credit Commitments (and related outstandings) and (II) repayments required upon the maturity date of the non-extending Commitments of the Existing Revolver Tranche); provided, further, that (A) no Default or Event of Default shall have occurred and be continuing at the time a Revolver Extension Request is delivered to Lenders; (B) such Extended Revolving Credit Commitments shall not be permitted if, after giving effect thereto, there shall be more than three classes of revolving Credit Commitments under this Agreement; (C) such Extended Revolving Credit Commitments shall be secured by the Collateral, and Guaranteed by

the Guarantors, on a pari passu basis with the Obligations pursuant to the Security Documents and shall not be secured by any property or assets other than Collateral or Guaranteed by any Person other than a Loan Party; (D) in no event shall the final maturity date of any Extended Revolving Credit Commitments of a given Revolver Extension Series at the time of establishment thereof be earlier than the then Latest Maturity Date of any other Revolving Credit Commitments hereunder; and (E) all documentation in respect of such Extension Amendment shall be consistent with the foregoing. Any Extended Revolving Credit Commitments amended pursuant to any Revolver Extension Request shall be designated a series (each, a "***Revolver Extension Series***") of Extended Revolving Credit Commitments for all purposes of this Agreement; provided that any Extended Revolving Credit Commitments amended from an Existing Revolver Tranche may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Revolver Extension Series with respect to such Existing Revolver Tranche. Each Revolver Extension Series of Extended Revolving Credit Commitments incurred under this Section 2.31 shall be in an aggregate principal amount that is not less than $10,000,000.

(c) *Extension Request*. Parent shall provide the applicable Extension Request at least ten (10) Business Days prior to the date on which Lenders under the Existing Term Loan Tranche or Existing Revolver Tranche, as applicable, are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.31. No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Tranche amended into Extended Term Loans or any of its Revolving Credit Commitments or then-existing Extended Revolving Credit Commitments amended into Extended Revolving Credit Commitments, as applicable, pursuant to any Extension Request. Any Lender holding a Loan under an Existing Term Loan Tranche (each, an "***Extending Term Lender***") wishing to have all or a portion of its Term Loans under the Existing Term Loan Tranche subject to such Extension Request amended into Extended Term Loans and any Revolving Credit Lender or then-existing Extending Revolving Credit Lender (each, an "***Extending Revolving Credit Lender***") wishing to have all or a portion of its Commitments under the Existing Revolver Tranche subject to such Extension Request amended into Extended Revolving Credit Commitments, as applicable, shall notify the Administrative Agent (each, an "***Extension Election***") on or prior to the date specified in such Extension Request (which shall in any event be no less than three (3) Business Days prior to the effectiveness of the applicable Extension Amendment (or such other time agreed to by the Administrative Agent in its sole discretion)) of the amount of its Term Loans under the Existing Term Loan Tranche or Commitments under the Existing Revolver Tranche, as applicable, which it has elected to request be amended into Extended Term Loans or Extended Revolving Credit Commitments, as applicable (subject to any minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate principal amount of Term Loans under the Existing Term Loan Tranche or Commitments under the Existing Revolver Tranche, as applicable, in respect of which applicable Term Lenders or Revolving Credit Lenders or Extending Revolving Credit Lenders, as the case may be, shall have accepted the relevant Extension Request exceeds the amount of Extended Term Loans or Extended Revolving Credit Commitments, as applicable, requested to be extended pursuant to the Extension Request, Term Loans or Commitments, as applicable, subject to Extension Elections shall be amended to Extended Term Loans or Extended Revolving Credit Commitments, as applicable, on a pro rata basis (subject to rounding by the Administrative

Agent, which shall be conclusive) based on the aggregate principal amount of such Term Loans or Commitments, as applicable, included in each such Extension Election.

(d) *Extension Amendment*. Extended Term Loans and Extended Revolving Credit Commitments shall be established pursuant to an amendment (each, a "***Extension Amendment***") to this Agreement among Parent, the Administrative Agent and each Extending Term Lender or Extending Revolving Credit Lender, as applicable, providing an Extended Term Loan or Extended Revolving Credit Commitment, as applicable, thereunder, which shall be consistent with the provisions set forth in Sections 2.31(a) or (b) above, respectively (but which shall not require the consent of any other Lender). The effectiveness of any Extension Amendment shall be subject to the satisfaction on the date thereof of each of the conditions set forth in Section 4.02 (all references in Section 4.02 to a Credit Event shall be deemed to be references to any Extension on the applicable date of such Extension) and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) legal opinions, board resolutions and officers' certificates consistent with those delivered on the Closing Date other than changes to such legal opinion resulting from changes in law, different facts or a change to counsel's form of opinion reasonably satisfactory to the Administrative Agent, (ii) reaffirmation agreements and/or such amendments to the Security Documents as may be reasonably requested by the Administrative Agent in order to ensure that the Extended Term Loans or Extended Revolving Credit Commitments, as applicable, are provided with the benefit of the applicable Loan Documents and (iii) such other documents reasonably requested by the Administrative Agent to evidence such Extension. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Extension Amendment. Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (w) reflect the existence and terms of the Extended Term Loans or Extended Revolving Credit Commitments, as applicable, incurred pursuant thereto, (x) modify the scheduled repayments set forth in Section 2.11 with respect to any Existing Term Loan Tranche subject to an Extension Election to reflect a reduction in the principal amount of the Term Loans thereunder in an amount equal to the aggregate principal amount of the Extended Term Loans amended pursuant to the applicable Extension (with such amount to be applied ratably to reduce scheduled repayments of such Term Loans required pursuant to Section 2.11), (y) modify the prepayments set forth in Sections 2.12 and 2.13 to reflect the existence of the Extended Term Loans and the application of prepayments with respect thereto, and (z) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and Parent, to effect the provisions of this Section 2.31, and the Required Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment.

(e) *Extension not a Prepayment*. No conversion of Loans pursuant to any Extension in accordance with this Section 2.31 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

SECTION 2.32. ***Discounted Prepayment Offers***.

(a) Notwithstanding anything to the contrary contained in Section 2.12 or any other provision of this Agreement, subject to the terms and conditions set forth or referred to

below, each Term Loan Borrower may from time to time, at its discretion, offer to prepay any Class of Term Loans at less than par value thereof (each, a "***Discounted Prepayment Offer***"), each such Discounted Prepayment Offer to be managed exclusively by the Auction Manager, so long as the following conditions are satisfied:

(i) each Discounted Prepayment Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.32 and such other procedures that the Administrative Agent may establish in consultation with the Term Loan Borrowers (which shall be consistent with this Section 2.32);

(ii) no Default or Event of Default shall have occurred and be continuing on the date of the delivery of any Auction Notice and at the time of prepayment of any Term Loans in connection with any Discounted Prepayment Offer;

(iii) the principal amount (calculated on the face amount thereof) of all Term Loans that such Borrower shall offer to prepay in any such Discounted Prepayment Offer shall be no less than $10,000,000 or an integral multiple of $1,000,000 in excess of thereof (unless another amount is agreed to by the Administrative Agent);

(iv) all Term Loans so prepaid by such Borrower shall automatically be canceled and retired by such Borrower on the applicable settlement date (and, for the avoidance of doubt, may not be reborrowed);

(v) no more than one Discounted Prepayment Offer may be ongoing at any one time and no more than four Discounted Prepayment Offers may be made in any period of two (2) consecutive fiscal half-year periods of the Borrowers;

(vi) the applicable Borrower represents and warrants that, at the commencement and settlement of the Discounted Prepayment Offer, it does not have any material non-public information that either (i) has not been disclosed in writing to the Lenders (other than any Public Lender) or (ii) if not so disclosed, could reasonably be expected to have a material effect upon, or otherwise be material to, (x) any Lender's decision to participate in such Discounted Prepayment Offer or (y) the market price of the Term Loans, in each case except to the extent that the Lenders participating in such Discounted Prepayment Offer have entered into a customary "big boy" letter with the applicable Borrower;

(vii) after giving effect to any prepayment of Term Loans pursuant to this Section 2.32, Liquidity shall not be less than $30,000,000; and

(viii) the Borrowers would be in compliance with the covenant set forth in Section 6.10(a) (whether or not such covenant was required to be tested in any period) as of the last day of the most recently ended Test Period on a pro forma basis, after giving effect to each prepayment of the Term Loans made in accordance with this Section 2.32 as if such prepayment occurred on the first day of such period;

(ix) at the time of the consummation of each purchase of Term Loans through a Discounted Prepayment Offer, Parent shall have delivered to the Auction Manager and

the Administrative Agent an officer's certificate of a Responsible Officer certifying as to compliance with preceding clauses (ii), (vi), (vii) and (viii);

(x) no such Discounted Prepayment Offer may be made to any Class of Extended Term Loans while any Indebtedness under any Existing Term Loan Tranche which was converted to such Class of Extended Term Loans remains outstanding; and

(xi) no proceeds from Revolving Loans or Contract Loans shall be used to fund any prepayment of Term Loans pursuant to this Section 2.32.

(b) Any Term Loan Borrower must terminate any Discounted Prepayment Offer if it fails to satisfy one or more of the conditions set forth above which are required to be satisfied at the time at which the Term Loans would have been prepaid pursuant to such Discounted Prepayment Offer. If any Term Loan Borrower commences any Discounted Prepayment Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Discounted Prepayment Offer have in fact been satisfied), and if at such time of commencement such Borrower reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Discounted Prepayment Offer shall be satisfied, then such Borrower shall have no liability to any Term Lender or any other Person for any termination of such Discounted Prepayment Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be satisfied at the time which otherwise would have been the time of consummation of such Discounted Prepayment Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all prepayments of Term Loans made by any Term Loan Borrower pursuant to this Section 2.32, such Borrower shall pay on the settlement date of each such prepayment all accrued and unpaid interest (except to the extent otherwise set forth in the relevant procedures established pursuant to Section 2.32(a)(i)), if any, on the prepaid Term Loans up to the settlement date of such prepayment.

(c) All Term Loan prepayments conducted pursuant to Discounted Prepayment Offers shall not constitute voluntary or mandatory prepayments for purposes of Sections 2.12 and 2.13 hereof, but the face amount of the Term Loans prepaid pursuant to this Section 2.32 shall be applied pro rata against the remaining scheduled installments of principal due in respect of the Term Loans.

(d) Immediately upon a prepayment of the Term Loans pursuant to this Section 2.32 (x) such Term Loans and all rights and obligations as a Lender related thereto shall for all purposes (including under this Agreement, the other Loan Documents and otherwise) be deemed to be irrevocably prepaid, terminated, extinguished, canceled and of no further force and effect and the Borrowers shall neither obtain nor have any rights as a Lender hereunder or under the other Loan Documents by virtue of such payment and (y) the applicable Term Loan Borrower shall take all actions necessary to cause such Term Loans to be extinguished or otherwise canceled in its books and records in accordance with GAAP. Any gains or losses by Parent upon any such purchase and cancelation of Term Loans shall not be taken into account in the calculation of Excess Cash Flow, Consolidated Net Income and Consolidated EBITDA.

(e) The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of Article VIII and Section 9.05 to the same extent as if each reference therein to the "Administrative Agent" were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Discounted Prepayment Offer.

(f) No Lender shall be obligated or required to participate in any Discounted Prepayment Offer.

(g) In connection with any Term Loans prepaid and canceled pursuant to this Section 2.32, the Administrative Agent is authorized to make appropriate entries in the Register to reflect any such cancelation.

ARTICLE III

Representations and Warranties

Each Borrower represents and warrants to each Agent, the Collateral Agent, each of the Issuing Banks and each of the Lenders that:

SECTION 3.01. ***Organization; Powers***. Parent and each of the Subsidiaries (including each Borrower) (a) is a corporation, partnership, limited liability company or other entity, duly incorporated or formed, as the case may be, validly existing and in good standing (other than with respect to any Borrower or other Subsidiary organized in a jurisdiction that does not have a concept of good standing) under the laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure to so qualify could not reasonably be expected to result in a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of each Borrower, to borrow hereunder. Each Borrower (other than Parent) is a wholly owned Restricted Subsidiary.

SECTION 3.02. ***Authorization***. Each of the Transactions will, at the time it occurs, (a) have been duly authorized by all requisite corporate, limited liability company limited partnership, other organizational action (including, if required, stockholders', members' or partners' action), as applicable, of each Loan Party and (b) not (i) violate (A) any provision of law, statute, rule or regulation in any material respect, (B) the Organization Documents of any Loan Party or Restricted Subsidiary, (C) any order of any Governmental Authority applicable to any Loan Party or Restricted Subsidiary or (D) any provision of any indenture, agreement or other instrument to which Parent or any Restricted Subsidiary is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right

to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture, agreement or other instrument, except, in the case of each of clause (i)(D) and (ii), where such violation, conflict, breach or default could not reasonably be expected to result in a Material Adverse Effect or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by Parent or any Subsidiary Guarantor (other than any Lien created hereunder or under the Security Documents).

SECTION 3.03. ***Enforceability***. This Agreement has been duly executed and delivered by each Loan Party party hereto and constitutes, and each other Loan Document has either been duly executed and delivered by each Loan Party thereto and constitutes (or, when executed and delivered by each Loan Party thereto, will have been duly executed and delivered and constitute) a legal, valid and binding obligation of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, judicial management, insolvency, examinership, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.04. ***Governmental Approvals***. No material action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the Transactions, except for (a) the filing of Uniform Commercial Code financing statements or PPSA financing statements, as applicable, (b) other approvals and filings in respect of any Collateral made or obtained in accordance with the Agreed Security Principles and that are in full force and effect (except to the extent not required to have been made or obtained or be in full force and effect at such time pursuant to the express terms of the Agreed Security Principles), (c) a notification to the Defense Security Service ("***DSS***") of the U.S. Department of Defense of the security being granted in respect of Equity Interests in and assets of UltiSat Inc. and the submission of a SF 328 Certificate Pertaining to Foreign Interests to the DSS in respect of this Agreement and the security being granted in respect of Equity Interests in and assets of UltiSat Inc. (the submission of such SF 328 Certificate to occur as promptly as reasonably practicable after the Closing Date), and (d) such as have been made or obtained and are in full force and effect.

SECTION 3.05. ***Financial Statements***. Parent has heretofore furnished to the Lenders its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows as of and for each of the fiscal years ended December 31, 2015, December 31, 2016 and December 31, 2017, audited by and accompanied by the opinion of PricewaterhouseCoopers LLP, independent public accountants. Such financial statements present fairly in all material respects the financial condition and results of operations and cash flows of Parent and its consolidated Subsidiaries as of such dates and for such periods. Such statements of financial position and the notes thereto disclose all material liabilities, direct or contingent, of Parent and its consolidated Subsidiaries as of the dates thereof required to be reflected in accordance with GAAP. Such financial statements were prepared in accordance with GAAP applied on a consistent basis except as otherwise noted therein.

SECTION 3.06. ***No Material Adverse Change***. Since December 31, 2017, no event, change, circumstance or condition has occurred that, individually or in the aggregate, has

had, or could reasonably be expected to have, a material adverse effect on the business, assets, financial condition or operating results of Parent and its Restricted Subsidiaries, taken as a whole.

SECTION 3.07. ***Title to Properties; Possession Under Leases***. (a) Each of Parent and its Restricted Subsidiaries has good and marketable title to, or valid leasehold interests in, or valid license to use, all its material properties and assets (including all Mortgaged Property), except for defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes. All such material properties and assets are free and clear of Liens, other than Liens expressly permitted by Section 6.02.

(b) Each of Parent and its Restricted Subsidiaries has complied in all material respects with all obligations under all material leases and licenses to which it is a party and all such leases are in full force and effect. Each of Parent and its Restricted Subsidiaries enjoys peaceful and undisturbed possession under all such material leases and licenses.

(c) No Borrower has received any written notice of, nor has any knowledge of, any pending or contemplated condemnation proceeding affecting the Mortgaged Properties or any sale or disposition thereof in lieu of condemnation.

(d) Neither Parent nor any of its Restricted Subsidiaries is obligated under any right of first refusal, option or other contractual right to sell, assign or otherwise dispose of any Mortgaged Property or any interest therein, in any such case, except to the extent disclosed in writing to the Administrative Agent and permitted by Article VI.

SECTION 3.08. ***Subsidiaries***. Schedule 3.08 sets forth as of the Closing Date a list of all Subsidiaries and the percentage ownership interest of the applicable owner therein. The Equity Interests or other ownership interests so indicated on Schedule 3.08 are fully paid and non-assessable and are owned by Parent, directly or indirectly through its Subsidiaries (other than with respect to Equity Interests or other ownership interests that have been sold or otherwise disposed of in accordance with Section 6.05), free and clear of all Liens, except for (i) as of the Closing Date, Liens created under the Security Documents and (ii) after the Closing Date, Liens permitted by Section 6.02.

SECTION 3.09. ***Litigation; Compliance with Laws***. (a) Except as set forth on Schedule 3.09, there are not any actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of any Borrower, threatened against or affecting Parent or any of its Subsidiaries or any business, property or rights of any such person (i) that involve any Loan Document or the Transactions or (ii) as to which there is a reasonable probability of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. Since the Closing Date, there has been no change in the status of the matters disclosed on Schedule 3.09 that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

(b) None of Parent or any of its Subsidiaries or any of their respective material properties or assets is in violation of, nor will the continued operation of their material properties and assets as currently conducted violate, any law, rule or regulation (including the USA PATRIOT Act, any zoning, building, Environmental Law, ordinance, code or approval or any building permits) or any restrictions of record or agreements affecting the Mortgaged Property, or is in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority, where such violation or default could reasonably be expected to result in a Material Adverse Effect.

(c) Certificates of occupancy and required permits are in effect for each Mortgaged Property as currently constructed, except where the failure to have the same could not reasonably be expected to result in a Material Adverse Effect.

(d) No exchange control law or regulation materially restricts any Borrower from complying with its obligations in respect of any Alternative Currency Loan or Letter of Credit or any other Loan Party with respect to its obligations under any Loan Document.

SECTION 3.10. ***Agreements***. (a) Neither Parent nor any of its Subsidiaries is a party to any agreement or instrument or subject to any corporate restriction that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Neither Parent nor any of its Subsidiaries is in default in any manner under any provision of any indenture or other agreement or instrument evidencing Indebtedness, or any other material agreement or instrument to which it is a party or by which it or any of its properties or assets are or may be bound, where such default could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. ***Federal Reserve Regulations***. (a) Neither Parent nor any of its Subsidiaries is engaged, or will engage, principally, or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying Margin Stock. None of the Borrowers or any of the Subsidiaries own Margin Stock as of the Closing Date.

(b) No part of the proceeds of any Loan or any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation T, U or X.

SECTION 3.12. ***Investment Company Act***. Neither Parent nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.13. ***Use of Proceeds***. The proceeds of (a) the Term Loans, together with cash on hand at the Borrowers, will be used on the Funding Date solely to consummate the Transactions and for general corporate purposes, (b) the Revolving Loans will be used by the applicable Borrower solely for working capital needs and other general corporate purposes (including the making of dividends and other distributions in respect of its Equity Interests, the repurchase of Equity Interests in Parent, the repayment or other retirement of

Indebtedness and the financing of Permitted Acquisitions, in each case, to the extent permitted hereunder) and (c) any Incremental Term Loans will be used only for the purposes specified in the applicable Incremental Assumption Agreement. The Borrowers will request the issuance of Letters of Credit solely to (i) support payment or other obligations incurred in the ordinary course of business by the Loan Parties and, subject to a Borrower being a co-applicant and any other applicable requirements set forth in Section 2.23, the Restricted Subsidiaries of the Parent that are not Borrowers, (ii) on the Funding Date in order to backstop or replace existing letters of credit, bank guarantee and similar instruments outstanding on the Funding Date under the Existing Syndicated Facility Agreement, and (iii) to backstop a letter of credit, bank guarantee or other similar instrument issued by another financial institution (or a branch, representative office or other Affiliate of an Issuing Bank) on behalf of a Loan Party or any of its Restricted Subsidiaries; provided that such letter of credit, bank guarantee or other similar instrument has been issued to support payment or other obligations incurred in the ordinary course of business of the relevant Loan Party or its Restricted Subsidiary.

SECTION 3.14. ***Tax Returns***. Each of Parent and its Subsidiaries has filed or caused to be filed all federal and material state, local and non-U.S. Tax returns required to have been filed by it and has paid or caused to be paid all Taxes shown as due on such Tax returns and all assessments received by it (in each case giving effect to applicable extensions), except Taxes that are being contested in good faith by appropriate proceedings diligently conducted and for which Parent or such Subsidiary, as applicable, shall have set aside on its books adequate reserves in accordance with GAAP. There is no tax assessment proposed in writing against the Borrowers and the Subsidiaries that would, if made, have a Material Adverse Effect. Neither any Borrower nor any Subsidiary is party to any tax sharing agreement or tax funding agreement except as otherwise reviewed and approved by the Administrative Agent in its reasonable discretion.

SECTION 3.15. ***No Material Misstatements***. The Confidential Information Memorandum and any other information, report, financial statement, exhibit or schedule (other than any forecast, projection or information of a general economic or industry specific nature) furnished by or on behalf of any Loan Party in writing to any Agent or any Lender in connection with the negotiation of any Loan Document or included therein or delivered pursuant thereto (including and together with all information furnished by or on behalf of any Loan Party to any Agent or any Lender in writing after the Closing Date in connection with any Loan Document) is or will be, when furnished, complete and correct in all material respects when taken as a whole and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not materially misleading, in the light of the circumstances under which they were, are or will be made (after giving effect to all supplements and updates thereto); *provided* that to the extent any such information, report, financial statement, exhibit or schedule was based upon or constitutes a forecast or projection, each Borrower represents only that (i) it acted in good faith and upon assumptions believed by management of the Borrowers to be reasonable at the time such assumption was made and at the time such information, report, financial statement, exhibit or schedule was so furnished and exercised due care in the preparation of such information, report, financial statement, exhibit or schedule and (ii) such forecast or projection was based upon accounting principles consistent with the historical audited financial statements of Parent and its consolidated Subsidiaries (it being recognized that actual results during the period or periods

covered by such Projections may differ from the projected results and that such differences may be material).

SECTION 3.16. ***Employee Benefit Plans***. (a) Each of the Loan Parties and their respective ERISA Affiliates are in compliance in all material respects with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2017, exceed the fair market value of the assets of each Plan, and the present value of all benefit liabilities of all underfunded Plans (as determined on a plan termination basis based on assumptions specified for this purpose under PBGC regulations) did not, as of December 31, 2017, exceed the fair market value of the assets of all such underfunded Plans, in each case, by an amount that could reasonably be expected to result in a Material Adverse Effect.

(b) Each Non-U.S. Pension Plan is in compliance in all material respects with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except for instances of non-compliance which could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, none of the Loan Parties, their respective Subsidiaries or any of their respective directors, officers, employees or agents have engaged in a transaction which would subject any Loan Party or any of its Subsidiaries, directly or indirectly, to a tax, assessment or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Non-U.S. Pension Plan, reserves have been established in the financial statements furnished to Lenders in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Non-U.S. Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Non-U.S. Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Non-U.S. Pension Plans (based on those assumptions used to fund each such Non-U.S. Pension Plan) did not, as of December 31, 2017, exceed the fair market value of the assets of all such Non-U.S. Pension Plans, by an amount that could reasonably be expected to result in a Material Adverse Effect. There are no actions, suits or claims (other than routine claims for benefits) pending or threatened against any Loan Party or any of its Subsidiaries with respect to any Non-U.S. Pension Plan which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 3.17. ***Environmental Matters***. Except as set forth in Schedule 3.17:

(a) the properties owned, leased or operated by each of Parent and its Subsidiaries (the "***Properties***") do not contain any Hazardous Materials in amounts or concentrations which (i) constitute, or constituted a violation of, (ii) require Remedial Action under, or (iii) could give rise to liability under, Environmental Laws, which violations, Remedial

Actions and liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(b) the Properties and all operations of each of Parent and its Subsidiaries are in compliance in all material respects, and in the last five years have been in compliance, with all Environmental Laws, and all necessary Environmental Permits have been obtained and are in effect, except to the extent that such non-compliance or failure to obtain any necessary permits, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect;

(c) there have been no Releases or threatened Releases at, from, under or proximate to the Properties or otherwise in connection with the current or former operations of Parent or its Subsidiaries, which Releases or threatened Releases, in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(d) neither Parent nor any of its Subsidiaries has received any notice of an Environmental Claim in connection with the Properties or the current or former operations of Parent or such Subsidiaries or with regard to any person whose liabilities for environmental matters Parent or such Subsidiaries has retained or assumed, in whole or in part, contractually, by operation of law or otherwise, which, in the aggregate, could reasonably be expected to result in a Material Adverse Effect, nor do Parent or its Subsidiaries have reason to believe that any such notice will be received or is being threatened; and

(e) Hazardous Materials have not been transported from the Properties, nor have Hazardous Materials been generated, treated, stored or disposed of at, on or under any of the Properties in a manner that could give rise to liability under any Environmental Law, nor have Parent or its Subsidiaries retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of Hazardous Materials, which liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.18. ***Insurance***. Schedule 3.18 sets forth a true, complete and correct description of all material insurance maintained by Parent or any of its Restricted Subsidiaries as of the Closing Date. As of the Closing Date, such insurance is in full force and effect and all premiums that were due and payable have been duly paid. Each of Parent and its Restricted Subsidiaries has insurance in such amounts and covering such risks and liabilities as are in accordance with normal industry practice.

SECTION 3.19. ***Security Documents***. Each Security Document, upon execution and delivery thereof by the parties thereto, will create in favor of the Collateral Agent or the Security Trustee, as the case may be, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral (as defined in such Security Document) and the proceeds thereof.

SECTION 3.20. ***Location of Material Owned Real Property***. As of the Closing Date, none of the Loan Parties own any Material Owned Real Property.

SECTION 3.21. ***Labor Matters***. Except as set forth on Schedule 3.21, as of the Closing Date, there are no strikes, lockouts or slowdowns against Parent or any of its Restricted

Subsidiaries pending or, to the knowledge of any Borrower, threatened. Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the hours worked by and payments made to employees of Parent and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or non-U.S. law dealing with such matters and (ii) all payments due from Parent or any of its Restricted Subsidiaries, or for which any claim may be made against Parent or any such Restricted Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of Parent or such Restricted Subsidiary. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Parent or any of its Restricted Subsidiaries is bound.

SECTION 3.22. ***Solvency***.

(a) Immediately after the consummation of the Transactions and immediately following the making of each Loan and the occurrence of each other Credit Event and after giving effect to the application of the proceeds of each Loan and each Letter of Credit, (i) each Borrower (individually) is Solvent, and (ii) Parent and its Subsidiaries (taken as a whole) are Solvent.

(b) No transfer of property is being made by any Guarantor and no obligation is being incurred by any Guarantor in connection with the Transactions or any transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay or defraud either present or future creditors of such Guarantor.

SECTION 3.23. ***Sanctions, Anti-Terrorism and Anti-Bribery Laws***.

(a) None of the Borrowers, any of their respective Subsidiaries or any of their respective directors or officers nor, to the knowledge of the Borrowers or any of their respective Subsidiaries, any agent, employee or Affiliate of any of the foregoing is a Sanctioned Person. Each of the Borrowers and their respective Subsidiaries, and each of their respective directors and officers and, to the knowledge of the Borrowers and their respective Subsidiaries, their respective employees, agents, and Affiliates, are in compliance with applicable Sanctions. The Borrowers will not directly or, to their knowledge, indirectly, use the proceeds of the Loans or any Contract Loans or otherwise make available such proceeds to any person, or request the issuance of any Letter of Credit or Contract Letter of Credit, for the purpose of financing the activities of any person, in any country, region or territory, that is subject to any country-, region- or territory-wide Sanctions or for any other purpose or in any other manner that will result in a violation of Sanctions by any person (including any person participating in the Loans, whether as underwriter, advisor, investor or otherwise).

(b) Parent, its Subsidiaries and their respective directors, officers and employees and, to the knowledge of the Borrowers or any of their respective Subsidiaries, the agents of Parent and its Subsidiaries, are in compliance with the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "***FCPA***") and any other applicable anti-corruption or anti-bribery law, rules and regulations of any jurisdiction (collectively, "***Anti-Bribery Laws***") in all material respects. The Borrowers will not directly or,

to their knowledge, indirectly, use the proceeds of the Loans or any Contract Loans or otherwise make available such proceeds to any person, or request the issuance of any Letter of Credit or Contract Letter of Credit, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or any other person, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any applicable Anti-Bribery Laws.

(c) Each of the Borrowers and their respective Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrowers and their respective Subsidiaries, and each of their respective directors, officers, agents, employees and Affiliates, with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 3.24. ***Senior Indebtedness***. To the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to intercreditor arrangements satisfactory to the Administrative Agent, Incremental Equivalent Indebtedness and Credit Agreement Refinancing Indebtedness) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto. To the extent any Credit Agreement Refinancing Indebtedness or Junior Incremental Equivalent Indebtedness secured by Liens junior to the Liens securing the Obligations is outstanding, the Liens securing the Obligations benefit from the lien subordination and other related provisions running to the benefit of the Secured Parties under the relevant Intercreditor Agreement.

SECTION 3.25. ***Australian Tax Consolidation***. Each Loan Party is either not a member of a Tax Consolidated Group or a member of a Tax Consolidated Group for which the Head Company is Parent and all members of the Tax Consolidated Group are at all times parties to:

(a) A Tax Sharing Agreement, which is in full force and effect and at all times covers all Group Liabilities of such Tax Consolidated Group from the date that the Tax Sharing Agreement is signed.

(b) A Tax Funding Agreement which includes:

(i) reasonably appropriate arrangements for the funding of tax payments by the Head Company having regard to the position of each member of such Tax Consolidated Group;

(ii) an undertaking from the Head Company of such Tax Consolidated Group to compensate each other member adequately for loss of tax attributes (including tax losses and tax offsets) as a result of being a member of such Tax Consolidated Group; and

(iii) reasonably appropriate arrangements to ensure payments by members of such Tax Consolidated Group to the Head Company under the Tax Funding Agreement are used to discharge relevant Group Liabilities of such Tax Consolidated Group.

SECTION 3.26. ***Trustee; Benefit; Financial Assistance; Etc.***

(a) No Loan Party is the trustee of any trust or settlement, other than disclosed to the Administrative Agent prior to the date on which it became a Loan Party.

(b) Each Loan Party will receive reasonable commercial benefits from entering into the Loan Documents to which it is a party, in each case to the extent relevant in the jurisdiction in which such Loan Party is domiciled.

(c) No Loan Party has contravened or will contravene Chapter 2E or 2J of the Australian Corporations Act (or any equivalent legislation under the law of any jurisdiction other than the Commonwealth of Australia) by entering into any Loan Document or participating in any transaction in connection with any Loan Document.

(d) No Loan Party is subject to regulation under any other federal, provincial or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

ARTICLE IV

Conditions

SECTION 4.01. ***Initial Credit Event***. The obligation of each Lender to make Loans hereunder, and the obligation of each Issuing Bank to issue, amend, extend or renew any Letter of Credit hereunder on the Funding Date is subject to the satisfaction of the following conditions:

(a) The Administrative Agent shall have received duly executed counterparts of (i) this Agreement that, when taken together, bear the signatures of each Borrower and each Lender, (ii) the Guarantee Agreement that, when taken together, bear the signatures of Parent and each of its Subsidiaries identified on Schedule 1.01(c), and (iii) the Fee Letter that, when taken together, bear the signatures of each Borrower (the date such counterparts are received by the Administrative Agent, the "***Closing Date***").

(b) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by a Responsible Officer of Parent, in form and substance satisfactory to the Administrative Agent, (i) confirming that the conditions set forth in clauses (b) and (c) of Section 4.02 shall be satisfied, (ii) setting forth reasonably detailed calculations demonstrating compliance with the Guarantor Coverage Test on a pro forma basis as of the Closing Date, and (iii) certifying as to such other matters as may be reasonably requested by the Administrative Agent.

(c) Parent shall have paid, when and as due (or, in the case of amounts due on the Funding Date, shall substantially contemporaneously with the making of the Loans to be made on the Funding Date, pay), all fees that under the terms hereof or of the Engagement Letter or the Fee Letter are due and payable on or prior to such date, as well as all out-of-pocket expenses (including the fees, disbursements and other charges of counsel to the Administrative Agent) in connection with the Transactions required to be reimbursed or paid by the Borrowers

under the terms hereof or of the Engagement Letter or the Fee Letter (to the extent that reasonably detailed statements therefor have been delivered to Parent at least one (1) Business Day in advance of the Funding Date).

(d) The Security Documents set forth in Part I of Schedule 4.01(d) shall have been duly executed by each Loan Party that is to be a party thereto and shall be in full force and effect, and all filings and recordations with respect thereto required pursuant to the Agreed Security Principles shall have been made and be in full force and effect (or arrangements reasonably satisfactory to the Agents to make such filings and recordations shall have been made). The Collateral Agent or the Security Trustee, as the case may be, on behalf of the Secured Parties, shall have a perfected security interest in the Collateral of the type and the priority described in each such Security Document. The Collateral Agent or the Security Trustee, as the case may be, shall have received all possessory Collateral required to be delivered to such Agent on the Funding Date pursuant to the Agreed Security Principles and the Security Documents, together with duly executed undated blank stock powers, or other equivalent instruments of transfer reasonably acceptable to such Agent. Notwithstanding the foregoing, to the extent any Collateral of the type set forth on Schedule 5.14 (including the creation or perfection of any security in respect thereof) required pursuant to this clause (d) is not or cannot be provided or perfected on or prior to the Funding Date after the use by the Loan Parties of commercially reasonable efforts to do so (other than the grant and perfection of security interests in assets located in (i) any state of the United States or the District of Columbia with respect to which a Lien may be perfected by the filing of a financing statement under the Uniform Commercial Code or the delivery of a certificated security, (ii) in Australia, with respect to which a Lien may be perfected by the filing of a financing statement under the PPSA or the delivery of a certificated security and (iii) as otherwise expressly identified on Part I of Schedule 4.01(b)), then the provision and/or perfection of a security interest in any such Collateral shall not constitute a condition precedent to the availability of the Loans on the Funding Date (but shall be required to be provided as promptly as practicable after the Funding Date and in any event within the period specified therefor in Schedule 5.14 or such later date as the Administrative Agent shall approve in its sole discretion). With respect to any Subsidiary Guarantor incorporated or registered in Singapore, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(e) The Administrative Agent shall have received the results of a search of the Uniform Commercial Code filings (or equivalent filings), judgment filings and tax filings made with respect to the Loan Parties in the states (or other jurisdictions) of formation of such persons and in which the chief executive office of each such person is located (including the PPSA in respect of each Loan Party incorporated in Australia), in each case as indicated on Part II of Schedule 4.01(d), and in such other jurisdictions as may be reasonably required by the Agents, together with copies of the financing statements (or similar documents) disclosed by such search, and the results of such other Lien searches listed on Part II of Schedule 4.01(d), and accompanied by evidence satisfactory to the Administrative Agent that the Liens indicated in any such financing statement (or similar document or such other search results) are permitted under Section 6.02 or have been or will be contemporaneously released or terminated pursuant to arrangements reasonably satisfactory to the Agents.

(f) The Existing Syndicated Facility Agreement Refinancing shall have been consummated substantially contemporaneously with the funding of the Loans to be made on the Funding Date and the issuance (or deemed issuance) of the Letters of Credit to be issued on the Funding Date. The Existing Syndicated Facility Agreement (and each related loan document) and all commitments thereunder shall have been terminated, all obligations thereunder shall have been paid in full (other than obligations that are contingent in nature or unliquidated at such time, which under the terms of the Existing Syndicated Facility Agreement or related loan documents expressly survive such payment and termination). All documentation necessary to release or terminate, as applicable, security interests and guarantees in respect thereof (which release or termination may be conditioned upon the receipt by the agent under the Existing Syndicated Facility Agreement of the funds and letters of credit set forth in such documentation as being required to effect the Existing Syndicated Facility Agreement Refinancing) shall be reasonably satisfactory to the Agents and shall have been delivered to the Agents or their counsel on or prior to the Closing Date.

(g) The Administrative Agent shall have received, subject to Section 5.14, a copy of, or a certificate as to coverage under, the insurance policies required by Section 5.02 and the applicable provisions of the Agreed Security Principles and the Security Documents, together with such endorsements, loss payee provisions or similar amendments required by the applicable provisions of the Agreed Security Principles and the Security Documents, all in form and substance reasonably satisfactory to the Administrative Agent.

(h) The Administrative Agent shall have received a certificate from a Financial Officer of Parent, in the form of Exhibit G and in substance reasonably satisfactory to the Administrative Agent, certifying as to the matters set forth in Section 3.22 as of the Closing Date on a pro forma basis (assuming for such purpose that all of the Transactions have been effected).

(i) The Administrative Agent shall have received (i) a certificate as to the good standing of each Loan Party as of a recent date, from the Secretary of State of the State (or comparably entity) of the state (or comparable jurisdiction) of its organization (or, if such jurisdiction does not issue such certificates, a comparable document or the results of searches of official registries demonstrating good standing or lack of insolvency proceedings against such Loan Party, as available); (ii) a certificate of the Secretary, Assistant Secretary, President, Director or other Responsible Officer, as applicable, of each Loan Party dated the Closing Date and certifying (A) that attached thereto are true and complete copies of the Organization Documents, including all amendments thereto, certified as of a recent date by such Secretary of State (or comparable entity) (or, if no such certification is available, comparable certification or an extract of such documents filed with any official registry, as available), in each case, of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in clause (B) below, (B) that attached thereto is a true and complete copy of resolutions duly adopted by the Board of Directors (or comparable governing body, and including any applicable shareholder resolutions) of such Loan Party authorizing the execution, delivery and performance of the Loan Documents to which such Loan Party is a party and, in the case of the Borrowers, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect, and (C) as to the incumbency and specimen signature of each officer or other authorized signatory executing any Loan

Document or any other document delivered in connection herewith on behalf of such Loan Party; (iii) a certificate of another officer or authorized signatory as to the incumbency and specimen signature of the Secretary, Assistant Secretary or director executing the certificate pursuant to clause (ii) above; (iv) a certificate signed by a director or secretary of each Loan Party that is an Australian incorporated company, certifying that (A) before entering into any Loan Document to which it is a party, has, in connection with the execution, delivery and performance of each such Loan Document, complied with chapter 2E of the Australian Corporations Act, and (B) it is in compliance with section 260A of the Australian Corporations Act; and (v) each of the other deliverables listed on Part III of Schedule 4.01(d) and such other documents as the Administrative Agent may reasonably request.

(j) The Administrative Agent shall have received, on behalf of the Agents, the Lenders and the Issuing Banks, a favorable written opinion of each counsel listed on Part IV of Schedule 4.01(d), in each case, in form and substance reasonably satisfactory to the Administrative Agent and (A) dated the Closing Date, (B) addressed to the Issuing Banks, the Agents and the Lenders (where permissible under local law) and (C) covering such matters as the Administrative Agent shall reasonably request, and the Loan Parties hereby request such counsel to deliver such opinions.

(k) The Lenders and the Joint Bookrunners shall have received, at least five Business Days prior to the Closing Date, to the extent reasonably requested in advance, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(l) Immediately after giving effect to the Transactions and the other transactions contemplated hereby, the Borrowers and the Restricted Subsidiaries shall have no outstanding Indebtedness for borrowed money or preferred stock other than (i) Indebtedness outstanding under this Agreement and (ii) Indebtedness described on Schedule 4.01(l).

(m) The Administrative Agent shall have received the financial statements and opinion referred to in Section 3.05, none of which shall demonstrate a material adverse change in the financial condition of Parent from (and shall not otherwise be materially inconsistent with) the financial statements or forecasts previously provided to the Administrative Agent.

(n) All requisite Governmental Authorities and third parties shall have approved or consented to the Transactions and the other transactions contemplated hereby to the extent required, all applicable appeal periods shall have expired and there shall not be any pending or threatened litigation, governmental, administrative or judicial action that could reasonably be expected to restrain, prevent or impose burdensome conditions on the Transactions or the other transactions contemplated hereby.

(o) Parent shall have received a public corporate credit rating from S&P and a public corporate family rating from Moody's. The credit facilities provided for hereunder shall have received a public rating from each of S&P and Moody's.

SECTION 4.02. ***All Credit Events***. The obligation of each Lender to make Loans (but, with respect to Incremental Term Loans the proceeds of which are to be used to finance a Limited Condition Transaction, subject to Section 2.27(c)) hereunder, and the obligation of each Issuing Bank to issue, amend, extend or renew any Letter of Credit hereunder (each, a "***Credit Event***") is subject to the occurrence of the Funding Date and to the satisfaction of the following conditions on the date of each Credit Event:

(a) The Administrative Agent shall have received a notice of such Credit Event as required by Section 2.03 (or such notice shall have been deemed given in accordance with Section 2.03) or, in the case of the issuance, amendment, renewal or extension of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance, amendment, renewal or extension of such Letter of Credit as required by Section 2.23(b).

(b) The representations and warranties set forth in Article III hereof and in each other Loan Document shall be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) on and as of the date of such Credit Event with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall have been true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality, Material Adverse Effect or words of similar import, in all respects) as of such earlier date.

(c) At the time of and immediately after such Credit Event, no Event of Default or Default shall have occurred and be continuing.

Each Credit Event shall be deemed to constitute a representation and warranty by each Borrower on the date of such Credit Event as to the matters specified in clauses (b) and (c) of this Section 4.02.

ARTICLE V

Affirmative Covenants

Each Borrower covenants and agrees with each Lender that so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document shall have been paid in full (other than contingent indemnification obligations not then due and payable) and all Letters of Credit have been canceled or have expired (or other arrangements satisfactory to the Administrative Agent and each Issuing Bank shall have been made with respect thereto) and all amounts drawn thereunder have been reimbursed in full, unless the Required Lenders shall otherwise consent in writing, each Borrower will, and will cause each of its Restricted Subsidiaries (or, with respect to Sections 5.01(c), 5.03, 5.06, 5.08, 5.09 and 5.10, each of its Subsidiaries) to:

SECTION 5.01. ***Existence; Businesses and Properties***. (a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except as otherwise expressly permitted under Section 6.05.

(b) Do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises, authorizations, patents, copyrights, trademarks and trade names (and all other intellectual property) material to the conduct of its business; maintain and operate such business in substantially the manner in which it is presently conducted and operated or in an otherwise prudent manner; comply in all material respects with all applicable laws, rules, regulations (including any zoning, building, Environmental Law, ordinance, code or approval or any building permits or any restrictions of record or agreements affecting the Mortgaged Properties, ERISA, Sanctions, the FCPA, other Anti-Bribery Laws, the USA PATRIOT Act and other Anti-Terrorism Laws) and decrees and orders of any Governmental Authority, whether now in effect or hereafter enacted unless failure to comply could not reasonably be expected to result in a Material Adverse Effect; and at all times maintain and preserve all property material to the conduct of such business and keep such property in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be conducted at all times in a commercially reasonable manner.

(c) (i) Maintain in effect and enforce policies and procedures reasonably designed to ensure compliance by the Borrowers, their respective subsidiaries, and each of their respective directors, officers, employees, agents and Affiliates, with applicable Sanctions, and (ii) conduct its business in compliance with applicable Sanctions and applicable Anti-Bribery Laws.

SECTION 5.02. ***Insurance***. (a) Keep its insurable properties adequately insured at all times by financially sound and reputable insurers; maintain such other insurance (including self-insurance), to such extent and against such risks, including fire and other risks insured against by extended coverage, as is customary with companies in the same or similar businesses operating in the same or similar locations and of same or similar size, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it; and maintain such other insurance as may be required by law.

(b) If at any time the area in which any of the Mortgaged Property is located is designated (i) a "flood hazard area" in any Flood Insurance Rate Map published by the United States Federal Emergency Management Agency (or any successor agency), obtain flood insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require, and otherwise comply with the National Flood Insurance Program as set forth in the United States Flood Disaster Protection Act of 1973, as it may be amended from time to time, and other applicable flood laws, or (ii) a "Zone 1" area, obtain earthquake insurance in such total amount as the Administrative Agent, the Collateral Agent or the Required Lenders may from time to time require.

(c) Notify the Agents immediately whenever any separate insurance is taken out by any Loan Party concurrent in form or contributing in the event of loss with that required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles; and promptly deliver to the Agents a duplicate original copy of such policy or policies (including, for the avoidance of doubt, any required flood or earthquake policy or policies).

(d) In connection with the covenants set forth in this Section 5.02 and any covenants with respect to insurance set forth in the Agreed Security Principles, it is understood and agreed that:

(i) none of the Agents, the Lenders, the Issuing Banks, or their respective agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02 or pursuant to the Agreed Security Principles, it being understood that (A) each Borrower and the other Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Agents, the Lenders, the Issuing Banks or their agents or employees. If, however, the insurance policies do not provide waiver of subrogation rights against such parties, as required above, then each Borrower hereby agrees, to the extent permitted by law, to waive its right of recovery, if any, against the Agents, the Lenders, the Issuing Banks and their agents and employees; and

(ii) the designation of any form, type or amount of insurance coverage by any Agent or the Required Lenders under this Section 5.02 or the Agreed Security Principles shall in no event be deemed a representation, warranty or advice by any Agent or the Lenders that such insurance is adequate for the purposes of the business of any Borrower and its Subsidiaries or the protection of their properties and the Agents and the Required Lenders shall have the right from time to time to require the Borrowers and the other Loan Parties to keep other insurance in such form and amount as any Agent or the Required Lenders may reasonably request; *provided* that such insurance shall be obtainable on commercially reasonable terms.

SECTION 5.03. ***Obligations and Taxes***. Pay its Indebtedness and other obligations promptly and in accordance with their terms and pay and discharge promptly when due all material Taxes imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, could reasonably be expected to give rise to a Lien upon such properties or any part thereof; *provided*, *however*, that such payment and discharge shall not be required with respect to any such obligation or Taxes so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings diligently conducted and the applicable Borrower or Subsidiary shall have set aside on its books adequate reserves with respect thereto in accordance with GAAP and such contest operates to suspend collection of the contested obligation or Taxes and enforcement of a Lien and, in the case of a Mortgaged Property, there is no risk of forfeiture of such property.

SECTION 5.04. ***Financial Statements, Reports, etc***. In the case of Parent, furnish to the Administrative Agent for distribution by the Administrative Agent to each Lender:

(a) within 120 days after the end of each fiscal year, its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal year and the results of its operations and the operations of such Subsidiaries during such year, together with comparative figures for the immediately preceding fiscal year, all audited by PricewaterhouseCoopers LLP or other independent public accountants of recognized international standing or otherwise reasonably acceptable to the Required Lenders and accompanied by an opinion of such accountants (which opinion (i) shall be without a "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit, in any such case, except for a "going concern" statement that is due solely to impending debt maturities occurring within 12 months of such audit or the actual (solely with respect to the Term Loans) or anticipated breach of the Financial Covenant) to the effect that such consolidated financial statements fairly present the financial condition and results of operations of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), and accompanied by a narrative report;

(b) within 90 days after the end of the first fiscal half-year period of each fiscal year, its consolidated statement of financial position and related statements of profit (or loss) and other comprehensive income, changes in stockholders' equity and cash flows showing the financial condition of Parent and its consolidated Subsidiaries as of the close of such fiscal half-year period and the results of its operations and the operations of such Subsidiaries during such fiscal half-year period and the then elapsed portion of the fiscal year, and comparative figures for the same periods in the immediately preceding fiscal year, accompanied by a narrative report, all certified by one of its Financial Officers as fairly presenting in all material respects the financial condition and results of operations of Parent and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied (except as otherwise disclosed therein), subject to normal year-end audit adjustments;

(c) concurrently with any delivery of financial statements under Section 5.04(a) or (b) above, a Compliance Certificate, (i) certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto; (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.10(a) (if applicable), in a form reasonably satisfactory to the Administrative Agent; (iii) in the case of financial statements delivered under Section 5.04(a) above for any ECF Period, setting forth Parent's calculation of Excess Cash Flow for the ECF Period then ended; (iv) setting forth in reasonably detail the calculation and uses of the Available Amount (and each of the components thereof) for the fiscal period then ended; (v) certifying a list of all Unrestricted Subsidiaries; and (vi) setting forth reasonably detailed calculations demonstrating compliance with the Guarantor Coverage Test as of the end of the fiscal period then ended; provided that, if the Guarantor Coverage Test shall not have been satisfied as of the end of the fiscal period then ended, then the Parent shall designate sufficient Restricted Subsidiaries as additional Guarantors for purposes of

this Agreement and the other Loan Documents and such Restricted Subsidiaries shall comply with the applicable requirements of the Agreed Security Principles;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by Parent or any Restricted Subsidiary with the SEC, the Australian Securities and Investments Commission, ASX or any other securities exchange, or distributed to its shareholders (or any class of them) or its creditors generally (or any class of them), as the case may be;

(e) promptly after the request by any Agent or by any Lender or Issuing Bank (acting through the Administrative Agent), all documentation and other information that such Agent, Lender or Issuing Bank reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act;

(f) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of Parent or any Restricted Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request;

(g) promptly, notice of any change in authorized signatories of any Borrower, which notice shall be certified by a Responsible Officer of such Borrower and accompanied by specimen signatures of any new authorized signatories; and

(h) not less than five Business Days prior to the holding thereof, in the case of semi-annual earnings conference calls, and promptly after notice to shareholders with respect to any other conference call, notice of each conference call to be held by Parent for its shareholders (or any class of them).

SECTION 5.05. ***Litigation and Other Notices***. Furnish to the Administrative Agent, the Issuing Banks and each Lender, promptly after obtaining knowledge thereof, written notice of the following:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the filing or commencement of, or any threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, against any Borrower or any Affiliate thereof that could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence or reasonable expectation of an occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, or is reasonably expected to occur, could reasonably be expected to result in (i) the imposition of a Lien on any Borrower or any Subsidiary that is not permitted by Section 6.02 or (ii) a Material Adverse Effect, in any such case, together with a statement of a Financial Officer of Parent setting forth details as to such ERISA Event and the action, if any, that Parent and/or any relevant Subsidiary proposes to take with respect thereto;

(d) any development with respect to Parent or any Subsidiary that has resulted in, or could reasonably be expected to result in, a Material Adverse Effect; and

(e) Parent being removed from the official list of the ASX, or any class of securities in Parent being suspended from trading on the ASX for a continuous period of ten (10) Business Days or longer (for reasons other than there being an imminent announcement of a major acquisition or merger transaction).

SECTION 5.06. ***Employee Benefits***. Comply in all material respects with the applicable provisions of ERISA and the Code and the laws applicable to any Non-U.S. Pension Plan and (b) furnish to the Administrative Agent, promptly upon request of the Administrative Agent or a Lender, deliver to the Administrative Agent copies of the most recent Annual Report (Form 5500 Series), including all Schedules thereto, with respect to each Plan.

SECTION 5.07. ***Maintaining Records; Access to Properties and Inspections; Maintenance of Ratings***. (a) Keep proper books of record and account in which full, true and correct entries in conformity in all material respects with GAAP and all requirements of law are made of all dealings and transactions in relation to its business and activities. Each Loan Party will, and will cause each of its Restricted Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender to visit and inspect the financial records and the properties of any Borrower or any Restricted Subsidiary at reasonable times and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances and condition of any Borrower or any Restricted Subsidiary with the officers thereof and (provided that a representative of Parent is given the opportunity to be present) independent accountants therefor; provided that, so long as no Event of Default has occurred and is continuing, any such visit and inspection by the Administrative Agent in excess of one per calendar year shall be at the expense of the Administrative Agent and any such visit and inspection by a Lender shall be at the expense of such Lender (unless the Administrative Agent is not conducting a visit and/or inspection during such year and the Borrowers have not reimbursed (and is not obligated to reimburse) another Lender for any such visit and/or inspection during such year).

(b) (i) In the case of the Borrowers, use commercially reasonable efforts to cause the credit facilities provided for hereunder to be continuously publicly rated (but no specific rating) by S&P and Moody's, and (ii) in the case of Parent, use commercially reasonable efforts to maintain a public corporate rating (but no specific rating) from S&P and a public corporate family rating (but no specific rating) from Moody's.

SECTION 5.08. ***Use of Proceeds***. Use the proceeds of the Loans and Contract Loans and request the issuance of Letters of Credit and Contract Letters of Credit only for the purposes described in Section 3.13, and ensure that no proceeds of the Loans or any Contract Loans will be used, advanced or otherwise made available, directly or indirectly, by any of the Borrowers or their respective Subsidiaries (i) to any person conducting activities that would constitute a violation of Sanctions, (ii) for the purposes of funding any activity, business, or transaction with a Sanctioned Person or in a Sanctioned Country, (iii) that would result in the violation of any applicable Sanctions or (iv) in furtherance of an offer, payment, promise to pay,

or authorization of the payment or giving of money, or anything else of value, to any person in violation of the FCPA or any other applicable Anti-Bribery Law.

SECTION 5.09. ***Compliance with Environmental Laws***. Comply, and cause all lessees and other persons occupying its Properties to comply, in all material respects with all Environmental Laws and Environmental Permits applicable to its operations and Properties; obtain and renew all material Environmental Permits necessary for its operations and Properties; and conduct any Remedial Action required by Environmental Law in accordance with Environmental Laws in all material respects; *provided*, *however*, that no Borrower nor any of the Restricted Subsidiaries shall be required to undertake any Remedial Action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

SECTION 5.10. ***Preparation of Environmental Reports***. If an Event of Default caused by reason of a breach of Section 3.17 or 5.09 shall have occurred and be continuing, at the request of the Required Lenders through the Administrative Agent, provide to the Lenders within 45 days after such request, at the expense of the Loan Parties, an environmental site assessment report or environmental compliance report (as the case may be) regarding the matters which are the subject of such default, prepared by an environmental consulting firm reasonably acceptable to the Administrative Agent and identifying, to the extent relevant to the subject of such default, the likely presence or absence of a Release of Hazardous Materials and the likely extent of such Release, or the nature and details regarding the non-compliance with applicable Environmental Law, and the estimated cost of any Remedial Action or any other activity required to bring the Properties into compliance with Environmental Laws in connection with such default.

SECTION 5.11. ***Guarantor Coverage Test; Further Assurances; Etc***.

(a) Take, or cause to be taken, all actions necessary or reasonably requested by any Agent to ensure that the Guarantee requirements set forth below are satisfied when required to be satisfied, subject to any applicable limitations set forth in the Agreed Security Principles:

(i) Parent and each Subsidiary Borrower shall at all time be required to be Guarantors.

(ii) Parent will ensure that, as of the Closing Date and as of each Guarantor Coverage Test Date, no less than 80% of the Consolidated EBITDA of the Parent and the Restricted Subsidiaries for the most recently ended Test Period is attributable to Parent and its Restricted Subsidiaries that are Subsidiary Guarantors as of the Guarantor Coverage Certification Date for such Test Period. The amount so attributable shall be calculated on a consolidated basis as if such Subsidiary Guarantors were the only Restricted Subsidiaries of Parent. The requirements set forth in this clause (ii) are referred to herein as the "***Guarantor Coverage Test***".

(iii) Failure to satisfy the Guarantor Coverage Test as of any Guarantor Coverage Test Date will not constitute a Default or Event of Default if, as promptly as

practicable (but in any event within 30 days after the Guarantor Coverage Certification Date or such later date as the Administrative Agent shall approve in its sole discretion), one or more Restricted Subsidiaries (sufficient to have satisfied the Guarantor Coverage Test had such entities been Subsidiary Guarantors as of the relevant Guarantor Coverage Certification Date) shall have become additional Subsidiary Guarantors by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement. Additional Subsidiary Guarantors pursuant to this clause (iii) may include Immaterial Subsidiaries and/or, to the extent in consultation with and reasonably acceptable to the Administrative Agent, Restricted Subsidiaries incorporated, organized or formed under the laws of a jurisdiction in which none of the existing Guarantors are incorporated, organized or formed. In the event any additional Subsidiary Guarantors are required to be joined pursuant to this clause (iii), Parent shall use commercially reasonable efforts to identify the proposed additional Subsidiary Guarantor(s) in the Compliance Certificate for the relevant Test Period.

(iv) In addition to complying with the Guarantor Coverage Test and any joinder requirements set forth in clause (iii) above, each wholly owned U.S. Restricted Subsidiary and each wholly owned Restricted Subsidiary that is incorporated, organized or formed under the laws of Australia (in any such case, other than any Immaterial Subsidiary), to the extent not already a Subsidiary Guarantor, shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, in any such case, within 30 days after the date on which such person became a wholly owned Restricted Subsidiary or, as applicable, ceased to be an Immaterial Subsidiary (or such later date as the Administrative Agent shall approve in its sole discretion).

(v) In the event any Subsidiary that is not a Guarantor directly or indirectly owns any Equity Interests in any Subsidiary Guarantor (or other person that is required to become a Subsidiary Guarantor pursuant to this Section 5.11(a) or the Agreed Security Principles), such Subsidiary shall become a Subsidiary Guarantor by executing and delivering to the Agents a supplement or joinder to the Guarantee Agreement, as promptly as practicable (but in any event no later than the date applicable to the relevant Subsidiary Guarantor (or other relevant person) whose Equity Interests are directly or indirectly owned by such Subsidiary, or such later date as the Administrative Agent shall approve in its sole discretion).

(vi) Notwithstanding clause (iii), (iv) or (v) above, if the joinder of any wholly owned Restricted Subsidiary acquired as part of a Permitted Acquisition constitutes financial assistance under section 260A of the Australian Corporations Act and a financial assistance "whitewash" must be completed prior to its joinder as a Subsidiary Guarantor, such joinder shall not be required until the date that is 30 days after the first to occur of the next annual or extraordinary general meeting of Parent after the acquisition of such Restricted Subsidiary (it being understood that Parent shall not have an obligation to hold an extraordinary general meeting solely for such purpose).

(vii) In connection with any joinder or supplement to the Guarantee Agreement or other additional Guarantee pursuant to this Section, each Subsidiary that becomes a

Subsidiary Guarantor after the Closing Date shall have delivered to the Administrative Agent such corporate documentation (including all applicable "know your customer" documentation), charter documents, by-laws, resolutions and legal opinions, in each case, consistent with those provided or required to be provided by the Loan Parties under Section 4.01 on the Closing Date, modified as appropriate for the jurisdiction of incorporation or organization of such Subsidiary or otherwise as may be agreed to by the Administrative Agent.

(b) Take, or cause to be taken, all actions (limited to commercially reasonable actions, where so stated in the Agreed Security Principles and in the Security Documents) necessary or reasonably requested by any Agent to ensure that the requirements set forth in the Agreed Security Principles are satisfied when required to be satisfied. Subject to any applicable limitations set forth in the Agreed Security Principles, execute any and all further documents, financing statements, agreements and instruments, and take all further action (including filing Uniform Commercial Code, PPSA and other financing statements, mortgages and deeds of trust) that may be required under the Agreed Security Principles, under Schedule 5.14 or under applicable law, or that the Required Lenders or any Agent may reasonably request, in order to effectuate the transactions contemplated by the Loan Documents and in order to grant, preserve, protect and perfect the validity and first priority of the security interests created or intended to be created by the Security Documents. In addition, from time to time, Parent and the Subsidiary Guarantors will, at their cost and expense, promptly secure the Obligations by pledging or creating, or causing to be pledged or created, perfected security interests with respect to such of their assets and properties acquired after the Closing Date as would constitute Collateral under any Security Document or is required to constitute Collateral pursuant to the Agreed Security Principles (it being understood that it is the intent of the parties that the Obligations shall be secured by, among other things, substantially all the assets of the Loan Parties (including assets acquired subsequent to the Closing Date but excluding (i) any assets as to which the Administrative Agent shall determine in its reasonable discretion, in consultation with Parent, that the costs of obtaining a security interest in the same are excessive in relation to the benefit to the Lenders of the security intended to be afforded thereby, and (ii) any assets of a type specifically excluded as Collateral in accordance with the Agreed Security Principles). Such security interests and Liens will be created under and as required by the Security Documents and other security agreements, mortgages, deeds of trust and other instruments and documents in form and substance reasonably satisfactory to the Collateral Agent or the Security Trustee, as the context may require, and Parent shall deliver or cause to be delivered to the Lenders all such instruments and documents (including legal opinions, flood hazard determination forms, evidence of any insurance required by Section 5.02 or pursuant to the Agreed Security Principles (including flood or earthquake insurance), surveys, title insurance policies (including any endorsements thereto) and lien searches (including, applicable, UCC and PPSA searches)) as the such Agent shall reasonably request to evidence compliance with this Section. In furtherance of the foregoing, Parent will give prompt notice to the Administrative Agent of (A) the acquisition by it or any Subsidiary Guarantor of any Material Owned Real Property, and (B) any Restricted Subsidiary that is not a Loan Party being required to become a Guarantor pursuant to the Agreed Security Principles. With respect to any Subsidiary incorporated or registered in Singapore that becomes a Subsidiary Guarantor after the Closing Date, the Administrative Agent shall have received a copy of the letter of authorisation and confirmation addressed to Linklaters Singapore Pte. Ltd. duly signed by such Subsidiary Guarantor.

(c) In the case of Parent and the Subsidiary Guarantors, promptly provide notice to the Agents in writing of any change to be made (i) in its legal name, (ii) in its jurisdiction of organization, (iii) in its chief executive office, (iv) in its corporate or legal structure or (v) in its Federal Taxpayer Identification Number. Parent and each Subsidiary Guarantor agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code, PPSA or otherwise that are required in order for the Collateral Agent and/or the Security Trustee to continue at all times following such change to have a valid, legal and perfected first priority security interest in all the Collateral. Parent and each Subsidiary Guarantor agrees promptly to notify the Agents if any material portion of the Collateral owned or held by such Borrower is damaged or destroyed.

SECTION 5.12. ***Senior Indebtedness***. Provide that (a) to the extent any Subordinated Indebtedness is outstanding, (i) the Loans and other Obligations constitute "senior indebtedness", "designated senior indebtedness" or other comparable term for all purposes of, and as defined in, the Subordinated Indebtedness Documents related thereto and (ii) the Obligations (together with, subject to intercreditor arrangements satisfactory to the Administrative Agent, any Incremental Equivalent Indebtedness and Credit Agreement Refinancing Indebtedness) are designated as the sole "senior indebtedness", "designated senior indebtedness" or other comparable term, as applicable, under and as defined in the Subordinated Indebtedness Documents related thereto and (b) to the extent any Credit Agreement Refinancing Indebtedness or Junior Incremental Equivalent Indebtedness secured by Liens junior to the Liens securing the Obligations is outstanding, the Liens securing the Obligations benefit from the lien subordination and other related provisions running to the benefit of the Secured Parties under the relevant Intercreditor Agreement.

SECTION 5.13. ***Compliance with Tax Sharing Agreement and Tax Funding Agreement***. In relation to any Tax Consolidated Group of which it is or becomes a member:

(a) take all action available to it to ensure that each member of the Tax Consolidated Group:

(i) becomes a party to a Tax Sharing Agreement which covers all Group Liabilities of such Tax Consolidated Group and a Tax Funding Agreement for such Tax Consolidated Group at the time it becomes a member of such Tax Consolidated Group; and

(ii) fully complies with the Tax Sharing Agreement and the Tax Funding Agreement;

(b) take all action available to it to ensure that the Tax Sharing Agreement and the Tax Funding Agreement remain valid, binding and enforceable;

(c) ensure that it gives the Australian Taxation Office a copy of the Tax Sharing Agreement within the period required by section 721-25(3)(b) of the Australian Tax Act if the Australian Taxation Office gives a notice requiring it to do so;

(d) enforce all of its material rights under the Tax Sharing Agreement and the Tax Funding Agreement in a manner consistent to that which a reasonable prudent person in its

position would act as if the other parties to those agreements were independent persons with whom it had dealt with at arm's length;

(e) notify the Administrative Agent of any material breach of a term of the Tax Sharing Agreement or the Tax Funding Agreement to the extent that the breach impacts the Lenders (or any of them) promptly after its occurrence; and

(f) seek the consent of the Administrative Agent before making any amendment or other modification to the Tax Sharing Agreement or Tax Funding Agreement, in any such case, other than with respect to such amendments or modifications that are not materially adverse to the interests of the Lenders (in their capacities as such).

SECTION 5.14. ***Post-Closing Matters***. Satisfy the requirements set forth in Schedule 5.14 on or before the date specified for such requirements, in each case as such date may be extended at the sole discretion of the Administrative Agent so long as the relevant Loan Parties are working diligently to complete, or cause the applicable Restricted Subsidiary to complete, the applicable requirement, as determined by the Administrative Agent in its sole discretion.

SECTION 5.15. ***Federal Reserve Regulations***. If at any time a Loan Party or any of its Subsidiaries owns any Margin Stock, promptly notify the Administrative Agent and, if requested by the Administrative Agent, each Loan Party will furnish to the Administrative Agent, the Issuing Banks and each Lender a statement in conformity with the requirements of FR Form G 3 or FR Form U 1, as applicable, referred to in Regulation U.

ARTICLE VI

Negative Covenants

Each Borrower covenants and agrees with each Lender that, so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts then payable under any Loan Document have been paid in full (other than contingent indemnification obligations not then due and payable) and all Letters of Credit have been canceled or have expired (or other arrangements satisfactory to the Administrative Agent and each Issuing Bank have been made with respect thereto) and all amounts drawn thereunder have been reimbursed in full, unless the Required Lenders shall otherwise consent in writing, such Borrower will not, and will not cause or permit any of the Restricted Subsidiaries to:

SECTION 6.01. ***Indebtedness***. Incur, create, assume or permit to exist any Indebtedness, except that Parent and any Restricted Subsidiary may incur, create, assume or permit to exist:

(a) (i) Indebtedness existing on the Closing Date; provided that Indebtedness pursuant to this subclause in an aggregate outstanding amount on the Closing Date in excess of $10,000,000 shall be set forth on Schedule 6.01, and (ii) any Permitted Refinancing thereof, so long as, with respect to such Permitted Refinancing, the original obligors in respect of such Indebtedness remain the only obligors thereon;

(b) Indebtedness in respect of any Hedging Agreement entered into not for speculative purposes; provided that such Hedging Agreement (i) is for the purpose of hedging interest rate liabilities and/or any exchange rate or other risks in relation to Indebtedness permitted by this Section 6.01, (ii) is a spot or forward delivery foreign exchange contract entered into in the ordinary course of business, or (iii) is entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of Parent or any Restricted Subsidiary;

(c) Indebtedness created under this Agreement and the other Loan Documents (including any Incremental Term Loans and Extended Term Loans) and Credit Agreement Refinancing Indebtedness;

(d) Contract Loans and Contract Letters of Credit permitted under Section 2.29;

(e) Indebtedness under transactional banking facilities or local lines of credit provided by any bank or financial institution that are used as part of the ordinary operation of the business of Parent or any Restricted Subsidiary; provided that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not exceed $2,000,000 at any time and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(f) intercompany Indebtedness of Parent and the Restricted Subsidiaries to the extent permitted by Section 6.04(b) or 6.04(c); provided that any such Indebtedness of a Loan Party shall be unsecured and subordinated in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(g) Indebtedness (i) arising in connection with endorsement of instruments for deposit and (ii) consisting of the financing of insurance premiums, in each case in the ordinary course of business;

(h) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to any Agent mortgagee title insurance policies;

(i) Indebtedness of Parent or any Restricted Subsidiary that may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments, earn-outs and similar obligations in connection with acquisitions or sales of assets and/or businesses permitted by this Agreement;

(j) Indebtedness with respect to performance bonds, bid bonds, appeal bonds, surety bonds, commercial guarantees (tender, advance payment, performance, completion and warranty period guarantees) and similar obligations (other than in respect of other Indebtedness) or with respect to workers' compensation, unemployment insurance and other social security legislation, in each case incurred in the ordinary course of business and reimbursement obligations in respect of any of the foregoing;

(k) Indebtedness consisting of (i) Purchase Money Indebtedness or Capital Lease Obligations and (ii) any Permitted Refinancing thereof; provided that the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time

exceed the greater of (x) $20,000,000 and (y) 15% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Indebtedness is created, incurred or assumed and calculated on a pro forma basis);

(l) (i) Indebtedness of any Person that becomes a Subsidiary after the Closing Date, (ii) Indebtedness secured by an asset prior to the acquisition of such asset by any Loan Party or any Restricted Subsidiary after the Closing Date, which, in the case of this subclause (ii), is assumed by such Loan Party or Restricted Subsidiary in connection with such acquisition (other than in connection with the acquisition of assets from Parent or any of its Subsidiaries or the acquisition of any Equity Interests of any person) and (iii) any Permitted Refinancing of the foregoing, so long as, with respect to such Permitted Refinancing, the original obligors in respect of such Indebtedness remain the only obligors thereon; provided that, with respect to any Indebtedness referred to in subclause (i) or (ii) above, (1) such Indebtedness exists at the time such Person becomes a Subsidiary or such asset is acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary or such asset being acquired, (2) immediately before and after such Person becomes a Subsidiary or such asset being acquired, no Event of Default or Default shall have occurred and be continuing, (3) the aggregate principal amount of all Indebtedness of any Restricted Subsidiaries that are not Loan Parties outstanding pursuant to this clause shall not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Person becomes a Subsidiary after the Closing Date or the date such Indebtedness is assumed, as the case may be, and calculated on a pro forma basis), and (4) if such Indebtedness (x) is secured by Liens on any Collateral ranking pari passu with the Liens securing the Obligations or otherwise constitutes First Lien Debt, then the First Lien Net Leverage Ratio shall be equal to or less than 2.80 to 1.00, (y) is secured by Liens that are junior to the Liens securing the Obligations, then the Total Net Leverage Ratio shall be equal to or less than 3.30 to 1.00, or (z) is unsecured, then the Total Net Leverage Ratio shall be equal to or less than 3.80 to 1.00, in any such case, as of the last day of the most recently ended Test Period (determined as of the date such Person becomes a Subsidiary after the Closing Date or the date such Indebtedness is assumed, as the case may be, and calculated on a pro forma basis); provided, further, that, in the case of a Limited Condition Transaction, (A) the condition referred to in subclause (2) above shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition Transaction or the funding of any Incremental Commitment relating to such Limited Condition Transaction, and (B) the above referenced First Lien Net Leverage Ratio or Total Net Leverage Ratio, as applicable, may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction and will not be tested upon consummation thereof, if otherwise agreed by the financing sources providing any Incremental Commitments and/or Incremental Equivalent Indebtedness (if any) in connection with such transaction;

(m) Subordinated Indebtedness of any Loan Party; provided that, both immediately before and after giving effect to the incurrence thereof, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (ii) the Total Net Leverage Ratio shall be equal to or less than 3.80 to 1.00 as of the last day of the most recently ended Test Period (determined as of the date such Indebtedness is created, incurred or assumed and calculated on a pro forma basis); provided, further, that, in the case of a Limited Condition

Transaction, (A) the condition referred to in subclause (i) above shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition Transaction or the funding of such Subordinated Indebtedness, and (B) the above referenced Total Net Leverage Ratio, as applicable, may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction and will not be tested upon consummation thereof, if otherwise agreed by the financing sources providing such Subordinated Indebtedness;

(n) Indebtedness of Parent or any Restricted Subsidiary; provided that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Indebtedness is created, incurred or assumed and calculated on a pro forma basis), and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(o) Indebtedness of any Restricted Subsidiary that is not a Loan Party; provided that (i) the aggregate principal amount of all Indebtedness outstanding pursuant to this clause shall not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Indebtedness is created, incurred or assumed and calculated on a pro forma basis), and (ii) such Indebtedness shall not be secured by a Lien on any Collateral;

(p) Indebtedness consisting of promissory notes issued by Parent to employees, officers, consultants or directors (or former employees, officers, consultants or directors) of Parent or any Restricted Subsidiary, or any family member of, or trust or other entity for the benefit of, any of the foregoing persons, to (i) purchase or redeem Equity Interests (other than Disqualified Stock) owned by or (ii) make payments to, such employees, officers, consultants or directors or any family member of, or trust or other entity for the benefit of, any of the foregoing persons (including any voting trust or limited partnership pursuant to which such Equity Interests have been transferred solely for the benefit of the foregoing persons and their heirs), pursuant to and in accordance with shareholders' agreements, stock option, stock appreciation rights or similar equity incentive, equity based incentive or management incentive plans, in each case, approved by Parent or any other Borrower's board of directors (or similar governing body), or in connection with the death or disability of such employees, officers, consultants or directors; provided that (x) such amount and obligations are subordinated to the Obligations on terms reasonably acceptable to the Administrative Agent and (y) the amount of such Indebtedness would be permitted as a Restricted Payment under Section 6.06(a) and utilizes availability under the applicable "basket" in Section 6.06(a);

(q) Guarantees by any Loan Party or any Restricted Subsidiary of Indebtedness of any other Loan Party or Restricted Subsidiary, which Indebtedness is otherwise permitted pursuant to this Section 6.01 (other than clauses (a) and (l) of this Section 6.01); provided that (i) Guarantees by any Loan Party of Indebtedness of any Restricted Subsidiary that is not a Loan Party must be a permitted investment pursuant to Section 6.04(c), and (ii) Guarantees permitted under this clause shall be subordinated to the Obligations of the applicable Loan Party or Restricted Subsidiary to the same extent and on the same terms as the

Indebtedness so Guaranteed is (or, pursuant to this Agreement, is required to be) subordinated to the Obligations;

(r) Indebtedness of Parent or any Restricted Subsidiary arising under any cash pooling, netting or set-off arrangement entered into by Parent or any Restricted Subsidiary in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Parent and its Restricted Subsidiaries.

(s) Indebtedness arising under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Restricted Subsidiary is a party or is subject to; provided that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13;

(t) Indebtedness of Parent or any Restricted Subsidiary to the extent supported by a Letter of Credit, in a principal amount not to exceed the face amount of such Letter of Credit;

(u) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued pursuant to arrangements other than under this Agreement on behalf of or to support obligations of Parent or any Restricted Subsidiary that are not prohibited under this Agreement; provided that the aggregate amount of all Indebtedness outstanding pursuant to this clause (including contingent reimbursement obligations) shall not at any time exceed $10,000,000;

(v) any Indebtedness arising by operation of law as a result of the existence of a fiscal unity (*fiscale eenheid*) of which any Restricted Subsidiary incorporated or organized under the laws of The Netherlands is a member;

(w) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within ten Business Days of incurrence and (ii) with respect to credit cards, credit card processing services, debit cards, stored value cards and purchase cards incurred in the ordinary course of business;

(x) Incremental Equivalent Indebtedness, so long as the amount of such Incremental Equivalent Indebtedness does not exceed:

(i) with respect to Incremental Equivalent Indebtedness secured by Liens on any Collateral ranking pari passu with the Liens securing the Obligations, the sum of (A) the excess, if any, of (1) $143,000,000 over (2) without duplication, the sum of (x) the aggregate amount of all Incremental Commitments established pursuant to clause (A) of the definition of "Incremental Amount" prior to such time, and (y) the aggregate amount of Incremental Equivalent Indebtedness issued or incurred pursuant to this Section 6.01(x)(i)(A) or Section 6.01(x)(ii)(A) prior to such time, plus (B) such other amount so long as on and as of the date of the issuance or incurrence of such Incremental Equivalent Indebtedness and the most recent Test Date, the First Lien Net Leverage Ratio (determined on a pro forma basis and assuming the relevant commitments are fully drawn but excluding (1) the aggregate amount of all Incremental Commitments concurrently

established or concurrently drawn pursuant to clause (A) of the definition of "Incremental Amount", and (2) the aggregate amount of Incremental Equivalent Indebtedness concurrently incurred pursuant to clause (A) of this Section 6.01(x)(i) or clause (A) of Section 6.01(x)(ii)) is no more than 2.80 to 1.00 (which, in the case of a Limited Condition Transaction, the First Lien Net Leverage Ratio may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction and will not be tested upon consummation thereof, if otherwise agreed by the financing sources providing the applicable Incremental Equivalent Indebtedness); and

(ii) with respect to Junior Incremental Equivalent Indebtedness, the sum of (A) the excess, if any, of (1) $143,000,000 over (2) without duplication, the sum of (x) the aggregate amount of all Incremental Commitments established pursuant to clause (A) of the definition of "Incremental Amount" prior to such time, and (y) the aggregate amount of Incremental Equivalent Indebtedness issued or incurred pursuant to this Section 6.01(x)(ii)(A) or Section 6.01(x)(i)(A) prior to such time, plus (B) such other amount so long as on and as of the date of the issuance or incurrence of such Incremental Equivalent Indebtedness and the most recent Test Date, the Total Net Leverage Ratio (determined on a pro forma basis and assuming the relevant commitments are fully drawn but excluding (1) the aggregate amount of all Incremental Commitments concurrently established or concurrently drawn pursuant to clause (A) of the definition of "Incremental Amount", and (2) the aggregate amount of Incremental Equivalent Indebtedness concurrently incurred pursuant to clause (A) of Section 6.01(x)(i) or clause (A) of this Section 6.01(x)(ii)(A)) is no more than 3.30 to 1.00 (in the case of any such Incremental Equivalent Indebtedness that is secured by any Liens) or 3.80 to 1.00 (in the case of any such Incremental Equivalent Indebtedness that is unsecured) (which, in the case of a Limited Condition Transaction, the Total Net Leverage Ratio may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction and will not be tested upon consummation thereof, if otherwise agreed by the financing sources providing the applicable Incremental Equivalent Indebtedness);

(y) any Permitted Refinancing of Indebtedness incurred pursuant to Section 6.01(x); provided that the terms of the Indebtedness resulting from such Permitted Refinancing would not violate Section 6.09(a) if such terms had resulted from the amendment or modification of the terms of the Incremental Equivalent Indebtedness that is the subject of such Permitted Refinancing; and

(z) any guarantee entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision).

For purposes of determining compliance at any time with this Section 6.01, in the event that any Indebtedness meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of this Section 6.01, the Parent, in its sole discretion, from time to time, may classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category; provided that notwithstanding the foregoing, (1) the Indebtedness referred to in Sections 6.01(c), 6.01(d), 6.01(f) (with respect to Indebtedness of the type referred to in the proviso thereto), 6.01(m), 6.01(q) (with respect to Indebtedness of the type referred to in clause

(i) of the proviso thereto), 6.01(x) and 6.01(y) may only be included in such relevant clause and (2) no such classifications or reclassification will obviate the requirement for any Indebtedness secured by any of the Collateral to be subject to an Intercreditor Agreement or subordination agreement.

SECTION 6.02. ***Liens***. Create, incur, assume or permit to exist any Lien on any property or assets (including Equity Interests or other securities of any person, including any Restricted Subsidiary) now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except:

(a) Liens on property or assets of any Borrower and its Restricted Subsidiaries existing on the Closing Date; provided that (i) Liens pursuant to this clause securing obligations in an aggregate outstanding amount on the Closing Date in excess of $10,000,000 shall be set forth on Schedule 6.02 and (ii) such Liens shall secure only those obligations which they secure on the Closing Date and extensions, renewals and replacements thereof permitted hereunder;

(b) (i) any Lien created under the Loan Documents and (ii) Liens on the Collateral securing obligations in respect of (x) Permitted First Priority Refinancing Debt or Permitted Junior Priority Refinancing Debt or (y) Incremental Equivalent Indebtedness permitted by Section 6.01(x) (and Permitted Refinancings thereof permitted by Section 6.01(y));

(c) any Lien existing on any property or asset prior to the acquisition thereof after the Closing Date by any Borrower or any Restricted Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the Closing Date prior to the time such Person becomes a Subsidiary, as the case may be, and on proceeds and products thereof, accessions thereto and improvements thereon; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, (ii) such Lien does not apply to any other property or assets of any Borrower or any Restricted Subsidiary, (iii) such Lien secures only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and extensions, renewals and replacements thereof permitted by this Agreement and (iv) such Lien shall not secure any Indebtedness, other than Indebtedness permitted by Section 6.01(l);

(d) Liens for Taxes not yet due or which are being contested in compliance with Section 5.03;

(e) carriers', warehousemen's, mechanics', materialmen's, workmen's; repairmen's, landlord's, suppliers' or other like Liens and other Liens (not securing Indebtedness) arising by operation of law, in any such case, arising in the ordinary course of business and securing obligations that are not due and payable or which are being contested in compliance with Section 5.03;

(f) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(g) deposits to secure the performance of bids, trade contracts (other than for Indebtedness), payment of premiums to insurance carriers, leases (other than Capital Lease

Obligations), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(h) zoning restrictions, easements, rights-of-way, restrictions on use of real property and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any Borrower or any of its Restricted Subsidiaries;

(i) Liens with respect to earnest money deposits made in connection with any Permitted Acquisition or Asset Sale or securing the Indebtedness permitted by Section 6.01(i), in an aggregate amount not to exceed $10,000,000 at any time outstanding;

(j) Liens in favor of, or customary deposits on reserve held by, a credit card or debit card processor or service provider arising in the ordinary course of business pursuant to the standard terms and conditions of such processor or service provider and relating solely to the amounts paid or payable thereunder;

(k) purchase money security interests and other Liens securing Indebtedness permitted pursuant to Section 6.01(k); provided that (i) any such Lien shall encumber only the asset acquired, constructed, improved or repaired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(k) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its Affiliates), (ii) other than with respect to any Liens securing any Permitted Refinancing pursuant to Section 6.01(k)(ii), any such Liens are incurred prior to or within 90 days of such acquisition or the completion of such construction, improvement or repair, (iii) the Indebtedness secured thereby does not exceed 100% of the lesser of the cost or the fair market value of such assets at the time of such acquisition or the completion of such construction, improvement or repair and, as applicable, such additional amounts permitted pursuant to Section 6.01(k)(ii);

(l) judgment Liens securing judgments not constituting an Event of Default under Section 7.01;

(m) Liens in favor of any Loan Party (other than Liens on any Collateral);

(n) Liens provided for by one of the following transactions if the transaction does not, in substance, secure payment or performance of an obligation: (i) a transfer of an account or chattel paper, (ii) a commercial consignment or (iii) a PPS lease (each as defined in the PPSA);

(o) Liens arising from precautionary UCC filing statements regarding operating leases or consignments;

(p) (i) contractual or statutory Liens of landlords, to the extent relating to the property and assets relating to any lease agreements with such landlord (so long as the rent payable under any such lease agreement is not more than 30 days past due, unless being contested in good faith and for which adequate reserves have been established in accordance

with GAAP), and (ii) contractual Liens of suppliers (including sellers of goods) and customers in the ordinary course of business to the extent limited to property or assets relating to such contract;

(q) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor under any lease or license permitted by this Agreement;

(r) leases of the tangible properties of any Borrower or any Restricted Subsidiary, entered into in the ordinary course of business of such Borrower or such Restricted Subsidiary, so long as such leases do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of such Borrower or such Restricted Subsidiary or (ii) materially impair the use (for its intended purposes) or the value of the property subject thereto;

(s) licenses of the Intellectual Property of any Borrower or any Restricted Subsidiary so long as such licenses do not, individually or in the aggregate, (i) interfere in any material respect with the ordinary conduct of the business of such Borrower or such Restricted Subsidiary, or (ii) materially impair the value of the Intellectual Property subject thereto;

(t) Liens on deposits, bank accounts and/or receivables forming part of an arrangement permitted pursuant to Section 6.01(r), to the extent securing claims arising in the context of such arrangement in the ordinary course of business;

(u) Liens arising under conditional sale, hire purchase or other title retention arrangement or arrangements having similar effect in respect of the sale of goods in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Borrower or any of its Restricted Subsidiaries;

(v) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business and (ii) Liens on specific items of inventory or other goods and proceeds thereof of any Borrower or any Restricted Subsidiary securing such Borrower's or such Restricted Subsidiary's obligations in respect of bankers' acceptances or documentary letters of credit permitted by this Agreement and issued or created for the account of such Borrower or such Restricted Subsidiary to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business;

(w) (i) Liens that are contractual rights of set-off or netting (A) relating to the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness, (B) in respect of credits or similar arrangements pursuant to agreements entered into in the ordinary course of business; provided that no Loan Party has deposited any cash or Permitted Investments with the counterparty to such agreement to secure such right of set-off, and (C) pursuant to any Hedging Agreements permitted pursuant to Section 6.01(b) or relating to any foreign exchange transaction or commodity trading or other brokerage accounts incurred in the ordinary course of business, other than Liens under a credit support arrangement, (ii) Liens encumbering reasonable customary initial deposits and margin deposits, and similar Liens attaching to commodity trading accounts or other brokerage accounts and (iii) customary Liens

on deposit accounts, custody accounts, other bank accounts or other clearing bank facilities held with any bank or other financial institution under the standard terms and conditions of such bank or other financial institution;

(x) Liens on the assets of any Restricted Subsidiary securing Indebtedness incurred by such Restricted Subsidiary pursuant to Section 6.01(o); provided that such Liens do not extend to, or encumber, any assets of any Loan Party;

(y) Liens securing obligations under Hedging Agreements permitted pursuant to Section 6.01(b); provided that such obligations are secured by cash or Permitted Investments in an aggregate amount not to exceed $10,000,000;

(z) Liens on any Equity Interests or other interests owned by any Borrower or any Restricted Subsidiary in any joint venture that does not constitute a Subsidiary to secure or support the obligations of such Borrower or Restricted Subsidiary in respect of such joint venture (to the extent such obligations are otherwise permitted by this Agreement));

(aa) Liens on assets other than any Collateral (including in the nature of cash collateral) securing any Indebtedness permitted pursuant to Section 6.01(u); and

(bb) other Liens on assets other than any Collateral securing obligations in an aggregate outstanding amount at any time not to exceed the greater of (x) $28,000,000 and (y) 20% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Lien is created, incurred or assumed or any additional obligations are secured thereby and calculated on a pro forma basis).

For purposes of determining compliance at any time with this Section 6.02, in the event that any Lien meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of this Section 6.02, the Parent, in its sole discretion, from time to time, may classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category; provided that notwithstanding the foregoing, (1) the Liens referred to in Sections 6.02(b) may only be included in such relevant clause and (2) no such classifications or reclassification will obviate the requirement for any Indebtedness secured by any of the Collateral to be subject to an Intercreditor Agreement or subordination agreement.

SECTION 6.03. ***Sale and Lease-Back Transactions***. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property which it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "***Sale and Leaseback***"); *provided* that any Borrower or any Restricted Subsidiary may enter into any such transaction to the extent that (i) the sale or transfer of such property is permitted by Section 6.05 (other than pursuant to Section 6.05(b)(iii)) and (ii) any lease obligations and Liens associated or arising in connection therewith would not be prohibited under this Agreement.

SECTION 6.04. ***Investments, Loans and Advances***. Purchase, hold or acquire any Equity Interests, evidences of indebtedness or other securities of, make or permit to exist any

loans or advances to, or make or permit to exist any other investment or any other interest in, any other person (it being understood and agreed that "investment" shall include any purchase, lease or other acquisition (in one transaction or a series of transactions) of all or substantially all of the assets of any other person or any line of business, unit or division of any other person), except:

(a) investments by Parent and its Restricted Subsidiaries existing on the Closing Date; provided that, other than with respect to investments in the Equity Interests of the Subsidiaries, investments pursuant to this clause in an aggregate amount on the Closing Date in excess of $10,000,000 shall be set forth on Schedule 6.04;

(b) (i) investments made after the Closing Date among the Borrowers and the Restricted Subsidiaries that are Loan Parties and (ii) investments made after the Closing Date by any Restricted Subsidiary that is not a Loan Party in any Loan Party or other Restricted Subsidiary; provided that (x) any loans or advances made to a Loan Party pursuant to this clause shall be unsecured and subordinated in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent and (y) any loans and advances made by a Loan Party to any other Loan Party or any Restricted Subsidiary shall be evidenced by a promissory note pledged to the Collateral Agent and/or the Security Trustee, for the benefit of the Secured Parties pursuant to the applicable Security Documents;

(c) investments made after the Closing Date by any Loan Party in any Restricted Subsidiary that is not a Loan Party (including any Guarantees by any Loan Party of any Indebtedness or other obligations of any Restricted Subsidiary that is not a Loan Party and any loans and advances made by any Loan Party to any Restricted Subsidiary that is not a Loan Party); *provided* that (i) at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) of all investments outstanding pursuant to this clause, together with (without duplication) amounts required to be permitted by this clause pursuant to Sections 6.01(f), 6.01(q)(i) and 6.04(d)(v), shall not at any time exceed the greater of (x) $35,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such investment is made and calculated on a pro forma basis);

(d) any Borrower or any wholly owned Restricted Subsidiary may acquire (whether by purchase, merger or otherwise) all or substantially all the assets of a person or line of business, division or similar business unit of such person, or not less than 100% of the Equity Interests (other than directors' or foreign nationals' qualifying shares and except as provided in clause (v) below) of a person (referred to herein as the "***Acquired Entity***"); provided that:

(i) the Acquired Entity shall be engaged in a Related Business;

(ii) such acquisition and all transactions related thereto are in all material respects consummated in accordance with applicable laws;

(iii) immediately prior to and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom; provided that,

in the event such transaction is a Limited Condition Transaction, such condition shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition Transaction or the funding of any Incremental Commitment relating to such Limited Condition Transaction;

(iv) at the time of such transaction and immediately after giving effect thereto, the First Lien Net Leverage Ratio shall be less than or equal to 4.00 to 1.00 as of the last day of the most recently ended Test Period (determined as of the date such transaction is consummated and calculated on a pro forma basis); provided that, in the event such transaction is a Limited Condition Transaction, such compliance may, at Parent's election, be tested at the time of the commitment of such Limited Condition Transaction, and will not be tested upon consummation thereof, so long as such election has been agreed to by the Incremental Lenders providing any Incremental Commitments relating to such Limited Condition Transaction;

(v) the Borrowers and the Restricted Subsidiaries shall not be permitted to pay or otherwise expend total consideration (exclusive of consideration comprised of Qualified Capital Stock of Parent) in an amount greater than the amount otherwise permitted pursuant to Section 6.04(c) in connection with any acquisition of an Acquired Entity pursuant to this Section 6.04(d) that does not become a Loan Party;

(vi) if the total consideration paid in connection with such acquisition exceeds $15,000,000, Parent shall have previously delivered to the Administrative Agent a certificate of a Financial Officer, certifying as to the foregoing and containing reasonably detailed calculations in support thereof; and

(vii) the Borrowers shall comply, and shall cause the Acquired Entity to comply, with the applicable provisions of Section 5.11, the Agreed Security Principles and the Security Documents within 30 days (or such longer time period as the Administrative Agent shall approve in its sole discretion) after the consummation of such acquisition (any acquisition of an Acquired Entity meeting all the criteria of this Section 6.04(d) being referred to herein as a "***Permitted Acquisition***");

(e) investments of any person existing at the time such person becomes a Subsidiary after the Closing Date or consolidates or merges with any Borrower or any Restricted Subsidiary after the Closing Date (including in connection with a Permitted Acquisition) so long as such investments were not made in contemplation of such person becoming a Subsidiary or of such consolidation or merger;

(f) Permitted Investments;

(g) the Borrowers and their respective Restricted Subsidiaries may make loans and advances to their respective employees, officers and directors for payroll, moving, entertainment, travel and other similar expenses in the ordinary course of business;

(h) loans or advances made to employees, officers, consultants or directors (or former employees, officers, consultants or directors) of Parent or any Restricted Subsidiary, or

any family member of, or trust or other entity for the benefit of, any of the foregoing persons, in connection with such person's purchase of Equity Interests (other than Disqualified Stock) of Parent that are (i) in an aggregate principal amount not to exceed $5,000,000 at any one time outstanding or (ii) so long as the proceeds of the loan or advance are substantially contemporaneously paid to the Parent as consideration for the purchase of such Equity Interests (it being agreed that, to the extent of any investment made in reliance on this clause, such contribution shall not increase the Available Amount and shall be disregarded in any other basket that, in the absence of this clause, would have provided availability thereunder as a result thereof);

(i) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(j) cash collateral provided to any Agent pursuant to the Loan Documents;

(k) promissory notes or other investments received as consideration, or retained, in connection with sales or other dispositions of assets, including any Asset Sale permitted pursuant to Section 6.05;

(l) investments by the Borrowers and the Restricted Subsidiaries consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;

(m) Guarantees constituting Indebtedness permitted by Section 6.01 (other than Guarantees by any Loan Party of any obligations of any person that is not a Loan Party);

(n) investments in joint ventures in Related Businesses and investments in Unrestricted Subsidiaries; *provided* that (i) at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) of all investments outstanding pursuant to this clause shall not at any time exceed the greater of (x) $14,000,000 and (y) 10% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such investment is made and calculated on a pro forma basis);

(o) investments made by Parent or any Restricted Subsidiary to the extent the consideration paid by Parent or such Restricted Subsidiary for such investment consists of Qualified Capital Stock of Parent; provided that, at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom; provided, further, that, in the event such transaction is a Limited Condition Transaction, the condition referred to in the immediately preceding proviso shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition

Transaction or the funding of any Incremental Commitment or Incremental Equivalent Indebtedness relating to such Limited Condition Transaction;

(p) Hedging Agreements to the extent permitted by Section 6.01(b);

(q) investments resulting from pledges or deposits described in Sections 6.02(f) and 6.02(g);

(r) any Guarantee (i) entered into for the purpose of obtaining or complying with an order under Part 2M.6 of the Australian Corporations Act (or an equivalent provision), (ii) under a Tax Funding Agreement or Tax Sharing Agreement to which Parent or any Restricted Subsidiary is a party or is subject to; provided that any such Tax Funding Agreement or Tax Sharing Agreement complies with Section 5.13, and/or (iii) given in order to comply with obligations under workers' compensation, unemployment insurance and other social security legislation, in each case incurred in the ordinary course of business;

(s) any declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in section 2:403 of the Dutch Civil Code;

(t) additional investments by any Borrower or any Restricted Subsidiary so long as the aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) of all investments outstanding pursuant to this clause, together with the amount of (1) all Restricted Payments made pursuant to Section 6.06(a)(iii) and (2) all Restricted Junior Debt Payments made in accordance with Section 6.09(b)(iii), does not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such investment is made and calculated on a pro forma basis); provided that, at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom; provided, further, that, in the event such transaction is a Limited Condition Transaction, the condition referred to in the immediately preceding proviso shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition Transaction or the funding of any Incremental Commitment or Incremental Equivalent Indebtedness relating to such Limited Condition Transaction;

(u) additional investments by any Borrower or any Restricted Subsidiary in an aggregate amount (determined without giving effect to any adjustments for increases or decreases in value or any write down or write off thereof) not to exceed the then Available Amount; *provided* that (i) at the time of such investment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom, and (ii) any acquisition of an Acquired Entity or a majority of the Equity Interests of any person made pursuant to this clause must in any event satisfy the requirements of subclauses (i) and (ii) of Section 6.04(d); provided, further, that, in the event such transaction is a Limited Condition Transaction, the condition referred to in clause (i) of the immediately preceding proviso shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited

Condition Transaction or the funding of any Incremental Commitment or Incremental Equivalent Indebtedness relating to such Limited Condition Transaction; and

(v) additional investments by any Borrower or any Restricted Subsidiary; *provided* that, (i) at the time of such investment and immediately after giving effect thereto, (x) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (y) the Total Net Leverage Ratio shall be less than or equal to 2.50 to 1.00 as of the last day of the most recently ended Test Period (determined as of the date such investment is made and calculated on a pro forma basis), and (ii) any acquisition of an Acquired Entity or a majority of the Equity Interests of any person made pursuant to this clause must in any event satisfy the requirements of subclauses (i) and (ii) of Section 6.04(d); provided, further, that, in the event such transaction is a Limited Condition Transaction, the condition referred to in clause (i)(x) of the immediately preceding proviso shall be limited to no Default or Event of Default under Sections 7.01(b), (c), (g), (h) or (i) and no other Default or Event of Default the absence of which is a condition to such Limited Condition Transaction or the funding of any Incremental Commitment or Incremental Equivalent Indebtedness relating to such Limited Condition Transaction.

SECTION 6.05. ***Mergers, Consolidations and Sales of Assets***. (a) Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of Parent and the Restricted Subsidiaries (whether now owned or hereafter acquired) or less than all the Equity Interests of any Restricted Subsidiary, except that:

(i) any Borrower and any Restricted Subsidiary may purchase and sell inventory in the ordinary course of business;

(ii) if at the time thereof and immediately after giving effect thereto no Event of Default or Default shall have occurred and be continuing (except, in the case of subclause (C) below), to the extent otherwise provided in Section 6.04(d), (o), (t), (u) or (v), as applicable, with respect to a Limited Condition Transaction):

(A) any wholly owned Restricted Subsidiary may merge into Parent in a transaction in which Parent is the surviving corporation and Parent's jurisdiction of incorporation shall remain the same as immediately prior to such merger;

(B) any wholly owned Restricted Subsidiary may merge into or consolidate with any other wholly owned Restricted Subsidiary in a transaction in which the surviving entity is a wholly owned Restricted Subsidiary and no person other than Parent or a wholly owned Restricted Subsidiary receives any consideration; *provided* that, if either of the wholly owned Restricted Subsidiaries party to such merger or consolidation is a Subsidiary Guarantor, then the surviving entity shall be or become a Subsidiary Guarantor, except that if a Subsidiary Borrower is party thereto, such Subsidiary Borrower shall be the surviving entity;

(C) in connection with any investment permitted pursuant to Section 6.04(d), (o), (t), (u) or (v), Parent or any wholly owned Restricted Subsidiary may acquire or merge into or consolidate with any entity acquired pursuant to such investment in a transaction in which the surviving entity is Parent or a wholly owned Restricted Subsidiary; provided that (x) if any Borrower is a party to such merger or consolidation, such Borrower (or, if Parent is party thereto, Parent) shall be the surviving corporation or other applicable business entity and such Borrower's jurisdiction of organization shall remain the same as immediately prior to such merger or consolidation, and (y) subject to subclause (x) above if any wholly owned Restricted Subsidiary that is a Subsidiary Guarantor merges into or consolidates with any entity acquired pursuant to such investment, then the surviving entity shall be or become a Subsidiary Guarantor;

(D) Parent or any Subsidiary (other than a Subsidiary Borrower) may transfer Equity Interests of, or assets of, a U.S. Restricted Subsidiary to Parent or any wholly owned U.S. Restricted Subsidiary where no person other than Parent or a wholly owned Restricted Subsidiary receives any consideration; *provided* that, if (x) such Equity Interests or such assets being transferred are Equity Interests of, or assets of, a Subsidiary Guarantor, then the recipient thereof shall be or become a Subsidiary Guarantor, and (y) if the transferor of such Equity Interests or such assets is a Subsidiary Guarantor, then the recipient thereof shall be or become a Subsidiary Guarantor;

(E) any Subsidiary may sell, transfer, lease or otherwise dispose of all or substantially all of its assets (including upon a voluntary liquidation or dissolution of such Subsidiary) to a Loan Party (provided that, (i) if such Subsidiary is a Subsidiary Guarantor, the transferee in such transaction shall be a Borrower or another Subsidiary Guarantor and (ii) it being understood for the avoidance of doubt that any such sales, transfers, leases or other dispositions involving a Subsidiary that is not a Loan Party shall be made in compliance with Section 6.07); and

(F) any Subsidiary (other than a Subsidiary Guarantor (except as otherwise set forth on Schedule 6.05) or a Borrower) may liquidate or dissolve if Parent determines in good faith that such liquidation or dissolution is in the best interests of Parent and the Subsidiaries and is not materially disadvantageous to the Lenders;

provided, however, that any merger, consolidation or transfer of assets by or between Parent or a Restricted Subsidiary, on the one hand, and an Unrestricted Subsidiary, on the other hand, shall be subject to the limitation set forth in Section 6.04(l).

(b) Engage in any Asset Sale not otherwise prohibited by Section 6.05(a), except for:

(i) any Asset Sale if all of the following conditions are met: (A) the consideration received is at least equal to the fair market value of such assets; (B) at least

75% of the consideration received is cash and/or Permitted Investments payable at the time of such Asset Sale; (C) the Net Cash Proceeds of such Asset Sale are applied as required by Section 2.13(c); and (D) no Default or Event of Default shall result from such Asset Sale;

(ii) any Asset Sale by any Borrower or Restricted Subsidiary to any joint venture that would be permitted as an investment pursuant to Section 6.04; provided that such Asset Sale is on terms and conditions not less favorable to such Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties;

(iii) leases or licenses of the properties of any Borrower or any Restricted Subsidiary not otherwise prohibited by this Agreement; and

(iv) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of any Borrower or any Restricted Subsidiary.

SECTION 6.06. ***Dividends and Distributions; Restrictions on Ability of Restricted Subsidiaries to Pay Dividends***.

(a) Declare or pay, directly or indirectly, any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any Equity Interests of any Borrower or Restricted Subsidiary or directly or indirectly make any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of (or permit any Restricted Subsidiary to purchase or acquire) any Equity Interests of any Borrower or Restricted Subsidiary or set aside any amount for any such purpose or incur any obligation (contingent or otherwise) to do so (any of the foregoing, a "***Restricted Payment***"); *provided*, *however*, that

(i) any Restricted Subsidiary may declare and pay dividends or make other distributions ratably to its equity holders,

(ii) Parent may at any time make Restricted Payments solely in additional shares of its Qualified Capital Stock,

(iii) additional Restricted Payments by any Borrower or any Restricted Subsidiary so long as the aggregate amount of all Restricted Payments made pursuant to this clause, together with the amount of (1) all investments outstanding pursuant to Section 6.04(t) and (2) all Restricted Junior Debt Payments made in accordance with Section 6.09(b)(iii), does not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Restricted Payment is made and calculated on a pro forma basis); *provided* that at the time of such Restricted Payment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iv) additional Restricted Payments by any Borrower or any Restricted Subsidiary in an aggregate amount not to exceed the then Available Amount; *provided* that, at the time of such Restricted Payment and immediately after giving effect thereto, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Borrowers shall be in compliance with the covenant set forth in Section 6.10(a) (whether or not such covenant was required to be tested in any period) as of the last day of the most recently ended Test Period (determined as of the date such Restricted Payment is made and calculated on a pro forma basis); and

(v) additional Restricted Payments by any Borrower or any Restricted Subsidiary; *provided* that, at the time of such Restricted Payment and immediately after giving effect thereto, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Total Net Leverage Ratio shall be less than or equal to 2.00 to 1.00 as of the last day of the most recently ended Test Period (determined as of the date such Restricted Payment is made and calculated on a pro forma basis);

(vi) so long as no Event of Default or Default shall have occurred and be continuing or would result therefrom at the time of the declaration thereof, Parent may (and the Restricted Subsidiaries may make Restricted Payments directly or indirectly to Parent to enable it to) make dividends with respect to any common stock of Parent in an aggregate amount per annum not to exceed 5.00% of the Market Capitalization of the Parent;

(vii) repurchases of capital stock of Parent deemed to occur upon the exercise of options, warrants or other rights to acquire capital stock of Parent solely to the extent that shares of such capital stock represent a portion of the exercise price of such options, warrants or such rights shall be permitted; and

(viii) Restricted Payments made to employees, officers, consultants or directors (or former employees, officers, consultants or directors) of Parent or any Restricted Subsidiary, or any family member of, or trust or other entity for the benefit of, any of the foregoing persons, to (i) purchase or redeem Equity Interests (other than Disqualified Stock) owned by or (ii) make payments to, such employees, officers, consultants or directors or any family member of, or trust or other entity for the benefit of, any of the foregoing persons (including any voting trust or limited partnership pursuant to which such Equity Interests have been transferred solely for the benefit of the foregoing persons and their heirs), pursuant to and in accordance with shareholders' agreements, stock option, stock appreciation rights or similar equity incentive, equity based incentive or management incentive plans, in each case, approved by Parent or any other Borrower's board of directors (or similar governing body), or in connection with the death or disability of such employees, officers, consultants or directors; provided that the aggregate amount of all Restricted Payments made pursuant to this clause shall not at any time exceed the greater of (x) $7,000,000 and (y) 5% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Restricted Payment is made and calculated on a pro forma basis);

(b) Enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (i) the ability of any Restricted Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure any Obligation, or (ii) the ability of any Restricted Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to any Borrower or any other Restricted Subsidiary or to Guarantee any Obligation of Parent or any other Restricted Subsidiary; provided that (A) the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document, (B) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided that such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (C) the foregoing shall not apply to restrictions and conditions imposed on any Restricted Subsidiary that is not a Loan Party by the terms of any Indebtedness of such Restricted Subsidiary permitted to be incurred hereunder, (D) clause (i) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (E) clause (i) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (F) the foregoing shall not apply to customary restrictions on cash or other deposits or net worth required by customers under contracts entered into in the ordinary course of business and joint venture agreements or other similar arrangements if such provisions apply only to the Person (and the equity interests in such Person) that is the subject thereof, (G) the foregoing shall not apply to customary restrictions and conditions contained in any agreement relating to any Asset Sale (or other disposition of assets) permitted under this Agreement pending the consummation of such Asset Sale (or other disposition of assets), (H) the foregoing shall not apply to any agreement in effect at the time a person becomes a Subsidiary of Parent, so long as such agreement was not entered into in connection with or in contemplation of such person becoming a Subsidiary of Parent, which encumbrance or restriction is not applicable to the properties or assets of any Loan Party, other than the Subsidiary or the property or assets of the Subsidiary, so acquired and (I) the forgoing shall not apply to any restrictions imposed by any agreement governing Credit Agreement Refinancing Indebtedness or Incremental Equivalent Indebtedness (or Permitted Refinancings thereof) entered into after the Closing Date and permitted under Section 6.01 that are, taken as a whole, in the good faith judgment of the Parent, no more restrictive with respect to the Borrowers and the Restricted Subsidiaries than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), so long as the Parent shall have determined in good faith that such restrictions will not affect the obligation or ability of any Borrower or other Loan Party to make any payments required hereunder or under any other Loan Document.

SECTION 6.07. ***Transactions with Affiliates***. Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates other than (a) transactions on terms and conditions (taken as a whole) not materially less favorable to such Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties; provided that such restriction shall not apply to any transaction between or among Loan Parties, and (b) to the extent constituting transactions with Affiliates that would otherwise be prohibited under this Section 6.07: (i) transactions between or among Restricted Subsidiaries that are not Loan Parties, to the extent otherwise permitted under Section 6.04 and not involving any other Affiliate, (ii)

loans or advances to employees, officers and directors permitted under Sections 6.04(g) or (h), (iii) the payment of reasonable fees to directors of any Borrower or any Restricted Subsidiary who are not employees of any Borrower or any Restricted Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrowers or the Restricted Subsidiaries in the ordinary course of business, (iv) Parent may issue and sell Qualified Capital Stock to its Affiliates (other than the Borrowers and the Subsidiaries), (v) transactions permitted under Sections 6.01, 6.04 and 6.06, and (vi) the Borrowers and the Restricted Subsidiaries may perform their respective obligations under the arrangements existing on the Closing Date and specified in Schedule 6.07.

SECTION 6.08. ***Business of Borrowers and Restricted Subsidiaries***. Engage at any time in any business or business activity other than the Related Business.

SECTION 6.09. ***Other Indebtedness and Agreements***. (a) Permit any (i) waiver, supplement, modification, amendment, termination or release of any indenture, instrument or agreement (other than the Existing Syndicated Facility Agreement) pursuant to which any Indebtedness of any Borrower or any Restricted Subsidiary is outstanding if the effect of such waiver, supplement, modification, amendment, termination or release would materially increase the obligations of the obligor or confer additional material rights on the holder of such Indebtedness in a manner materially adverse to any Borrower, any Restricted Subsidiary, any Agent or the Lenders, provided that nothing herein shall prohibit any supplement, modification or amendment of any indenture, instrument or agreement solely in relation to, or solely for the purpose of, issuing or otherwise incurring new Indebtedness that is not prohibited hereunder, (ii) waiver, supplement, modification, amendment, termination or release of any Subordinated Loan Document that (x) results in the Subordinated Indebtedness provided or evidenced thereby no longer complying with the definition of "Subordinated Indebtedness", or (y) would materially increase the obligations of the obligor or obligors thereunder or confer additional material rights on the holder or holders of such Subordinated Indebtedness in a manner materially adverse to any Borrower, any of the Restricted Subsidiaries or the Lenders, (iii) waiver, supplement, modification or amendment of any agreements, documents and instruments providing for or evidencing any Credit Agreement Refinancing Indebtedness or Incremental Equivalent Indebtedness (or Permitted Refinancings thereof) that (x) results in such Credit Agreement Refinancing Indebtedness or Incremental Equivalent Indebtedness (or Permitted Refinancings thereof) provided or evidenced thereby no longer complying with the definition of "Credit Agreement Refinancing Indebtedness" or "Incremental Equivalent Indebtedness", as the case may be, or (y) would materially increase the obligations of the obligor or obligors thereunder or confer additional material rights on the holder or holders of such Credit Agreement Refinancing Indebtedness or Incremental Equivalent Indebtedness (or Permitted Refinancings thereof) in a manner materially adverse to any Borrower, any of the Restricted Subsidiaries or the Lenders or (iv) waiver, supplement, modification or amendment of Organization Documents, to the extent any such waiver, supplement, modification or amendment would be adverse to the Lenders in any material respect (as determined in good faith by Parent and reasonably acceptable to the Administrative Agent).

(b) Make any distribution, whether in cash, property, securities or a combination thereof, in respect of, or pay, or commit to pay, or directly or indirectly redeem, repurchase, retire or otherwise acquire for consideration, or set apart any sum for the aforesaid

purposes, any Subordinated Indebtedness, Junior Incremental Equivalent Indebtedness, Permitted Junior Priority Refinancing Debt or any Incremental Term Loans that are unsecured or that are secured by Liens on any Collateral that are junior to the Liens securing the other Obligations (any of the foregoing, a "***Restricted Junior Debt Payment***"), except:

(i) refinancings permitted by Section 6.01;

(ii) the payment of regularly scheduled interest payments as and when due in respect of any Subordinated Indebtedness, Junior Incremental Equivalent Indebtedness or Permitted Junior Priority Refinancing Debt permitted under Section 6.01 and subject, to the extent applicable, to the subordination provisions contained in the Subordinated Loan Documents in respect thereof;

(iii) additional Restricted Junior Debt Payments by any Borrower or any Restricted Subsidiary so long as the aggregate amount of all Restricted Junior Debt Payments made pursuant to this clause, together with the amount of (1) all investments outstanding pursuant to Section 6.04(t) and (2) all Restricted Payments made in accordance with Section 6.06(a)(iii), does not at any time exceed the greater of (x) $40,000,000 and (y) 25% of Consolidated EBITDA of Parent and the Restricted Subsidiaries for the most recently ended Test Period (determined as of the date such Restricted Junior Debt Payment is made and calculated on a pro forma basis); provided that at the time of such Restricted Junior Debt Payment and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iv) additional Restricted Junior Debt Payments by any Borrower or any Restricted Subsidiary in an aggregate amount not to exceed the then Available Amount; provided that, at the time of such Restricted Junior Debt Payment and immediately after giving effect thereto, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Borrowers shall be in compliance with the covenant set forth in Section 6.10(a) (whether or not such covenant was required to be tested in any period) as of the last day of the most recently ended Test Period (determined as of the date such Restricted Junior Debt Payment is made and calculated on a pro forma basis);

(v) additional Restricted Junior Debt Payments by any Borrower or any Restricted Subsidiary; provided that, at the time of such Restricted Junior Debt Payment and immediately after giving effect thereto, (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Total Net Leverage Ratio shall be less than or equal to 2.50 to 1.00 as of the last day of the most recently ended Test Period (determined as of the date such Restricted Junior Debt Payment is made and calculated on a pro forma basis); and

(vi) the prepayment of principal in respect of Permitted Junior Priority Refinancing Debt or Junior Incremental Equivalent Indebtedness pursuant to a mandatory prepayment to the extent that the Required Lenders waive the corresponding mandatory prepayment required under Section 2.13.

(c) Pay, or directly or indirectly redeem, repurchase, retire or otherwise acquire for consideration, or set apart any sum for the aforesaid purposes, any Other Applicable First Priority Indebtedness, except:

(i) refinancings permitted by Section 6.01;

(ii) the payment of regularly scheduled principal payments as and when due in respect of any Other Applicable First Priority Indebtedness permitted under Section 6.01; and

(iii) voluntary prepayments (and mandatory prepayments as described in Section 2.13(j)) of any Other Applicable First Priority Indebtedness, so long as any such prepayment is applied on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable First Priority Indebtedness at such time) to the prepayment of the Term Loans and to the prepayment of such Other Applicable First Priority Indebtedness.

SECTION 6.10. ***Financial Covenant***.

(a) If on the last day of any fiscal half-year period of Parent (commencing in respect of the fiscal period ending December 31, 2018, if otherwise required to be tested as of such date) the sum of the Aggregate Revolving Credit Exposure and Aggregate Contract Credit Facilities Exposure at such time (but excluding the aggregate undrawn amount of Letters of Credit and Contract Letters of Credit outstanding at such time) equals or exceeds 35% of the Total Revolving Credit Commitment at such time, permit the First Lien Net Leverage Ratio as of such date to be greater than 4.00 to 1.00.

(b) Solely for purposes of determining compliance with the financial covenant set forth above in Section 6.10(a), on or prior to the day that is ten Business Days after the day on which financial statements are required to be delivered pursuant to Section 5.04(a) or 5.04(b), as applicable, for any fiscal period (the "***Equity Cure Period***"), Parent shall have the right to issue for cash consideration common equity or Qualified Capital Stock of Parent to, or receive a cash equity contribution from, any holder or prospective holder (other than any Subsidiary) of Equity Interests of Parent (to the extent not resulting in a Change of Control) on or prior to the expiration of the Equity Cure Period for such fiscal period, and such cash will, if so designated by Parent, be included in the calculation of Consolidated EBITDA for the purposes of determining compliance with the financial covenant set forth above in Section 6.10(a) at the end of such fiscal period and the immediately following fiscal half-year period (any such cash proceeds of such equity issuance or equity contribution so included in the calculation of Consolidated EBITDA, a "***Specified Equity Contribution***"); provided that (a) there shall be no more than five Specified Equity Contributions made during the term of this Agreement, (b) in each two (2) consecutive fiscal half-year periods, there shall be at least one (1) fiscal half-year period in respect of which no Specified Equity Contribution is made, (c) the amount of any Specified Equity Contribution shall be no greater than the amount required to cause Parent to be in compliance with the financial covenant set forth above in Section 6.10(a), (d) all Specified Equity Contributions shall be disregarded for all other purposes of this Agreement, including, determining the Total Net Leverage Ratio or First Lien Net Leverage Ratio for any other purpose

hereunder (including the Applicable Rate), the Available Amount, the amount of Incremental Facilities permitted pursuant to Section 2.27, Excess Cash Flow and any baskets with respect to the covenants contained in this Article VI, (e) for purposes of calculating the Total Net Leverage Ratio or First Lien Net Leverage Ratio at the end of the fiscal period for which a Specified Equity Contribution was made, no pro forma reduction in Indebtedness with all or any portion of such Specified Equity Contribution shall be permitted, either directly through prepayment or indirectly as a result of the netting of Unrestricted Cash (but any permanent prepayment or repayment of Indebtedness from the proceeds of such Specified Equity Contribution shall be given effect for purposes of calculating the Total Net Leverage Ratio or First Lien Net Leverage Ratio at the end of subsequent fiscal periods) and (f) for purposes of calculating Liquidity at the end of the fiscal period for which a Specified Equity Contribution was made and during and at the end of the immediately following fiscal half-year period, the amount of such Specified Equity Contribution (together with the aggregate amount of all other Specified Equity Contributions (if any) made for any of the fiscal half-year periods included in the period of two consecutive-fiscal-half-year periods being tested) shall be subtracted in the determination of Unrestricted Cash. Upon receipt by the Administrative Agent of a Notice of Intent to Cure prior to the last day of the Equity Cure Period, no Agent nor any Lender shall exercise any rights or remedies under Section 7.01 (or any rights and remedies under any other Loan Document that are available during the continuance of an Event of Default) on the basis of any failure to comply with the financial covenant set forth above in Section 6.10(a) until the expiration of the Equity Cure Period.

SECTION 6.11. ***Fiscal Year***. Permit the fiscal year of any Loan Party to end on a day other than December 31.

SECTION 6.12. ***Designation of Subsidiaries***. (a) Parent may at any time designate any Restricted Subsidiary (other than any Borrower) as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that, immediately before and after giving effect to such designation and any investments made or Liens or Indebtedness incurred as a result thereof, (i) no Default or Event of Default shall have occurred and be continuing or would result from such designation, (ii) Parent shall be in compliance on a pro forma basis with the covenant set forth in Section 6.10(a) (whether or not such covenant was required to be tested in any period) recomputed as of the last day of the most recently ended Test Period and (iii) the Unrestricted Subsidiaries shall not, individually or in the aggregate, (1) have Consolidated Total Assets in an amount greater than 2.5% of Consolidated Total Assets of Parent and its Restricted Subsidiaries or (2) contribute more than 2.5% of the Consolidated EBITDA of Parent and its Restricted Subsidiaries, in each case, as of the last day of or for the most recently ended Test Period, calculated on a pro forma basis. Notwithstanding the foregoing, Parent may not designate a Restricted Subsidiary as an Unrestricted Subsidiary if, at the time of such designation (and, thereafter, any Unrestricted Subsidiary shall cease to be an Unrestricted Subsidiary automatically if) (x) such Restricted Subsidiary or any of its subsidiaries is a "restricted subsidiary" or a "guarantor" (or any similar designation) for any other Indebtedness of Parent or any Restricted Subsidiary in an aggregate principal amount exceeding the Threshold Amount or for any Incremental Equivalent Indebtedness or Credit Agreement Refinancing Indebtedness, or (y) such Restricted Subsidiary or any of its subsidiaries owns any Equity Interests of, or holds any Lien on any property of, Parent or any Restricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an investment

by the parent of such Subsidiary therein at the time of designation in an amount equal to the fair market value (as reasonably determined by Parent) of such parent's investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (A) the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time, (B) the making of an investment by such Subsidiary in any investments of such Subsidiary existing at such time, and (C) a return on the investment of the parent of such Subsidiary in such Subsidiary equal to the lesser of (I) the amount of such investment immediately prior to such designation and (II) the fair market value (as reasonably determined by Parent) of the net assets of such Subsidiary at the time of such designation. Prior to any designation made in accordance with this Section 6.12, Parent shall deliver to the Administrative Agent a certificate of a Financial Officer certifying that the designation satisfies the applicable conditions set forth in this Section 6.12 (which certificate shall, among other things, set forth in reasonable detail the calculations demonstrating compliance with clause (ii) of the first sentence of this Section 6.12(b)).

(b) Neither Parent nor any Restricted Subsidiary shall at any time (i) provide a Guarantee of any Indebtedness of any Unrestricted Subsidiary, (ii) be directly or indirectly liable for any Indebtedness of any Unrestricted Subsidiary or (iii) be directly or indirectly liable for any other Indebtedness which provides that the holder thereof may (upon notice, lapse of time or both) declare a default thereon (or cause such Indebtedness or the payment thereof to be accelerated, payable or subject to repurchase prior to its final scheduled maturity) upon the occurrence of a default with respect to any other Indebtedness that is Indebtedness of an Unrestricted Subsidiary, except in the case of clause (i) or (ii) to the extent permitted under Section 6.01 and Section 6.04 hereof.

(c) Parent shall not, and shall not permit any Restricted Subsidiary to, furnish any funds to or make any investment in any Unrestricted Subsidiary or any other person for purposes of enabling it to make any payment or distribution that could not be made by Parent or the Restricted Subsidiaries in accordance with the provisions of Section 6.06(a) or 6.09(b).

SECTION 6.13. ***Certain Issuances of Equity Interests***. Issue any Equity Interest, except that (a) Parent may issue Equity Interests, to the extent not otherwise prohibited by or in violation of this Agreement; (b) with respect to any Restricted Subsidiary (and subject to any applicable requirements in Section 5.11 and the Agreed Security Principles), such Restricted Subsidiary may issue Equity Interests for stock splits, stock dividends and additional issuances of Equity Interests which do not decrease the percentage ownership in any class of Equity Interests of such issuing Restricted Subsidiary owned by any Loan Party or any other Restricted Subsidiary that owns Equity Interests in such issuing Restricted Subsidiary; provided that this clause (b) shall permit any such decrease in such percentage ownership in any class of Equity Interests of such issuing Restricted Subsidiary solely to the extent that such decrease is accompanied by a corresponding increase in the percentage ownership in such class of Equity Interests of such issuing Restricted Subsidiary owned by a Loan Party, which Equity Interests are pledged to secure the Obligations; (c) with respect to any Restricted Subsidiary incorporated, organized or formed after the Closing Date in accordance with Section 6.04 (and subject to any applicable requirements in Section 5.11 and the Agreed Security Principles), such Restricted Subsidiary may issue Equity Interests in connection with its incorporation, organization or formation to any Loan Party or another Restricted Subsidiary which is to own such Equity

Interests; and (d) with respect to any Restricted Subsidiary that is not a Loan Party and none of the Equity Interests in which are owned by a Loan Party, such Restricted Subsidiary may issue Equity Interests to Parent or any other wholly owned Restricted Subsidiary.

SECTION 6.14. ***Sanctions-Compliant Repayment of Obligations***. Use, directly or indirectly, any funds or assets derived from or used in any activity, business, or transaction with a Sanctioned Person, in a Sanctioned Country, or that otherwise violates Sanctions, to repay or discharge any Obligations or any portion thereof, except to the extent that such activity, business, or transaction and such use of funds or assets would be lawful for a person required to comply with Sanctions.

ARTICLE VII

Events of Default

SECTION 7.01. ***Events of Default***. In case of the happening of any of the following events ("***Events of Default***"):

(a) any representation or warranty made or deemed made in or in connection with any Loan Document or the borrowings or issuances of Letters of Credit hereunder, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished in connection with or pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(b) default shall be made in the payment of any principal of any Loan or the reimbursement with respect to any L/C Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on (or premium with respect to) any Loan or any Fee or L/C Disbursement or any other amount (other than an amount referred to in (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of five (5) Business Days;

(d) default shall be made in the due observance or performance by any Borrower or any Subsidiary of any covenant, condition or agreement contained in Section 5.01(a), 5.05, 5.08, 5.12 or 5.14 or in Article VI; provided that a default under Section 6.10 (a "***Financial Covenant Default***") shall not constitute an Event of Default for purposes of the Term Loans or any other credit facility hereunder other than a credit facility comprised of Revolving Credit Commitments or Extended Revolving Credit Commitments, and the Lenders holding Term Loan Commitments (or any other commitments other than Revolving Credit Commitments or Extended Revolving Credit Commitments) will not be permitted to exercise any remedies with respect to an uncured breach of the requirements of Section 6.10 until the date, if any, on which Revolving Credit Commitments and/or Extended Revolving Credit Commitments have been terminated or the maturity of any Revolving Loans has been accelerated as a result of such breach;

(e) default shall be made in the due observance or performance by any Borrower or any Subsidiary of any covenant, condition or agreement contained in any Loan Document (other than those specified in (b), (c) or (d) above) and such default shall continue unremedied for a period of 30 days (or, in the case of Sections 5.04(a), 5.04(b) and 5.04(c), 15 days) after the earlier of (i) notice thereof from the Administrative Agent or the Required Lenders to Parent and (ii) any Loan Party becoming aware of such default;

(f) any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary) shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness in a principal amount in excess of the Threshold Amount, when and as the same shall become due and payable, or (ii) fail to observe or perform any other term, covenant, condition or agreement contained in any agreement or instrument evidencing or governing any such Indebtedness or any other event or condition occurs, in any such case of this clause (ii), if the effect thereof is to cause, or to enable or permit the holder or holders of such Indebtedness or a trustee or other agent or representative on its or their behalf (with or without the giving of notice, the lapse of time or both) to cause, such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity; provided that subclause (ii) above shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness in a transaction not otherwise prohibited by the Loan Documents;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary), or of a substantial part of the property or assets of any Borrower or a Restricted Subsidiary (other than an Immaterial Subsidiary), under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management or similar law (including under the laws of Australia), (ii) the appointment of a receiver, judicial manager, trustee, examiner, administrator, custodian, sequestrator, conservator, liquidator, manager or similar official for any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary) or for a substantial part of the property or assets of any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary), (iii) the winding-up, dissolution or liquidation of any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary); and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered, or (iv) a composition, assignment or arrangement with any creditor of any member of the Group;

(h) any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary) shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or non-U.S. bankruptcy, insolvency, examinership, receivership, administration, judicial management, scheme of arrangement or similar law (including under the laws of Australia), (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in (g) above, (iii) apply for or consent to the appointment of a receiver, judicial manager, administrator, examiner, trustee, custodian, sequestrator, conservator, liquidator, manager or similar official for any Borrower or any

Restricted Subsidiary (other than an Immaterial Subsidiary) or for a substantial part of the property or assets of any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary), (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due or (vii) take any action for the purpose of effecting any of the foregoing;

(i) Parent or any Restricted Subsidiary (other than any Immaterial Subsidiary) incorporated or organized under the laws of Australia (i) is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due; or (y) suspends making payments on any of its debts;

(j) one or more judgments for the payment of money the aggregate amount is in excess of the Threshold Amount (to the extent not covered by insurance provided by an insurer that is not an Affiliate of Parent, with respect to which coverage has been acknowledged by such insurer) shall be rendered against any Borrower, any Restricted Subsidiary (other than an Immaterial Subsidiary) or any combination thereof and the same shall remain undischarged for a period of 45 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of any Borrower or any Restricted Subsidiary (other than an Immaterial Subsidiary) to enforce any such judgment;

(k) a moratorium shall have taken effect by operation of law or shall have been declared in respect of any Indebtedness of any Loan Party incorporated or registered in Singapore;

(l) any Loan Party shall have been declared by the Minister of Finance of Singapore to be a company to which Part IX of the Singapore Companies Act applies;

(m) an ERISA Event shall have occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, has had or could reasonably be expected to result in a Material Adverse Effect;

(n) (i) any Loan Document or any Guarantee under any of the Loan Documents for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall deny in writing that it has any further liability under any Loan Document to which it is a party (other than as a result of the discharge of such Guarantor in accordance with the terms of the Loan Documents) or (ii) any Loan Party shall fail to comply with the terms of any Intercreditor Agreement in any material respect or any such document for any reason shall cease to be in full force and effect (other than in accordance with its terms), or any Loan Party shall so assert;

(o) any security interest purported to be created by any Security Document shall cease to be, or shall be asserted by any Borrower or any other Loan Party not to be, a valid, perfected, first priority (except as otherwise expressly provided in this Agreement or such Security Document) security interest in the securities, assets or properties covered thereby with a fair market value in excess of $5,000,000, except (i) as a result of the release of a Loan Party or

the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents or (ii) to the extent that any such loss of perfection or priority is as a result of the Collateral Agent's or Security Trustee's, as applicable, failure to maintain possession of any stock certificates, promissory notes or other instruments actually delivered to it under any Security Document;

(p) there shall have occurred a Change of Control; or

(q) any subordinated Indebtedness of any Borrower or any Restricted Subsidiary (including any Subordinated Indebtedness) shall cease (or any Loan Party or an Affiliate of any Loan Party shall so assert), for any reason, to be validly subordinated to the Obligations as required pursuant to the Loan Documents and as provided, to the extent applicable, in the Subordinated Indebtedness Documents related thereto or other definitive documents evidencing such subordinated Indebtedness;

then, and in every such event (other than an event with respect to any Borrower described in clause (g), (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, with the consent of the Required Lenders (or, in the case of a Financial Covenant Default, the Required Revolving Credit Lenders), may, and at the request of the Required Lenders (or, in the case of a Financial Covenant Default, the Required Revolving Credit Lenders, but solely with respect to Revolving Loans, Revolving Credit Commitments, Extended Revolving Credit Commitments and Letters of Credit) shall, by notice to Parent, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers and the other Loan Parties accrued hereunder and under any other Loan Document, shall become forthwith due and payable, (iii) require that the Borrowers cash collateralize all outstanding Letters of Credit and Contract Letters of Credit (in an amount equal to the Minimum Collateral Amount with respect thereto) in accordance with Section 2.23(j) and (iv) exercise on behalf of itself and the other Secured Parties all rights and remedies available to it and the Secured Parties under the Loan Documents, in each case, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding; and in any event with respect to any Borrower described in clause (g), (h) or (i) above, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers and the other Loan Parties accrued hereunder and under any other Loan Document, shall automatically become due and payable, and the obligation of the Borrowers to cash collateralize all outstanding Letters of Credit as aforesaid shall automatically become effective, in each case, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding.

SECTION 7.02. ***Application of Proceeds***. The Agents shall apply (a) the proceeds of any collection, sale, foreclosure or other realization upon any Collateral, including any Collateral consisting of cash, and (b) any amounts received in respect of the Obligations

following the termination of the Commitments and any of the Loans becoming due and payable pursuant to Section 7.01, in each case as follows:

FIRST, to the payment of all costs and expenses incurred by the Agents (in their respective capacities as such hereunder or under any other Loan Document) in connection with any collection, sale, foreclosure or realization or otherwise in connection with this Agreement, any other Loan Document or any of the Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by any Agent hereunder or under any other Loan Document on behalf of any Loan Party, any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document, any amounts for which any Agent is entitled to indemnification, fees, or reimbursement of costs or expenses under the terms of any Loan Document, and any other Obligations owed to any of the Agents (other than Unfunded Advances/Participations), in their respective capacities as such hereunder or under any other Loan Document;

SECOND, to the payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed among the Administrative Agent and the Issuing Banks pro rata in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution);

THIRD, to the payment in full of all Obligations consisting of accrued and unpaid L/C Participation Fees and Facility Fees (subject to the express provisions of this Agreement which require, or permit, differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders), any similar fees under any Contract Credit Facility, interest (including interest accruing during the pendency of any bankruptcy, insolvency, judicial management, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans and any Contract Loans, and scheduled periodic payments then due under Secured Hedging Agreements and any interest with respect to the Secured Hedging Agreements (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of such Obligations owed to them on the date of any such distribution);

FOURTH, to the payment in full of all Obligations (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, judicial management, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) consisting of unpaid principal amount of the Loans and any Contract Loans and any premium thereon or breakage or termination fees, costs or expenses related thereto, unpaid amount of any L/C Disbursements not yet reimbursed by the Borrowers (including all such obligations owed to each Issuing Bank in its capacity as such under the Loan Documents), unpaid amount of any payments or disbursements pursuant to any Contract Letter of Credit not yet reimbursed by the Borrowers, the termination values and any other Obligations in respect of Secured Hedging Agreements (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution);

FIFTH, to the payment in full of all other Obligations, other than in respect of cash collateralization of outstanding Letters of Credit and Contract Letters of Credit (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the amounts of the Obligations owed to them on the date of any such distribution);

SIXTH, to cash collateralize outstanding Letters of Credit and Contract Letters of Credit by depositing cash in an account with the Collateral Agent and/or the Security Trustee, for the benefit of the Revolving Credit Lenders and Extending Revolving Credit Lenders, as their interests may appear, in an amount equal to the Minimum Collateral Amount required pursuant to Section 2.23(j) as of such date; and

SEVENTH, to the Borrowers, their successors or assigns, or as a court of competent jurisdiction may otherwise direct or as otherwise required by any Intercreditor Agreement.

The Agents shall have absolute discretion as to the time of application of any such proceeds, moneys, balances or amounts in accordance with this Agreement and the other Loan Documents. Upon any sale of Collateral by any Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of any Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to any Agent or such officer or be answerable in any way for the misapplication thereof.

ARTICLE VIII

The Agents, Etc.; Certain ERISA Matters

SECTION 8.01. ***The Administrative Agent, the Collateral Agent and the Security Trustee, Etc***.

In order to expedite the transactions contemplated by this Agreement, Credit Suisse AG, Cayman Islands Branch, is hereby irrevocably appointed to act as Administrative Agent, Collateral Agent and Security Trustee on behalf of each of the Lenders, the Issuing Banks and their respective Affiliates that are Secured Parties (for purposes of this Article VIII, the Administrative Agent, the Collateral Agent and the Security Trustee are referred to collectively as the "***Agents***"). Each of the Lenders, the Issuing Banks, and each assignee of any such Lender or Issuing Bank, on behalf of itself and each of its Affiliates that are Secured Parties, hereby irrevocably authorizes each of the Agents to take such actions on behalf of such Lender, Issuing Bank, assignee or other Secured Party and to exercise such powers as are delegated to such Agent by the terms and provisions hereof and of the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including to negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders or the Required Revolving Credit Lenders, as the case may be, which negotiation, enforcement or settlement will be binding upon each Lender or upon each Revolving Credit Lender and Extending Revolving Credit Lender, respectively. Without limiting the generality of the foregoing, the Agents are hereby expressly authorized to (i) execute any and all

documents (including releases) with respect to the Collateral, the Guarantees of the Obligations and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Security Documents, and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders or the Required Revolving Credit Lenders, as the case may be, which negotiation, enforcement or settlement will be binding upon each Lender or upon each Revolving Credit Lender and Extending Revolving Credit Lender, respectively.

It is understood and agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent, Collateral Agent or Security Trustee is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

None of the Agents shall have any duties or obligations except those expressly set forth in the Loan Documents, and each Agent's duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, (a) none of the Agents shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) none of the Agents shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that such Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08); provided that none of the Agents shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law, and (c) except as expressly set forth in the Loan Documents, none of the Agents shall have any duty to disclose, nor shall it be liable for the failure to disclose, any information relating to any Borrower or any of the Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent, Collateral Agent and/or Security Trustee or any of its Affiliates in any capacity. None of the Agents shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08) or in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment. None of the Agents shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by Parent or a Lender. No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent. Each party to this Agreement acknowledges and agrees that the Agents

may from time to time use one or more outside service providers for the tracking of all UCC or PPSA financing statements (and/or other collateral related filings and registrations from time to time) required to be filed or recorded pursuant to the Loan Documents and the notification to the Agents, of, among other things, the upcoming lapse or expiration thereof or (vi) any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of any Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith. No Agent shall be responsible or liable to the Secured Parties for any failure to monitor or maintain any portion of the Collateral. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless each Agent shall have received written notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper person. Each Agent may also rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Security Trustee's liability under this Agreement and the other Loan Documents is limited in the manner set out in the Security Trust Deed.

Each Agent may perform any and all its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by it. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. None of the Agents shall be responsible for the negligence or misconduct of any sub-agents, or any Related Parties of any sub-agents, except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Subject to the elapsing of the 30-day period for the appointment and acceptance of a successor Agent as provided below, either Agent may resign at any time by notifying the Lenders, the Issuing Banks and Parent. Upon any such resignation, the Required Lenders shall have the right to appoint a successor, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval). If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the

retiring Agent may, on behalf of the Lenders, the Issuing Banks and the other Secured Parties, and with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), appoint a successor Agent which shall be a bank with an office in New York, New York. If no successor Agent has been appointed pursuant to the immediately preceding sentence by the 30th day after the date such notice of resignation was given by such Agent, such Agent's resignation shall become effective and the Required Lenders shall thereafter perform all the duties of such Agent hereunder and/or under any other Loan Document until such time, if any, as the Required Lenders appoint, with, so long as no Event of Default shall have occurred and be continuing, the approval of Parent (such approval not to be unreasonably withheld, conditioned or delayed and which approval shall be deemed to have been given by Parent if Parent has not responded within five (5) Business Days of a request for such approval), a successor Administrative Agent, Collateral Agent and/or Security Trustee, as the case may be. Any such resignation by such Agent hereunder shall also constitute, to the extent applicable and unless otherwise agreed to in writing by such Agent, its resignation as an Issuing Bank, in which case such resigning Agent (x) shall not be required to issue any further Letters of Credit hereunder and (y) shall maintain all of its rights as an Issuing Bank with respect to any Letters of Credit issued by it, prior to the date of such resignation. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After an Agent's resignation hereunder, the provisions of this Article and Section 9.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while acting as Agent.

With respect to the Loans and any other extensions of credit made by it hereunder and the Letters of Credit issued by it hereunder, each institution serving as an Agent hereunder (in its individual capacity and not as Agent) shall have the same rights and powers as any other Lender and, as applicable, any other Issuing Bank, and may exercise the same as though it were not an Agent, and the Agents and their Affiliates may accept deposits from, lend money to, act as financial advisor or in any other advisory capacity for, and generally engage in any kind of business with any Borrower or any Subsidiary or other Affiliate thereof as if it were not an Agent. The term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the person serving as an Agent hereunder in its individual capacity.

Each Lender agrees (a) to reimburse the Agents, on demand, in the amount of its pro rata share (based on its share of the sum of the Aggregate Revolving Credit Exposure, outstanding Term Loans and unused Commitments at the time (in each case, determined as if no Lender were a Defaulting Lender)) of any costs and expenses incurred by the Agents in connection with the Loan Documents and the transactions contemplated thereby, including reasonable counsel fees and compensation of agents and employees paid for services rendered on behalf of the Lenders and the Issuing Banks, that shall not have been reimbursed by any Loan Party (and without limiting any such Loan Party's obligation to do so) and (b) to indemnify and hold harmless each

Agent and any of its Related Parties, on demand, in the amount of such pro rata share, from and against any and all liabilities, taxes, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by or asserted against it in its capacity as Agent or any of them in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted by it or any of them under this Agreement or any other Loan Document, to the extent the same shall not have been reimbursed by any Borrower or any other Loan Party (and without limiting any such Borrower's or any such Loan Party's obligation to do so); *provided* that no Lender shall be liable to an Agent or any such other indemnified person for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent or any of its directors, officers, employees or agents. Each Revolving Credit Lender and Extending Revolving Credit Lender agrees to reimburse each of the Issuing Banks and their directors, employees and agents, in each case, to the same extent and subject to the same limitations as provided above for the Agents.

Each Lender acknowledges that it has, independently and without reliance upon the Agents or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent, any Joint Bookrunner or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement or any other Loan Document, any related agreement or any document furnished hereunder or thereunder.

Without limiting the foregoing, no Secured Party (other than the Agents) shall (i) have any right individually to realize upon or commence any remedial procedures with respect to any of the Collateral or to enforce any Guarantee of the Obligations or (ii) take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help) or with respect to any property of any Loan Party, unless expressly provided for herein or in any other Loan Document, without the prior written consent of the Administrative Agent; it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Agents on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by any Agent on any of the Collateral pursuant to a public or private sale or other disposition (including pursuant to Section 363 of the Bankruptcy Code), any Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale or other disposition, and the Administrative Agent, the Collateral Agent or the Security Trustee, as agent and/or trustee for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled (and is hereby expressly authorized), for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by such Agent on behalf of the Secured Parties at such sale or other disposition.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relating to the Loan Documents relative to any Loan Party, each of the Agents (irrespective of whether the principal of any Loan or Letter of Credit shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on any Loan Party) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise: (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letters of Credit and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Agents and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Agents under Sections 2.05 and 9.05) allowed in such judicial proceeding; and (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same. Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, each Issuing Bank, the Security Trustee and the Collateral Agent to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks, the Security Trustee and the Collateral Agent, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.05 and 9.05. Nothing contained herein shall be deemed to authorize any Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize any Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

Each Agent is authorized to enter into the Intercreditor Agreement and any other intercreditor, subordination, collateral trust or similar agreement (including any Intercreditor Agreement) contemplated hereby with respect to any Indebtedness (a) that is (i) required or permitted to be subordinated hereunder or (ii) secured by Liens pari passu with or junior to the Liens securing the Obligations and (b) which contemplates an intercreditor, subordination or collateral trust agreement (any such other intercreditor agreement, an "Additional Agreement"), and the Secured Parties party hereto acknowledge that any Intercreditor Agreement and any other Additional Agreement is binding upon them. Each Secured Party party hereto hereby (a) agrees that they will be bound by, and will not take any action contrary to, the provisions of any Intercreditor Agreement or any other Additional Agreement and (b) authorizes and instructs each Agent to enter into any Intercreditor Agreement or any other Additional Agreement and to subject the Liens on the Collateral securing the Obligations and, as applicable, Guarantees of the Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrowers, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of any Intercreditor Agreement and any other Additional Agreement.

Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each of the Joint Bookrunners is named as such for recognition purposes only, and in their respective capacities as such shall have no duties, responsibilities or liabilities with

respect to this Agreement or any other Loan Document; it being understood and agreed that each of the Joint Bookrunners shall be entitled to all indemnification and reimbursement rights in favor of the Agents provided herein and in the other Loan Documents. Without limitation of the foregoing, none of the Joint Bookrunners in their respective capacities as such shall, by reason of this Agreement or any other Loan Document, have any fiduciary relationship in respect of any Lender, Loan Party or any other person.

Without limiting the general application of any other provision of this Section 8.01, upon the execution of the Security Trust Deed by the Security Trustee, each Secured Party, by its acceptance of any of the benefits of the Security Trust Deed and any Transaction Security Interest (as defined in the Security Trust Deed): (i) appoints the Security Trustee under the terms of the Security Trust Deed to act as its agent and/or trustee under and in relation to any Transaction Security Interest (as defined in the Security Trust Deed) and to hold the assets subject to the security thereby created as agent and/or trustee for the Secured Parties on trust and on the terms contained in the Security Trust Deed and other applicable Loan Documents, (ii) authorizes the Security Trustee under the terms of the Security Trust Deed to exercise such rights, remedies, powers and discretions as are specifically delegated to Security Trustee by the terms of the Security Trust Deed and other applicable Loan Documents, together with all such rights, remedies, powers and discretions as are incidental thereto, and the Security Trustee hereby accepts that appointment, (iii) acknowledges that it has received a copy of, and is aware of and consents to the terms of, the Security Trust Deed, (iv) agrees to comply with and be bound by the Security Trust Deed as a Beneficiary (as defined in the Security Trust Deed), (v) acknowledges and agrees as specified in clause 3.12 (Independent investigation of credit) of the Security Trust Deed, and (vi) for consideration received, irrevocably appoints as its attorney each person who under the terms of the Security Trust Deed is appointed an attorney of a Beneficiary (as defined in the Security Trust Deed) on the same terms and for the same purposes as contained in the Security Trust Deed. This paragraph is executed as a deed poll in favor of Security Trustee and each Beneficiary (as defined in the Security Trust Deed) from time to time.

Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the foregoing provisions.

The provisions of this Section 8.01 are for the sole benefit of the Agents and their Related Parties, the Lenders, the Issuing Banks and the Joint Bookrunners and shall not afford any right to, or constitute a defense available to, any Loan Party (subject to any consent right of Parent expressly set forth in this Section 8.01 in connection with the resignation of any Agent with respect to the selection of any successor Agent).

SECTION 8.02. ***Certain ERISA Matters***.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless Section 8.02(a)(i) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in 8.02(a)(iv), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, each Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that:

(i) none of the Agents or any of its respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by any Agent under this Agreement, any Loan Document or any documents related to hereto or thereto);

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is independent (within

the meaning of 29 CFR § 2510.3-21, as amended from time to time) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least $50,000,000, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E);

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the obligations);

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Letters of Credit, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder; and

(v) no fee or other compensation is being paid directly to the Administrative Agent or any of its respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Letters of Credit, the Commitments or this Agreement.

(c) Each Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, arrangement fees, commitment fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE IX

Miscellaneous

SECTION 9.01. ***Notices***. Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(a) if to any Borrower, to it in care of Parent at both:

(i) c/o SpeedCast International Limited
2401 & 08-11 Dorset House, Taikoo Place
979 King's Road, Quarry Bay
Hong Kong
Attention: General Counsel
Email: Dominic.gyngell@speedcast.com
Fax: +852 3919 6880

(ii) c/o SpeedCast International Limited
Unit 4F Level 1
12 Lord Street, Botany
NSW 2019, Sydney
Australia
Attention: Chief Financial Officer
Email: Clive.cuthell@speedcast.com
Fax: +612 9531 8391

(b) if to the Administrative Agent, to Credit Suisse AG, Cayman Islands Branch, Eleven Madison Avenue, New York, New York 10010, Attention of Loan Operations – Boutique Management (Fax No.: +1 (212) 322-2291) (Email: agency.loanops@credit-suisse.com);

(c) if to the Collateral Agent or the Security Trustee, to Credit Suisse AG, Cayman Islands Branch, Eleven Madison Avenue, New York, New York 10010, Attention of Loan Operations – Boutique Management (Fax No.: +1 (212) 325-8315) (Email: list.ops-collateral@credit-suisse.com); and

(d) if to a Lender or an Issuing Bank, to it at its address (or fax number) set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender shall have become a party hereto.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if such day is a Business Day, otherwise on the first Business Day after receipt) if delivered by hand or overnight courier service or sent by fax or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01. As agreed to among the Borrowers, the Administrative Agent and the applicable Lenders from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person for such purpose.

Each Borrower hereby agrees, unless directed otherwise by the Administrative Agent or unless the electronic mail address referred to below has not been provided by the Administrative Agent to the Borrowers, that it will, or will cause the Subsidiaries to, provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Loan Documents or to the Lenders under

Article V, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (a) is or relates to a Borrowing Request, a notice pursuant to Section 2.10 or a notice requesting the issuance, amendment, extension or renewal of a Letter of Credit pursuant to Section 2.23, (b) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (c) provides notice of any Default or Event of Default under this Agreement or any other Loan Document or (d) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Borrowing or other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as "***Communications***"), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Administrative Agent to an electronic mail address as directed by the Administrative Agent. In addition, each Borrower agrees, and agrees to cause its Subsidiaries, to continue to provide the Communications to the Administrative Agent, the Collateral Agent, the Security Trustee, the Issuing Banks or the Lenders, as the case may be, in the manner specified in the Loan Documents but only to the extent requested by the Administrative Agent.

Each Borrower hereby acknowledges that (a) the Administrative Agent and the other Agents will make available to the Lenders (or potential lenders) and the Issuing Banks materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, the "***Borrower Materials***") by posting the Borrower Materials on SyndTrak, Intralinks or another similar electronic system (the "***Platform***") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrowers or their respective securities) (each, a "***Public Lender***"). Each Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (ii) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Agents, the Issuing Banks and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to any Borrower or its securities for purposes of foreign, United States federal and state securities laws (*provided*, *however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.17); (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor"; and (iv) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor". Notwithstanding the foregoing, the following Borrower Materials shall be marked "PUBLIC" (or deemed to be marked "PUBLIC"), unless Parent notifies the Administrative Agent reasonably in advance of the intended distribution that any such document contains material non-public information: (A) the Loan Documents, (B) notification of changes in the terms of the credit facilities provided for herein and (C) all financial statements, reports and certificates delivered pursuant to Sections 5.04(a), (b), and (c) (it being understood that such financial statements, reports and certificates shall nevertheless constitute "Information").

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate,

in accordance with such Public Lender's compliance procedures and applicable law, including foreign, United States federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to any Borrower or its securities for purposes of foreign, United States federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND, IN ANY CASE, SUBJECT TO SECTION 9.05(B).

The Administrative Agent agrees that the receipt of the Communications by it at its e-mail address set forth above shall constitute effective delivery of the Communications to it for purposes of the Loan Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address.

Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 9.02. ***Survival of Agreement***. All covenants, agreements, representations and warranties made by any Borrower herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and the Issuing Banks and shall survive the making by the Lenders of the Loans and the issuance of Letters of

Credit by the Issuing Banks, regardless of any investigation made by the Lenders or the Issuing Banks or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any Fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and unpaid and so long as the Commitments have not been terminated. The provisions of Sections 2.14, 2.16, 2.20, 2.21 and 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the expiration of any Letter of Credit, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender or any Issuing Bank.

SECTION 9.03. ***Binding Effect***. This Agreement shall become effective when it shall have been executed by each of the Borrowers, the Lenders and Issuing Banks as of the Closing Date and the Agents, and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

SECTION 9.04. ***Successors and Assigns***. (a) Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrowers, the Agents, the Issuing Banks or the Lenders that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

(b) Each Lender may assign to one or more assignees (other than any Ineligible Assignee) all or a portion of its interests, rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); *provided*, *however*, that (x) Parent (unless an Event of Default shall have occurred and be continuing) and the Administrative Agent (and, in the case of any assignment of a Revolving Credit Commitment, Extended Revolving Credit Commitment or any Revolving Credit Exposure, the Issuing Banks) must give their prior written consent to such assignment (which consent shall not be unreasonably withheld, delayed or conditioned (it being understood and agreed that (1) Parent's withholding of consent to any assignment to a competitor of Parent or any Restricted Subsidiary shall not be considered to be unreasonably withheld, (2) Parent shall be deemed to have consented to any assignment of Term Loans unless it shall object thereto by written notice to the Administrative Agent within ten Business Days after having received notice thereof) and (3) no consent of Parent or the Administrative Agent shall be required with respect to an assignment of Term Loans to a Lender or the Agents or an Affiliate of a Lender or the Agents or an Approved Fund of a Lender and (4) no consent of Parent or the Administrative Agent shall be required with respect to an assignment of a Revolving Credit Commitment, Extended Revolving Credit Commitment or any Revolving Credit Exposure to a Revolving Credit Lender or Extending Revolving Credit Lender or an Affiliate or Approved Fund of a Revolving Credit Lender or a or Extending Revolving Credit Lender) and (y) the amount of the Commitment or Loans, as applicable, of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than (1) with respect to Term Loans, $1,000,000 (and shall be in an integral multiple thereof) and (ii) with respect to Revolving Credit Commitments,

Extended Revolving Credit Commitments and any Revolving Credit Exposure, $10,000,000 (or, if an Event of Default exists, $1,000,000, and, in any event, shall be in an integral multiple of $1,000,000), without the prior written consent of the Administrative Agent and Parent (or, if less, the entire remaining amount of such Lender's Commitment or Loans of the relevant Class, as applicable); *provided* that contemporaneous assignments by or to two or more Approved Funds shall be aggregated for purposes of determining such minimum amount, (ii) the parties to each such assignment shall electronically execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance), and, in each case, shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced at the sole discretion of the Administrative Agent), and (iii) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire (in which the assignee shall designate one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws) and all applicable tax forms. For purposes of this Section 9.04(b), the term "***Approved Fund***" shall mean, with respect to any Lender that is a fund or other investment vehicle that invests in bank loans, any other fund or other investment vehicle that invests in bank loans which is managed or advised by the same investment advisor/manager as such Lender or by an Affiliate of such investment advisor/manager. Upon acceptance and recording pursuant to clause (e) of this Section 9.04, from and after the effective date specified in each Assignment and Acceptance, which effective date shall be at least five Business Days after the execution thereof (or such earlier date to which the Administrative Agent may agree in its sole discretion), (A) the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and (B) the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.16, 2.20, 2.21 and 9.05, as well as to any Fees accrued for its account and not yet paid). Notwithstanding anything to the contrary contained in this Agreement, any Lender may assign all or a portion of its Term Loans in connection with a primary syndication of such Term Loans relating to any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to cashless settlement mechanisms (to Lenders reasonably acceptable to Parent) approved by Parent, the Administrative Agent, the assignor Lender and the assignee of such Lender.

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim, (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity,

enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of any Borrower or any Subsidiary or the performance or observance by any Borrower or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee represents and warrants that it is not an Ineligible Assignee and that it is legally authorized to enter into such Assignment and Acceptance; (iv) such assignee represents and warrants that it is not the subject of any Sanctions; (v) such assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05 or delivered pursuant to Section 5.04 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (vi) such assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, the Security Trustee, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vii) such assignee appoints and authorizes the Administrative Agent, the Collateral Agent and the Security Trustee to take such action as agent and/or trustee on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, the Collateral Agent and the Security Trustee, respectively, by the terms hereof, together with such powers as are reasonably incidental thereto; and (viii) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrowers, shall maintain at one of its offices in The City of New York a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). The entries in the Register shall be conclusive absent manifest error and the Borrowers, the Administrative Agent, the Issuing Banks, the Collateral Agent, the Security Trustee and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, any Issuing Bank, the Collateral Agent, the Security Trustee and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) above and, if required, the written consent of Parent, the Issuing Banks and the Administrative Agent to such assignment and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective unless it has been recorded in the Register as provided in this clause (e).

(f) (i) Each Lender may without the consent of any Borrower, any Issuing Bank or the Administrative Agent sell participations to one or more banks or other entities (other than any Ineligible Assignee) in all or a portion of its rights and obligations under this

Agreement (including all or a portion of its Commitment and the Loans owing to it); *provided*, *however*, that (i) such Lender's obligations under this Agreement and the other Loan Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating banks or other entities shall be entitled to the benefit of the cost protection provisions contained in Sections 2.14, 2.16, 2.20 and 2.21 to the same extent as if they were Lenders (but, with respect to any particular participant, to no greater extent than the Lender that sold the participation to such participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the participant acquired the applicable participation) and (iv) the Borrowers, the Agents, the Issuing Banks and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents, and such Lender shall retain the sole right to enforce the obligations of the Borrowers relating to the Loans or L/C Disbursements and to approve any amendment, modification or waiver of any provision of this Agreement (other than amendments, modifications or waivers decreasing any fees payable to such participating bank or person hereunder or the amount of principal of or the rate at which interest is payable on the Loans in which such participant bank or person has an interest, extending any scheduled principal payment date or date fixed for the payment of interest on the Loans in which such participant bank or person has an interest, changing the currency in which any amount is denominated that is required to be funded or paid under the Loan Documents (solely with respect to any Loans or Commitments in which such participant bank or person has an interest), releasing any Guarantor (other than in connection with the sale of such Guarantor in a transaction permitted by Section 6.05) or all or substantially all of the Collateral or increasing or extending the Commitments in which such participant bank or person has an interest).

(ii) Each Lender that sells a participation and each Granting Lender shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each participant and SPC, as applicable, and the principal amounts (and stated interest) of each participant's and SPC's, as applicable, interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"), which entries shall be conclusive absent manifest error; *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any person except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(g) Any Lender or participant may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 9.04, disclose to the assignee or participant or proposed assignee or participant any information relating to any Borrower furnished to such Lender by or on behalf of any Borrower; *provided* that, prior to any such disclosure of Information (as defined in Section 9.17) which Information is confidential pursuant to Section 9.17, each such assignee or participant or proposed assignee or participant shall execute an agreement whereby such assignee or participant shall agree (subject to

customary exceptions) to preserve the confidentiality of such confidential information on terms no less restrictive than those applicable to the Lenders pursuant to Section 9.17.

(h) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution or natural Person) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a U.S. Federal Reserve Bank or other central banking authority, *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(i) No Borrower shall assign or delegate any of its rights or duties hereunder without the prior written consent of the Administrative Agent, each Issuing Bank and each Lender, and any attempted assignment without such consent shall be null and void.

(j) Notwithstanding anything to the contrary contained herein, any Lender (a "***Granting Lender***") may grant to a special purpose funding vehicle (an "***SPC***"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Parent, the option to provide to the Borrowers all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrowers pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, (i) any SPC may (x) with notice to, but without the prior written consent of, the Borrowers and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (y) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC, and (ii) the protections afforded to any SPC pursuant to the provisions of this Section 9.04(j) may not be amended or modified without the written consent of such SPC.

(k) In the event that (i) any Revolving Credit Lender or Extending Revolving Credit Lender shall become a Defaulting Lender or (ii) S&P, Moody's and Thompson's BankWatch (or Insurance Watch Ratings Service, in the case of Lenders that are insurance companies (or Best's Insurance Reports, if such insurance company is not rated by Insurance

Watch Ratings Service)) shall, after the date that any Lender becomes a Revolving Credit Lender or Extending Revolving Credit Lender, downgrade the long-term certificate deposit ratings of such Lender (or, if such Lender is unrated, the ratings of such Lender's direct or indirect parent), and the resulting ratings shall be below BBB-, Baa3 and C (or BB, in the case of a Lender that is an insurance company (or B, in the case of an insurance company not rated by Insurance Watch Ratings Service)) (or, with respect to any Revolving Credit Lender or Extending Revolving Credit Lender that is not rated by any such ratings service or provider, and whose direct or indirect parent is not rated, any Issuing Bank that has issued a Letter of Credit that is outstanding under the Class of Revolving Credit Commitments or Extended Revolving Credit Commitments under which such Lender is committed or that may be obligated to issue a Letter of Credit under such Class shall have reasonably determined that there has occurred a material adverse change in the financial condition of any such Revolving Credit Lender or Extending Revolving Credit Lender, or a material impairment of the ability of any such Lender to perform its obligations hereunder, as compared to such condition or ability as of the date that any such Lender became a Revolving Credit Lender or Extending Revolving Credit Lender), then each Issuing Bank shall have the right, but not the obligation, at its own expense, upon notice to such Lender, Parent and the Administrative Agent, to replace (or to request Parent to use its reasonable efforts to replace) such Lender with an assignee (in accordance with and subject to the restrictions contained in clause (b) above), and such Lender hereby agrees to transfer and assign without recourse (in accordance with and subject to the restrictions contained in clause (b) above) all its interests, rights and obligations in respect of its Revolving Credit Commitment or Extended Revolving Credit Commitments, as the case may be, to such assignee; *provided*, *however*, that (i) no such assignment shall conflict with any law, rule and regulation or order of any Governmental Authority and (ii) the applicable Issuing Bank or such assignee, as the case may be, shall pay to such Lender in immediately available funds on the date of such assignment the principal of and interest accrued to the date of payment on the Loans made by such Lender hereunder and all other amounts accrued for such Lender's account or owed to it hereunder.

(l) The parties acknowledge and agree that (i) where this Agreement (including the Schedules and Exhibits thereto) or any Assignment and Acceptance Agreement would otherwise operate as an assignment of a debt due from Parent, there shall not be an assignment of such debt; (ii) the transaction shall for all purposes take effect as a loan under this Agreement to Parent made by the Lender which, but for this clause, would have been an assignee of such debt ("***Incoming Lender***") of an amount equal to the outstanding debt which would, but for this clause, have been assigned; (iii) Parent shall for all purposes be treated by the parties hereto as having directed the Incoming Lender to pay the amount of that loan to the Lender, which but for this clause, would have been the assignor of such debt; (iv) all references in this Agreement (including the Schedules and Exhibits hereto) and any Assignment and Acceptance Agreement will be construed accordingly; and (v) to the extent that the assignment also operates to assign any rights or interests which are not a debt due from Parent, the assignment shall, to that extent, take effect in accordance with its terms.

(m) The Administrative Agent shall have the right, and each Borrower hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Borrowers and any updates thereto from time to time (collectively, the "***DQ List***") on a Platform, including that portion of such Platform that is designated for "Public Side Information" and/or (B) provide the DQ List to each Lender, participant or potential Lender or

participant requesting the same. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, by any other Person to any Disqualified Institution. No written identification of any Disqualified Lender by the Borrowers shall apply retroactively to disqualify any person from becoming a Lender or participant to the extent that such person has already become a Lender or participant.

SECTION 9.05. ***Expenses; Indemnity***. (a) Each of the Borrowers, jointly and severally, agrees to pay all (i) reasonable and documented out-of-pocket expenses incurred by each Agent, each Joint Bookrunner, any Receiver, each Issuing Bank and each Affiliate of the foregoing persons in connection with the syndication of the credit facilities provided for herein and the preparation and administration of this Agreement and the other Loan Documents, in connection with any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions hereby or thereby contemplated shall be consummated) or in connection with an Incremental Assumption Agreement, Refinancing Amendment or Extension Amendment and the transactions contemplated thereby, including the reasonable and documented fees, charges and disbursements of (x) Skadden, Arps, Slate, Meagher & Flom LLP and (y) Allens, counsel for the Joint Bookrunners and the Agents (or other primary counsel for the Joint Bookrunners and the Agents), and a firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) and (ii) all documented out-of-pocket expenses incurred by the Joint Bookrunners, the Administrative Agent, the Collateral Agent, the Security Trustee, any Receiver, the Issuing Banks or any Lender in connection with the enforcement or protection of their rights in connection with this Agreement and the other Loan Documents or in connection with the Loans made or Letters of Credit issued hereunder, as applicable, including the reasonable and documented fees, charges and disbursements of (1) (x) Skadden, Arps, Slate, Meagher & Flom LLP and (y) Allens, counsel for the Joint Bookrunners and the Agents (or other primary counsel for the Joint Bookrunners and the Agents), (2) one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Joint Bookrunners and the Agents, and (3) one firm of counsel and one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for all of the Lenders and Issuing Banks taken as a whole (and, solely in the case of an actual or perceived conflict of interest where the party affected by such conflict informs Parent of such conflict and thereafter retains its own counsel, of another firm of counsel for all similarly affected parties, and, if reasonably necessary, one firm of local counsel in each applicable jurisdiction for all similarly affected parties and any specialty counsel for all similarly affected parties) (so long as such shared representation is consistent with and permitted by professional responsibility rules)).

(b) Each of the Borrowers, jointly and severally, agrees to indemnify the Joint Bookrunners, the Administrative Agent, the Collateral Agent, the Security Trustee, any Receiver, each Lender, each Issuing Bank, each Affiliate of any of the foregoing persons and each of their respective directors, officers, employees, agents, trustees, members, partners, representatives, advisors and successors and assigns (each such person being called an

"***Indemnitee***") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented related expenses (including the reasonable and documented fees, charges and disbursements of (1) (x) Skadden, Arps, Slate, Meagher & Flom LLP and (y) Allens, counsel for the Joint Bookrunners and the Agents (or other primary counsel for the Joint Bookrunners and the Agents), (2) one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for each of the Joint Bookrunners and the Agents, and (3) one firm of counsel and one firm of local counsel in each relevant jurisdiction (and, if reasonably necessary, one special counsel) for all of the other Indemnitees taken as a whole (and, solely in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs Parent of such conflict and thereafter retains its own counsel, of another firm of counsel for all similarly affected Indemnitees, and, if reasonably necessary, one firm of local counsel in each applicable jurisdiction for all similarly affected Indemnitees and any specialty counsel for all similarly affected Indemnitees (so long as such shared representation is consistent with and permitted by professional responsibility rules))) incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated thereby (including the syndication of the credit facilities provided for herein), (ii) the use of the proceeds of the Loans or issuance of Letters of Credit, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by a Borrower or any of their respective Affiliates or equityholders, or (iv) any actual or alleged presence, Release or threat of Release of Hazardous Materials on any Properties, or any Environmental Claim related in any way to any Borrower or the Subsidiaries; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment (A) to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee or any of its Related Indemnified Parties, (y) a material breach by such Indemnitee or any of its Related Indemnified Parties of its obligations under any Loan Document to which it is a party or (z) any dispute solely among Indemnitees and not arising out of any act or omission of a Borrower or any of its Affiliates (other than any proceeding against any Indemnitee to the extent acting in its capacity or in fulfilling its role as Administrative Agent, Collateral Agent, the Security Trustee, Issuing Bank, Joint Bookrunner or any similar role with respect to the credit facilities provided for herein). No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent the liability of any such person is found in a final ruling by a court of competent jurisdiction to have resulted primarily from such person's gross negligence or willful misconduct and, in any case, subject to the other provisions of this Section 9.05(b). This Section 9.05(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. "***Related Indemnified Party***" shall mean, as to any Indemnitee, such Indemnitee's controlled affiliates or any of its or such controlled affiliates' respective officers, directors or employees, or any agent,

advisor or other representative acting at the direction of such Indemnitee or any of such Indemnitee's controlled affiliates.

(c) To the extent permitted by applicable law, none of the Loan Parties and their respective Subsidiaries and Affiliates shall assert, and each Borrower, on behalf of itself and its Subsidiaries and Affiliates, hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings) (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, any Loan Document or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(d) The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the expiration of any Letter of Credit, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of any Agent, any Lender or an Issuing Bank. All amounts due under this Section 9.05 shall be payable on written demand therefor.

SECTION 9.06. ***Right of Setoff***. If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, except to the extent prohibited by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of any Loan Party against any of and all the obligations of any Loan Party now or hereafter existing under this Agreement and other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or such other Loan Document and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.28 (to the extent applicable) and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender and Issuing Bank agrees to notify Parent and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application under this Section 9.06. The rights of each Lender under this Section 9.06 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.07. ***Applicable Law***. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. EACH LETTER OF CREDIT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OR RULES DESIGNATED IN SUCH LETTER OF CREDIT, OR IF NO SUCH LAWS OR

RULES ARE DESIGNATED, THE UNIFORM CUSTOMS AND PRACTICE FOR STANDBY CREDITS MOST RECENTLY PUBLISHED AND IN EFFECT, ON THE DATE SUCH LETTER OF CREDIT WAS ISSUED, BY THE INTERNATIONAL CHAMBER OF COMMERCE (THE "***UNIFORM CUSTOMS***") AND, AS TO MATTERS NOT GOVERNED BY THE UNIFORM CUSTOMS, THE LAWS OF THE STATE OF NEW YORK.

SECTION 9.08. ***Waivers; Amendment***. (a) No failure or delay of any Agent, any Lender or an Issuing Bank in exercising any power or right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent, the Security Trustee, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by any Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Except as expressly provided by Section 2.27, 2.30 or 2.31 or in the other clauses of this Section 9.08, and subject to Section 9.19, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders (or, in the case of the Financial Covenants and any related provisions hereof (solely as they relate to the Financial Covenants), the Required Revolving Credit Lenders); provided, however, that no such agreement shall (i) decrease the principal amount of, or extend the maturity of or any scheduled principal payment date or date for the payment of any interest on any Loan or any date for reimbursement of an L/C Disbursement, or waive or excuse any such payment or any part thereof, or decrease the rate of interest on any Loan or L/C Disbursement, without the prior written consent of each Lender directly and adversely affected thereby, (ii) increase or extend the Commitment or decrease or extend the date for payment of any Fees, premium or any other amount due and payable hereunder to any Lender without the prior written consent of such Lender, (iii) amend or modify the pro rata requirements of Section 2.17 or Section 7.02, the sharing provisions of Section 2.18, the provisions of Section 9.04(i), the provisions of this Section 9.08, or release Parent as a Guarantor, all or substantially all of the value of the Guarantees of Subsidiary Guarantors under the Loan Documents or all or substantially all of the Collateral, without the prior written consent of each Lender, (iv) change the provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of one Class differently from the rights of Lenders holding Loans of any other Class without the prior written consent of Lenders holding a majority in interest of the outstanding Loans, unused Commitments and, as applicable, L/C Exposure of each adversely affected Class, (v) modify the protections afforded to an SPC pursuant to the provisions of Section 9.04(j) without the written consent of such SPC, (vi) reduce the percentage contained in the definition of the term, or otherwise amend or modify the definition of, "Required Lenders", or impose additional material restrictions on the ability of the

Lenders to assign their rights and obligations under the Loan Documents, without the prior written consent of each Lender (it being understood that with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Term Loan Commitments and Revolving Credit Commitments on the date hereof), (vii) change the currency in which any Commitment, Letter of Credit (or participation or reimbursement obligation in respect thereof) or Loan is denominated, without the prior written consent of each affected Lender and, as applicable, each affected Issuing Bank, (viii) reduce the percentage contained in the definition of the term, or otherwise amend or modify the definition of, "Required Revolving Credit Lenders", without the prior written consent of each Revolving Credit Lender and Extending Revolving Credit Lender, or (ix) waive any condition precedent set forth in Section 4.02 to any Credit Event with respect to the Revolving Credit Commitments or Extended Revolving Credit Commitments, without the prior written consent of the Required Revolving Credit Lenders; provided further, that (1) no such agreement shall amend, modify or otherwise affect the rights (including rights to fees and other amounts) or duties of any Agent or any Issuing Bank hereunder or under any other Loan Document without the prior written consent of such Agent or such Issuing Bank, as applicable, (2) no such agreement shall result in any Borrower satisfying any condition contained in Section 4.02 to a Credit Event with respect to the Revolving Credit Commitments and/or Extended Revolving Credit Commitment (which, but for such waiver, amendment or modification would not otherwise be satisfied at the time of such waiver, amendment or modification or, if the condition that is the subject of such waiver, amendment or modification has not yet occurred but is reasonably likely to occur, at any time after such waiver, amendment or modification), without the consent of the Required Revolving Credit Lenders, (3) the Engagement Letter, any fee letter between any Agent, on the one hand, and any Loan Party, on the other hand, and any Letter of Credit may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto (without the consent of any other Person), and (4) in connection with an amendment in which any Class of Term Loans is refinanced with a replacement Class of term loans bearing (or is modified in such a manner such that the resulting term loans bear) a lower Yield and other customary amendments related thereto (a "***Permitted Repricing Amendment***"), only the consent of the Lenders holding Term Loans subject to such permitted repricing transaction that will continue as a Lender in respect of the repriced tranche of Term Loans or modified Term Loans shall be required for such Permitted Repricing Amendment.

(c) Any amendment or modification to any of the following provisions that would directly and adversely affect a Secured Hedging Bank shall not be effective as to such Secured Hedging Bank without its prior written consent: (i) Section 7.02 or 9.08(c); (ii) any provision if such amendment or modification would impose a cap on the Obligations in respect of Secured Hedging Agreements subject to clause *THIRD* or *FOURTH* of the enforcement waterfall set forth in Section 7.02; or (iii) the definition of "Secured Hedging Agreement" or "Secured Hedging Bank" (or any reference to "Secured Hedging Agreement" and/or "Secured Hedging Bank" in the definition of "Obligations" or "Secured Parties"). Notwithstanding the foregoing, for the avoidance of doubt, no Secured Hedging Bank shall have any right to notice of any action or, subject to the immediately preceding sentence of this Section 9.08(c), to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender.

(d) For the avoidance of doubt, but subject to Section 9.19, no Secured Party shall have any voting rights under this Agreement or any other Loan Document in its capacity as a Contract Credit Facility Lender.

(e) Notwithstanding anything in clause (b) or otherwise herein to the contrary, (i) only the consent of the Required Revolving Credit Lenders shall be necessary to amend, waive or modify the terms and provisions of Sections 6.10, Section 7.01(d) (solely as it relates to the due observance or performance by any Borrower of Section 6.10) and the last paragraph of Section 7.01 (solely as it relates a Financial Covenant Default) (and related definitions as used in such Sections, but not as used in other Sections of this Agreement) and no such amendment, waiver or modification of any such terms or provisions (and related definitions as used in such Sections, but not as used in other Sections of this Agreement) shall be permitted without the consent of the Required Revolving Credit Lenders, (ii) any Borrower and the Administrative Agent may enter into any Incremental Assumption Agreement in accordance with Section 2.27, any Refinancing Amendment in accordance with Section 2.30 and any Extension Amendment in accordance with Section 2.31, and such Incremental Assumption Agreements, Refinancing Amendments and Extension Amendments shall be effective to amend the terms of this Agreement and the other applicable Loan Documents, in each case, without any further action or consent of any other party to any Loan Document (other than Additional Refinancing Lenders or other providers of Commitments thereunder, as applicable), (iii) guarantees, collateral security documents and related documents executed by the Loan Parties or the Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Agents and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent or other applicable Agent at the request of Parent without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (x) to comply with local law or advice of local counsel or (y) to cause such guarantee, collateral security document or other document to be consistent with this Agreement (including the Agreed Security Principles) and the other Loan Documents, (iv) no Lender consent is required for any Agent to enter into or to effect any amendment, modification or supplement to any Intercreditor Agreement or any other arrangement permitted under this Agreement or in any document pertaining to any Indebtedness permitted hereby that is permitted to be secured by the Collateral, including any Incremental Commitment, any Permitted First Priority Refinancing Debt, any Permitted Junior Priority Refinancing Debt or any Incremental Equivalent Debt, for the purpose of adding the holders of such Indebtedness (or their Debt Representative) as a party thereto and otherwise causing such Indebtedness to be subject thereto, in each case as contemplated by the terms of such Intercreditor Agreement or other arrangement (it being understood that any such amendment or supplement may make such other changes to any Intercreditor Agreement, as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing; provided that such other changes are not adverse, in any material respect (taken as a whole), to the interests of the Lenders); provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of any Agent hereunder or under any other Loan Document without the prior written consent of such Agent, (v) if Parent shall request (A) the release of any Collateral to be sold as part of any Asset Sale permitted under Section 6.05 and shall deliver to the Agents a certificate to the effect that such Asset Sale and the disposition of the proceeds thereof will comply with the terms of this Agreement or (B) the subordination of the Lien of any Agent, for the benefit of the Secured Parties, on any item of Collateral to any Lien permitted by Section 6.02(k) and shall deliver to the Agents a certificate to the effect that the incurrence of

such other Lien on the Collateral will comply with the terms of this Agreement, then each Agent, if reasonably satisfied that the applicable certificate is correct, shall and is hereby authorized to, without the consent of any Lender or Issuing Bank, execute and deliver all such instruments as may be required to effect the release of such Collateral (in the case of an Asset Sale described in subclause (A) above) or the subordination of the Lien of any Agent, for the benefit of the Secured Parties, in such Collateral (in the case of such other Lien as described in subclause (B) above), and (vi) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Agents and Parent (1) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (2) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(f) The Administrative Agent (or any other Agent party to the applicable Loan Document) and the Borrowers may amend any Loan Document to correct any errors, mistakes, omissions, defects or inconsistencies, or to effect administrative changes that are not adverse to any Lender or any Issuing Bank without any further consent of any other party to such Loan Document; provided, however, that no such amendment shall become effective until the fifth (5th) Business Day after it has been posted to the Lenders, and then only if the Required Lenders have not objected in writing thereto within such five (5) Business Day period.

(g) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender, (y) the date scheduled for any payment of principal (including final maturity) of the loans of any Defaulting Lender may not be postponed without the consent of such Lender, and (z) any waiver, amendment or modification requiring the consent of all Lenders or each directly and adversely affected Lender that by its terms materially and adversely affects any Defaulting Lender to a greater extent than other affected Lenders shall require the consent of such Defaulting Lender.

SECTION 9.09. ***Interest Rate Limitation***. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan or participation in any L/C Disbursement, together with all fees, charges and other amounts which are treated as interest on such Loan or participation in such L/C Disbursement under applicable law (collectively the "***Charges***"), shall exceed the maximum lawful rate (the "***Maximum Rate***") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan or participation in accordance with applicable law, the rate of interest payable in respect of such Loan or participation hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation but were not payable as a result of the operation of this Section 9.09 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participations or periods shall be increased (but not above the

Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.10. ***Entire Agreement***. This Agreement, the Engagement Letter and the other Loan Documents constitute the entire contract between the parties relative to the subject matter hereof. Any other previous agreement among the parties with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any person (other than the parties hereto and thereto, their respective successors and assigns permitted hereunder (including any Affiliate of the Issuing Banks that issues any Letter of Credit), the Joint Bookrunners, and, to the extent expressly contemplated hereby, the Indemnitees and the Related Parties of each of the Agents, the Joint Bookrunners and the Issuing Banks) any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

SECTION 9.11. ***WAIVER OF JURY TRIAL.*** **EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.**

SECTION 9.12. ***Severability***. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 9.13. ***Counterparts***. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as provided in Section 9.03. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission, including by .PDF file, shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 9.14. ***Headings***. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 9.15. ***Jurisdiction; Consent to Service of Process***. (a) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined only in such New York State or, to the extent permitted by law, in such federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against any Borrower or its properties in the courts of any jurisdiction.

(b) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York State or federal court sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01; *provided*, *however*, that each Borrower hereby appoints SpeedCast Communications, Inc., a Texas corporation, at 4400 S. Sam Houston Pkwy East, Houston, TX 77048, as its agent for service of process. SpeedCast Communications hereby agrees to act as agent for service of process for each other Loan Party that is organized under the laws of a jurisdiction outside the United States upon the express conditions contained herein and the other Loan Documents, as applicable. Notwithstanding the foregoing, promptly after any request by the Required Lenders or the Required Revolving Credit Lenders, each Loan Party that is not a U.S. Restricted Subsidiary shall appoint an agent for service of process that is not an Affiliate of such Borrower. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.16. ***Conversion of Currencies***. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder or under any other Loan Document in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could

be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party to any Loan Document in respect of any sum due to any other party to any Loan Document or any holder of the obligations owing under any Loan Document (the "***Applicable Creditor***") shall, notwithstanding any judgment or order in a currency (the "***Judgment Currency***") other than the currency in which such sum is stated to be due hereunder or under any other Loan Document (the "***Agreement Currency***"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, each Loan Party agrees, as a separate obligation and notwithstanding any such judgment or order, to indemnify the Applicable Creditor against such loss and any premiums and costs of exchange payable in connection with the purchase of or conversion into any applicable currency. The obligations of the Loan Parties contained in this Section 9.16 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder, and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid.

SECTION 9.17. ***Confidentiality***. Each Agent, each Issuing Bank and each of the Lenders agrees to maintain the confidentiality of the Information (as defined below) provided to such party, except that except that Information may be disclosed (a) to (i) its Affiliates (or any of its head offices, branches or representative offices) and its and such Affiliates' respective officers, directors, employees, professionals, other experts, agents and representatives, including accountants, legal counsel and other advisors, and (ii) numbering, administration and settlement or similar service providers in connection with the administration and management of this Agreement and the other Loan Documents or otherwise as need to know such Information (including to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein) and to other Persons authorized by any of the Agents, Issuing Banks, Joint Bookrunners and Lenders to organize, present or disseminate such Information in connection with disclosures otherwise made in accordance with this Section 9.17, (b) to the extent requested by any regulatory authority, quasi-regulatory authority or self-regulatory body (which, for the avoidance of doubt, includes any Tax Authority), (c) to the extent otherwise required pursuant to the order of any court or administrative agency, or in any pending legal or administrative proceeding or by applicable laws and regulations or by any subpoena or other compulsory process (and in each case under this clause (c), the disclosing party agrees, to the extent practicable and not prohibited by applicable law, rule or regulation, to inform Parent promptly thereof prior to such disclosure), (d) in connection with the exercise of any remedies hereunder or under the other Loan Documents or any suit, action or proceeding relating to the enforcement of its rights hereunder or thereunder, (e) subject to an agreement to be bound by the provisions of this Section 9.17 or substantially similar confidentiality undertakings and other than to a Disqualified Institution pursuant to this clause (e), to (i) any actual or prospective assignee of or participant in any of its rights or obligations under this Agreement and the other Loan Documents or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to any Borrower or any Subsidiary or any of their respective obligations, (f) to Moody's

and S&P and other rating agencies or to market data collectors on a confidential basis, (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.17 or (ii) becomes available to any Agent, any Issuing Bank or any Lender on a non-confidential basis from a source other than any Borrower, (h) to the extent such disclosure is permitted pursuant to, and made in accordance with the terms of, Section 9.04(g), (i) for purposes of establishing a "due diligence" defense or (j) otherwise with the consent of any Borrower. For the purposes of this Section, "***Information***" shall mean all financial statements, certificates, reports, agreements and information that are received from or on behalf of any Borrower or any of its Subsidiaries pursuant to or in connection with any Loan Document or the transactions contemplated thereby and that are related to any Borrower or any of its Subsidiaries or their respective businesses, other than any of the foregoing that were available to any Agent, any Issuing Bank or any Lender on a non-confidential basis prior to its disclosure thereto by or on behalf of any Borrower or any of its Subsidiaries, and which are in the case of Information provided after the Closing Date, either financial information or clearly identified at the time of delivery as confidential. The provisions of this Section 9.17 shall remain operative and in full force and effect regardless of the expiration and term of this Agreement; provided that the provisions and obligations contained in this Section 9.17 shall terminate on the one-year anniversary of the date on which this Agreement has expired or been terminated. Any Person required to maintain the confidentiality of Information as provided in this Section 9.16 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord its own confidential information.

SECTION 9.18. ***European Monetary Union***. If, as a result of the implementation of European monetary union, (a) any currency ceases to be lawful currency of the nation issuing the same and is replaced by the Euro, then any amount payable hereunder by any party hereto in such currency shall instead be payable in Euro and the amount so payable shall be determined by translating the amount payable in such currency to Euro at the exchange rate recognized by the European Central Bank for the purpose of integrating such currency into the Euro, or (b) any currency and the Euro are at the same time recognized by the central bank or comparable authority of the nation issuing such currency as lawful currency of such nation, then (i) any Loan made at such time shall be made in Euro and (ii) any other amount payable by any party hereto in such currency shall be payable in such currency or in Euro (in an amount determined as set forth in clause (a)), at the election of the obligor. Prior to the occurrence of the event or events described in clause (a) or (b) of the preceding sentence, each amount payable hereunder in any currency will continue to be payable only in that currency. Each Borrower agrees, at the request of the Required Revolving Credit Lenders, at the time of or at any time following the integration of any additional currency into the Euro, to enter into an agreement amending this Agreement in such manner as the Required Revolving Credit Lenders shall reasonably request in order to avoid any unfair burden or disadvantage resulting therefrom and to place the parties hereto in the position they would have been in had such integration not occurred, the intent being that neither party will be adversely affected economically as a result of such integration and that reasonable provisions may be adopted to govern the borrowing, maintenance and repayment of Loans denominated in any Alternative Currency after the occurrence of the event or events described in clause (a) or (b) of the preceding sentence.

SECTION 9.19. ***Rights of Contract Credit Facility Lenders; Amendments and Waivers of Contract Credit Facilities***.

(a) Without the consent of each Revolving Credit Lender that has an outstanding Contract Credit Facility Commitment or any Contract Credit Facility Exposure (each such Revolving Credit Lender, a "***Contract Credit Facility Lender***"), the Borrowers and the Lenders shall not enter into, consent to or approve of any amendment, modification or waiver of any provision of this Agreement or any other Loan Document if, as a result of such amendment, waiver or modification, (a) any Contract Credit Facility Lender would no longer be entitled to its ratable share in the benefits of the Collateral, (b) all or substantially all of the Collateral would be released or (c) all or substantially all of the value of the Guarantees under the Loan Documents would be released, and any such attempted amendment, modification or waiver shall be null and void. Each Contract Credit Facility Lender shall be entitled to enforce the provisions of this Section 9.19 and shall be deemed to have made Contract Loans and/or issued, amended, extended and/or renewed Contract Letters of Credit, as applicable, in reliance on this Section 9.19. Notwithstanding the foregoing, for the avoidance of doubt, except as provided in the definition of Required Lenders, no Contract Credit Facility Lender shall have any right to notice of any action or, subject to the first sentence of this Section 9.19, to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender.

(b) For the avoidance of doubt, amendments and waivers with respect to the documentation governing any Contract Credit Facility may be effected through an agreement or agreements in writing entered into by the parties thereto, so long as such amendment or waiver would not cause such Contract Credit Facility to conflict with the terms and conditions of this Agreement; provided that, to the extent that any such amendment or waiver (i) modifies any term of such Contract Credit Facility of the type referred to in the first sentence of Section 2.29(b), the applicable Borrower shall provide the Administrative Agent at least two Business Days prior written notice thereof or (ii) increases the amount of any Contract Credit Facility Lender's Contract Credit Facility Exposure, the applicable Borrower shall provide the Administrative Agent prior written notice thereof pursuant to Section 2.29(b).

SECTION 9.20. ***No Advisory or Fiduciary Responsibility***. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrowers, on behalf of itself and its Subsidiaries, acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Agents, the Joint Bookrunners, the Issuing Banks and the Lenders are arm's-length commercial transactions between the Borrowers and their respective Affiliates, on the one hand, and the Agents, the Joint Bookrunners, the Issuing Banks and the Lenders, on the other hand, (ii) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate and (iii) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each Agent, Joint Bookrunner, Issuing Bank and Lender is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrowers or any of their respective Affiliates, or any other person, and (ii) no Agent, Joint Bookrunner, Issuing Bank or Lender has any obligation to the Borrowers or any of

their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Joint Bookrunners, the Issuing Banks, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their respective Affiliates and no Agent, Joint Bookrunner, Issuing Bank or Lender has any obligation to disclose any of such interests to the Borrowers or any of their respective Affiliates. To the fullest extent permitted by law, each Borrower, on behalf of itself and its Subsidiaries, hereby waives and releases any claims that it may have against the Agents, the Joint Bookrunners, the Issuing Banks and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

SECTION 9.21. ***USA PATRIOT Act Notice***. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act.

SECTION 9.22. ***Additional Borrowers***. Parent may designate any of its wholly owned Restricted Subsidiaries as a Borrower under the Revolving Credit Commitments and Extended Revolving Credit Commitments; *provided* that (i) Parent shall provide the Administrative Agent, the Revolving Credit Lenders and the Extending Revolving Credit Lenders at least ten (10) Business Days' notice of the designation of a new Subsidiary Borrower, (ii) the Administrative Agent, in consultation with the Revolving Credit Lenders and the Extending Revolving Credit Lenders, shall be reasonably satisfied that the Revolving Credit Lenders and the Extending Revolving Credit Lenders may make loans and other extensions of credit to such person in the applicable currency or currencies in such person's jurisdiction in compliance with applicable laws and regulations and without being subject to any unreimbursed or unindemnified Tax or other expense, (iii) the Required Revolving Credit Lenders shall have consented in writing to such additional Borrower; provided that any designation as a Borrower (A) of a Non-U.S. Restricted Subsidiary or (B) of a Subsidiary which is not organized in the same jurisdiction as an existing Revolving Credit Borrower shall be subject to the prior written consent of each Revolving Credit Lender and each Extending Revolving Credit Lender and (iv) Parent and such Restricted Subsidiary shall have delivered to the Administrative Agent such corporate documentation (including all applicable "know your customer" documentation), charter documents, by-laws, resolutions and legal opinions, in each case, consistent with those provided or required to be provided by the Loan Parties under Section 4.01 on the Closing Date, modified as appropriate for the jurisdiction in question or otherwise as may be agreed to by the Administrative Agent. Upon the receipt by the Administrative Agent of a Borrowing Subsidiary Agreement executed by the Agents, such a wholly owned Restricted Subsidiary and Parent, and the documentation referred to in the preceding sentence, such wholly owned Restricted Subsidiary shall be a Subsidiary Borrower and a party to this Agreement. Each Guarantee of the Obligations by any other Loan Party shall include the Obligations of any additional Borrower that becomes party to this Agreement pursuant to this Section 9.22, and each such additional Borrower shall Guarantee and grant Liens to secure the Obligations in accordance with the

Agreed Security Principles. A Subsidiary shall cease to be a Subsidiary Borrower hereunder at such time as no Loans, Fees or any other amounts due in connection therewith pursuant to the terms hereof in respect of such Subsidiary shall be outstanding, no Letters of Credit issued for the account of such Subsidiary shall be outstanding and such Subsidiary and Parent shall have executed and delivered to the Administrative Agent a Borrowing Subsidiary Termination; *provided* that, notwithstanding anything herein to the contrary, no Subsidiary shall cease to be a Subsidiary Borrower solely because it no longer is a wholly owned Restricted Subsidiary.

SECTION 9.23. ***Acknowledgment and Consent to Bail-In of EEA Financial Institutions***. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any of the parties to any Loan Document, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

SECTION 9.24. ***Certain Privacy Principles and Laws***.

(a) If any personal data of any natural person (including any officer, director or employee of any Loan Party or Subsidiary) is provided by or on behalf of any Loan Party or Subsidiary to any of the Agents, Issuing Banks or Lenders as required by or pursuant to the Loan Documents, then such Loan Party, on behalf of itself and its Subsidiaries, represents and warrants to the Agents, Issuing Banks and Lenders that such Loan Party and, as applicable, its Subsidiaries have, to the extent required by applicable law (including, to the extent applicable, the Australian Privacy Principles and the Singapore Personal Data Protection Act 2012): (i) notified the relevant natural person of the purposes for which data will be collected, processed, used or disclosed, and (ii) obtained such natural person's consent for, and hereby consents on behalf of such natural person to, the collection, processing, use and disclosure of his/her personal data by the Agents, Issuing Banks and/or Lenders, in each case, in accordance with or for the purposes of the Loan Documents (including any disclosure permitted by Section 9.17) or for the

purposes as set out in an Agent's, Issuing Bank's or Lender's privacy notice duly served on such Loan Party. Any such consent given in connection with the Loan Documents in relation to personal data shall, subject to all applicable laws and regulations, survive death, incapacity, bankruptcy or insolvency of any such natural person and the termination or expiration of this Agreement or any other Loan Document.

(b) To the extent that any information provided by or on behalf of any Loan Party to any of the Agents, Issuing Banks or Lenders as required by or pursuant to the Loan Documents comprises personal information of any officer, director or employee of Parent or any of its Subsidiaries that are incorporated or organized under the laws of Australia, such Agent, Issuing Bank or Lender (as the case may be) agrees to hold that personal information in accordance with the Australian Privacy Principles, to the extent applicable and required thereby. If the Administrative Agent receives a request by any other Agent, Issuing Bank or Lender, the Administrative Agent will provide a privacy notice (in the form recommended by the Asia Pacific Loan Market Association (Australian Branch) or as otherwise reasonably directed by such other Agent, Issuing Bank or Lender) to a representative of the officers, directors and employees of Parent and any such Subsidiary, which details the manner in which personal information collected in connection with the Loan Documents may be used and disclosed by the Agents, Issuing Banks and/or Lenders.

(c) Each Loan Party, on behalf of itself and its Subsidiaries, agrees and undertakes to notify the Administrative Agent promptly upon such Loan Party or any of its Subsidiaries becoming aware of the withdrawal by the relevant natural person of his/her consent to the collection, processing, use and/or disclosure by any of the Agents, Issuing Banks or Lenders of any personal data of such natural person that was provided by or on behalf of any Loan Party or Subsidiary to any of the Agents, Issuing Banks or Lenders in accordance with clause (a) or (b) above.

SECTION 9.25. ***Release of Liens***. Subject to any applicable reinstatement provisions, all of the Liens created by any of the Security Documents on any Collateral shall be automatically released when the Final Termination Date occurs (other than with respect to any cash collateral required in connection therewith with respect to Letters of Credit). If any of the Collateral shall be sold, transferred or otherwise disposed of by any Borrower or any other Loan Party in a transaction permitted by this Agreement (including by way of merger, consolidation or in connection with the sale of a Subsidiary permitted hereunder, but excluding any such sale, transfer or other disposition to any other Loan Party or any Restricted Subsidiary required to become a Loan Party), then the Liens created by any of the Security Documents on such property shall be automatically released (without need for further action by any person). If a Subsidiary Guarantor is released from its Guarantee of the Obligations pursuant to the Guarantee Agreement, then the Liens created by any of the Security Documents on the property of such person shall be automatically released (without need for further action by any person), except to the extent such assets are sold, transferred or otherwise disposed of to any other Loan Party or any Restricted Subsidiary required to become a Loan Party. Upon the written request of Parent, any other asset may be released from any Lien created by any Security Document to the extent such release is permitted pursuant to Section 10 of the Agreed Security Principles. In connection with any release pursuant to this Section 9.25, upon receipt by the Agents of a certificate of Parent to the effect that such transaction and the disposition of the proceeds thereof will comply

with the terms of this Agreement (with such supporting detail as the Agents may reasonably request), each Agent, at the request and sole expense of the Loan Parties, shall execute and deliver without recourse, representation or warranty all releases or other documents necessary or desirable to evidence the release of the Liens created by any of the Security Documents on such Collateral.

SECTION 9.26. ***Exclusion of Certain PPSA Provisions***. Each Loan Party acknowledges that none of the Agents, Issuing Banks or Lenders needs to give any notice to a Loan Party under the PPSA (including a notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded. If a Loan Document (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, each party hereto agrees that, to the extent the law permits:

(a) for the purposes of sections 115(1) and 115(7) of the PPSA, none of the Agents, Issuing Banks or Lenders needs to comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and sections 142 and 143 of the PPSA are excluded;

(b) for the purposes of section 115(7) of the PPSA, none of the Agents, Issuing Banks or Lenders needs to comply with sections 132 and 137(3);

(c) if the PPSA is amended after the date of this Agreement to permit a grantor and secured party to agree to not comply with or to exclude other provisions of the PPSA, the Administrative Agent may notify the grantor of a security interest that any of these provisions is excluded, or that none of the Agents, Issuing Banks or Lenders needs to comply with any of these provisions, as notified to the grantor by the Administrative Agent; and

(d) the grantor of a security interest agrees not to exercise its rights to make any request of any of the Agents, Issuing Banks or Lenders under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BORROWERS:

Executed by **SPEEDCAST INTERNATIONAL LIMITED ACN 600 699 241** by its attorney under power of attorney dated May 8, 2018, the revocation of which the attorney has received no notice, in the presence of:

P. Charteris

Signature of Witness

PHILIP ANDRIS CHARTERIS

Name of Witness (print)

Signature of Attorney

DOMINIC GUNNELL

Name of Attorney (print)

[Signature Page to Speedcast Syndicated Facility Agreement]

BORROWERS (CONT'D):

Executed by **SPEEDCAST LIMITED** by its authorised signatory, in the presence of:

P. Charteris

Signature of Witness

PHILIP ANDRIS CHARTERIS

Name of Witness (print)

Signature of Authorised Signatory

DOMINIC GYNGELL (DIRECTOR)

Name of Authorised Signatory (print)

BORROWERS (CONT'D):

SPEEDCAST AMERICAS, INC.

by _____
Name: DOMINIC GUNGELL
Title: AUTHORIZED SIGNATORY

[Signature Page to Speedcast Syndicated Facility Agreement]

BORROWERS (CONT'D):

SPEEDCAST COMMUNICATIONS, INC.

by _____
Name: DOMINIC GUNGELL
Title: AUTHORIZED SIGNATORY

[Signature Page to Speedcast Syndicated Facility Agreement]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Administrative Agent, Collateral Agent, Security Trustee, an Issuing Bank and a Lender

by _____
Name: Mikhail Faybusovich
Title: Authorized Signatory

by _____
Name: Andrew Griffin
Title: Authorized Signatory

[Signature Page to Speedcast Syndicated Facility Agreement]

CITIBANK, N.A.,
as a Revolving Credit Lender and an Issuing Bank

by _____
Name: Michael Moore
Title: Vice President

[Signature Page to Speedcast Syndicated Facility Agreement]

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, HONG KONG BRANCH
as a Revolving Credit Lender and an Issuing Bank

by _____
Name: Angela CHEN
Title: Head of Telecom, Media and Technology Finance
Structured Finance Asia

by _____
Name:
Title: Thomas DELMARRE
Managing Director
Chief Operating Officer
Structured Finance Asia
CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

[Signature Page to Speedcast Syndicated Facility Agreement]

ING BANK N.V. SINGAPORE BRANCH,
as a Revolving Credit Lender and an Issuing Bank

by _____
Name:
Title: **S.A. Mutsaers**
Director
Telecoms, Media & Technology, Asia

by _____
Name:
Title: **Krishna Suryanarayanan**
Managing Director
Telecoms, Media & Technology, Asia

Tab 5

Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing and (VI) Granting Related Relief

ENTERED
05/20/2020

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Jointly Administered)**

FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, AND (V) GRANTING RELATED RELIEF

Upon the motion (the "**DIP Motion**")[2] of SpeedCast International Limited and each of its affiliates that are debtors and debtors-in-possession (each, a "**Debtor**" and collectively, the "**Debtors**") in the above-captioned cases (the "**Chapter 11 Cases**") and pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506(c) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "**Bankruptcy Code**"), Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1 of the Bankruptcy Local Rules of the United States Bankruptcy Court for the Southern District of Texas (together, the "**Local Rules**"), and the Procedures for Complex Chapter 11 Bankruptcy Cases (the "**Complex Case Rules**" and, together with the Local Rules, the "**Bankruptcy Local Rules**"),

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[1] A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

[2] Capitalized terms used but not defined herein are given the meanings ascribed to such terms in the DIP Credit Agreement (as defined herein).

seeking entry of an interim order (as entered at [ECF No. 77], the "**Interim Order**") and this final order (this "**Final Order**") among other things:

(i) authorizing SpeedCast Communications, Inc. (the "**Borrower**") to obtain postpetition financing ("**DIP Financing**") pursuant to a senior secured, superpriority and priming debtor-in-possession term loan credit facility (the "**DIP Facility**") subject to the terms and conditions set forth in that certain Senior Secured Superpriority Debtor-in-Possession Term Loan Credit Agreement attached hereto as **Exhibit 1** (as amended, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), in an aggregate principal amount of up to $180 million, consisting of:

a. new money term loans in the aggregate principal amount of $90 million (the "**DIP New Money Term Loans**") from the DIP Lenders (as defined herein), of which $35 million was made available upon entry of the Interim Order and of which the remaining $55 million is to be available in accordance with the terms of the DIP Credit Agreement; and

b. term loans in an aggregate principal amount of $90 million (the "**DIP Roll-Up Loans**" and, together with the DIP New Money Term Loans, the "**DIP Loans**") from the DIP Lenders issued in substitution and exchange for Prepetition Loans (as defined herein) of the DIP Lenders on a dollar-for-dollar basis pursuant to the terms and conditions of the DIP Credit Agreement;

by and among, SpeedCast International Limited, as parent, the Borrower, as borrower, the several banks and other financial institutions or entities from time to time party thereto as "Lenders" (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacity, together with its successors and permitted assigns, the "**DIP Agent**" and, collectively, with the DIP Lenders, the **"DIP Secured Parties"**);

(ii) authorizing the Debtors other than the Borrower (such Debtors, the "**Debtor DIP Guarantors**," and together with the Borrower, the "**Debtor DIP Loan Parties**") to jointly and severally guarantee the DIP Loans and the other DIP Obligations as set forth in that certain Guarantee Agreement among SpeedCast International Limited, certain subsidiaries thereof, and the DIP Agent (the "**DIP Guarantee Agreement**");

(iii) authorizing and directing the Debtors to use reasonable best efforts to cause the DIP Guarantors that are not Debtors (the "**Non-Debtor DIP Loan Parties**" and together with the Debtor DIP Guarantors, the "**DIP Guarantors**" and together with the Borrower and the Debtor DIP Guarantors, the "**DIP Loan Parties**") to jointly and severally guarantee on the basis set forth in the DIP Guarantee Agreement, the DIP Loans and the other DIP Obligations;

(iv) authorizing the Debtors, (i) subject to entry of the Interim Order, on the Syndication End Date, to substitute and exchange Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Initial Commitments in effect as of the Closing Date (such substitution and exchange, the "**Initial Roll-Up**") and (ii) upon entry of this Final Order, to substitute and exchange Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Delayed Draw Commitments in effect as of the Closing Date (such substitution and exchange, the "**Delayed Draw Roll-Up**" and, together with the Initial Roll-Up, the "**Roll-Up**");

(v) authorizing the Debtor DIP Loan Parties to, and authorizing and directing the Debtor DIP Loan Parties to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, execute, deliver and perform under the DIP Credit Agreement and all other loan documentation, including security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, the DIP Intercreditor Agreement,[3] the Syndicated Facility Amendment,[4] the Fee Letter, and such other documents that may be reasonably requested by the DIP Agent and the DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Credit Agreement, all Loan Documents, the Interim Order and this Final Order, the "**DIP Documents**");

(vi) authorizing the Debtor DIP Loan Parties to incur, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to incur, loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees, administrative agency fees, exit fees, other fees and fees payable pursuant to the Fee Letter), costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other Obligations due or payable under the DIP Documents (collectively, the "**DIP Obligations**"), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

(vii) subject to the Carve Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtor DIP Loan Parties;

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[3] That certain DIP Intercreditor Agreement, dated as of April 24, 2020, among SpeedCast International Limited, as Parent, the other grantors party thereto, the DIP Agent and the Prepetition Agent (as defined herein).

[4] That certain Syndicated Facility Amendment, dated as of April 24, 2020, by and among SpeedCast International Limited, as Parent Borrower, SpeedCast Americas Inc., the Borrower, and SpeedCast Limited, each of the other "Loan Parties" party thereto, and the lenders party thereto.

(viii) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to section 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 prepetition and postpetition property of the Debtor DIP Loan Parties' estates (other than certain excluded property as provided in the DIP Documents (the "**Excluded Assets**")) and all proceeds thereof, including, any Avoidance Proceeds (as defined herein), in each case subject to the Carve Out (as defined herein);

(ix) authorizing the DIP Agent, acting at the direction of the Requisite DIP Lenders (as defined below), and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders (as defined below), to take all commercially reasonable actions to implement and effectuate the terms of the Interim Order, this Final Order and the DIP Documents;

(x) subject to the Carve Out (as defined herein), authorizing the Debtors to waive (a) their right to surcharge the Prepetition Collateral and the DIP Collateral (as defined herein) (together, but excluding any Excluded Assets, the "**Collateral**") pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;

(xi) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);

(xii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, use proceeds of the DIP Facility solely in accordance with the Interim Order, this Final Order and the DIP Documents;

(xiii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents;

(xiv) subject to the restrictions set forth in the Interim Order, this Final Order and the DIP Documents, authorizing the Debtors to use the Prepetition Collateral (as defined herein), including Cash Collateral of the Prepetition Secured Parties under the Prepetition Loan Documents (as defined herein), and provide adequate protection to the Prepetition Secured Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) (as defined herein), resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the "**Automatic Stay**"), the Debtors' use, sale, or lease of the Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral);

(xv) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the DIP Secured Parties and the Prepetition Secured Parties to implement and effectuate the terms and provisions of the Interim Order, this Final Order and the DIP Documents and to deliver any notices of termination described below and as further set forth herein; and

(xvi) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Final Order.

The Court having considered the final relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Adam Waldman in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [ECF No. 34] (the "**Waldman Declaration**"), and the *Declaration of Michael Healy in Support of the Debtors' Chapter 11 Petitions and First Day Relief* [ECF No. 16] (the "**Healy Declaration**"), the available DIP Documents, and the evidence submitted and arguments made at the interim hearing held on April 23, 2020 (the "**Interim Hearing**") and the final hearing held on May 20, 2020 (the "**Final Hearing**," and together with the Interim Hearing, the "**Hearings**"); and due and sufficient notice of the Final Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Bankruptcy Local Rules; and the Final Hearing having been held and concluded; and all objections, if any, to the final relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and otherwise is fair and reasonable and in the best interests of the Debtor DIP Loan Parties and their estates, and is essential for the continued operation of the Debtor DIP Loan Parties' businesses and the preservation of the value of the Debtor DIP Loan Parties' assets; and it appearing that the Debtor DIP Loan Parties' entry into the DIP

Documents is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

BASED UPON THE RECORD ESTABLISHED AT THE HEARINGS, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[5]

A. *Petition Date*. On April 23, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Court**"). On April 23, 2020, this Court entered an order approving the joint administration of the Chapter 11 Cases.

B. *Joint Administration*. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 18].

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

D. *Interim Order*. The Court entered the Interim Order on April 24, 2020 [ECF No. 77].

E. *Jurisdiction and Venue*. This Court has core jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Consideration of the DIP

[5] 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. THESE WRITTEN FINDINGS ARE SUPPLEMENTED BY THE COURT'S ORAL FINDINGS MADE ON THE RECORD ON THIS DATE. IF THERE IS A CONFLICT, THE ORAL FINDINGS CONTROL.

Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 363(m), 364(c), 364(d)(1), 364(e), and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014, and Bankruptcy Local Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1.

F. *Committee Formation*. On May 6, 2020, the United States Trustee for the Southern District of Texas (the "**U.S. Trustee**") appointed an official committee of unsecured creditors (the "**Committee**") in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

G. *Notice*. The Final Hearing was scheduled and noticed pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate and sufficient notice of the DIP Motion has been provided in accordance with the Interim Order, Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Local Rules, and no other or further notice of the DIP Motion or the entry of this Final Order shall be required.

H. The relief granted pursuant to the Interim Order was necessary to avoid immediate and irreparable harm to the Debtors and their estates.

I. *Cash Collateral*. As used herein, the term "**Cash Collateral**" shall mean all of the Debtors' cash except for cash that is an Excluded Asset, wherever located and held, including cash in deposit accounts, that constitutes or will constitute "cash collateral" of the Prepetition Secured Parties and DIP Secured Parties within the meaning of section 363(a) of the Bankruptcy Code.

J. *Debtors' Stipulations*. Subject to the limitations contained in paragraph 20 hereof, and after consultation with their attorneys and financial advisors, the Debtors admit, stipulate and agree that:

(i) *Prepetition Credit Facility*. Pursuant to that certain Syndicated Facility Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Credit Agreement**", and collectively with the other Loan Documents (as defined in the Prepetition Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Loan Documents**"), among (a) SpeedCast International Limited, SpeedCast Americas, Inc., SpeedCast Communications, Inc. and SpeedCast Limited, as borrowers (in such capacity, the "**Prepetition Borrowers**"), (b) SpeedCast International Limited, as parent, (c) Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacities, the "**Prepetition Agent**"), (d) the Term Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Term Loan Lenders**"), (e) the Issuing Banks (as defined in the Prepetition Credit Agreement) party thereto (the "**Prepetition Issuers**"), and (f) the Revolving Credit Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Revolving Lenders**" and, together with the Prepetition Term Loan Lenders, the "**Prepetition Lenders**") (the Prepetition Lenders, collectively with the Prepetition Agent, the Prepetition Issuers and all other holders of Prepetition Credit Facility Debt (as defined herein), the "**Prepetition Secured Parties**"), (1)(x) the Prepetition Issuers issued and participated in letters of credit in support of the Prepetition Borrowers and (y) the Prepetition Revolving

Lenders provided revolving loans and other financial accommodations to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Revolving Credit Facility**") and (2) the Prepetition Term Loan Lenders provided term loans to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Term Loan Credit Facility**" and, together with the Prepetition Revolving Credit Facility, the "**Prepetition Credit Facilities**").

(ii) *Prepetition Guarantee*. Pursuant to that certain Guarantee Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time), certain of the Debtors and their direct and indirect non-Debtor subsidiaries and affiliates party thereto (the "**Prepetition Guarantors**") guaranteed on a joint and several basis the obligations under the Prepetition Loan Documents.

(iii) *Prepetition Credit Facility Debt*. As of the Petition Date, the Prepetition Borrowers were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than $689.7 million including (a) $87.7 million in outstanding principal amount of Revolving Loans (as defined in the Prepetition Credit Agreement), (b) $10.6 million of outstanding Letters of Credit (as defined in the Prepetition Credit Agreement) and (c) $591.4 million in outstanding principal amount of Term Loans (as defined in the Prepetition Credit Agreement) (collectively, together with accrued and unpaid interest, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including attorneys' fees, accountants' fees, auditor fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and

costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Borrowers' or the Prepetition Guarantors' obligations pursuant to, or secured by, the Prepetition Credit Agreement, including all Obligations (as defined in the Prepetition Credit Agreement, the "**Prepetition Obligations**"), and all interest, fees, prepayment premiums, early termination fees, costs and other charges, the "**Prepetition Credit Facility Debt**") which Prepetition Credit Facility Debt has been guaranteed on a joint and several basis by each of the Prepetition Guarantors.

(iv) *Prepetition Credit Facility Liens.* As more fully set forth in the Prepetition Loan Documents, prior to the Petition Date, the Prepetition Borrowers and the Prepetition Guarantors each granted to the Prepetition Agent, for the benefit of itself and the other Prepetition Secured Parties, a security interest in and continuing lien on (the "**Prepetition Liens**") substantially all of their assets and property, including Cash Collateral, subject to certain limited customary exclusions as set forth in the Prepetition Loan Documents (the "**Prepetition Collateral**").

(v) *Validity, Perfection and Priority of Prepetition Liens and Prepetition Debt.* The Debtors acknowledge and agree that as of the Petition Date (a) 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; (b) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law or otherwise permitted by the Prepetition Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date, the "**Prepetition Permitted Prior Liens**"); (c) the

Prepetition Credit Facility Debt constitutes legal, valid, binding, and non-avoidable obligations of the Prepetition Borrowers and Prepetition Guarantors enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Credit Facility Debt exist, and no portion of the Prepetition Liens or Prepetition Credit Facility Debt is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Credit Facilities; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Credit Facility Debt, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the Prepetition Liens securing the Prepetition Credit Facility Debt.

(vi) *No Control*. None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Prepetition Loan Documents.

(vii) *No Claims or Causes of Action*. No claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition Secured Parties (in their

capacity as such) under any agreements by and among the Debtors and any Prepetition Secured Party that is in existence as of the Petition Date.

(viii) *Release*. Effective as of the date of entry of the Interim Order, each of the Debtors and the Debtors' estates, on its own behalf, on behalf of (to the greatest extent permitted by law) the Non-Debtor DIP Loan Parties, and on behalf of its and their past, present and future predecessors, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the "**Released Parties**"), from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date (collectively, the "**Released Claims**") of any kind, nature or description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, upon contract or tort or under any state or federal law or otherwise, arising out of or related to (as applicable) the Prepetition Loan Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of the Interim Order. For the avoidance of doubt, nothing in this release shall relieve the DIP Secured

Parties of their Obligations under the DIP Documents from and after the date of the Interim Order.

K. *Findings Regarding the DIP Financing and Use of Cash Collateral*.

(i) Good and sufficient cause has been shown for the entry of this Final Order and for authorization of the Debtor DIP Loan Parties to obtain financing pursuant to the DIP Credit Agreement.

(ii) The Debtor DIP Loan Parties have a critical need for the DIP Financing and to continue to use Prepetition Collateral (including Cash Collateral) in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, to satisfy other working capital and operational needs and to fund expenses of these Chapter 11 Cases. The access of the Debtor DIP Loan Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, the incurrence of new indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern values of the Debtor DIP Loan Parties and to a successful reorganization of the Debtor DIP Loan Parties.

(iii) The Debtor DIP Loan Parties are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor DIP Loan Parties are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting to the DIP Secured Parties, the DIP Liens and the DIP Superpriority

Claims (as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case subject to the Carve Out, under the terms and conditions set forth in the Interim Order, this Final Order and in the DIP Documents.

(iv) The Debtor DIP Loan Parties continue to collect cash, rents, income, offspring, products, proceeds, and profits generated from the Prepetition Collateral and acquire equipment, inventory and other personal property, all of which constitute Prepetition Collateral under the Prepetition Loan Documents that are subject to the Prepetition Secured Parties' security interests as set forth in the Prepetition Loan Documents.

(v) The Debtor DIP Loan Parties desire to use a portion of the cash, rents, income, offspring, products, proceeds and profits described in the preceding paragraph in their business operations that constitute Cash Collateral of the Prepetition Secured Parties under section 363(a) of the Bankruptcy Code. Certain prepetition rents, income, offspring, products, proceeds, and profits, in existence as of the Petition Date, including balances of funds in the Debtor DIP Loan Parties' prepetition and postpetition operating bank accounts, also constitute Cash Collateral.

(vi) Based on the DIP Motion, the Healy Declaration, the Waldman Declaration and the record presented to the Court at the Hearings, the terms of the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 15 of this Final Order (the "**Adequate Protection**"), and the terms on which the Debtor DIP Loan Parties may continue to use the Prepetition Collateral (including Cash Collateral) pursuant to this Final Order and the DIP Documents are fair and reasonable, reflect the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(vii) The DIP Financing (including the Roll-Up), the Adequate Protection and the use of the Prepetition Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtor DIP Loan Parties, the DIP Secured Parties, and the Prepetition Secured Parties, and all of the Debtor DIP Loan Parties' obligations and indebtedness arising under, in respect of, or in connection with, the DIP Financing and the DIP Documents, including, without limitation: all loans made to and guarantees issued by the Debtor DIP Loan Parties pursuant to the DIP Documents and any DIP Obligations shall be deemed to have been extended by the DIP Agent and the DIP Secured Parties and their respective affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is vacated, reversed or modified, on appeal or otherwise.

(viii) The Prepetition Agent and the Prepetition Secured Parties have acted in good faith regarding the DIP Financing and the Debtor DIP Loan Parties' continued use of the Prepetition Collateral (including Cash Collateral) to fund the administration of the Debtor DIP Loan Parties' estates and continued operation of their businesses (including entry into the Syndicated Facility Amendment and the incurrence and payment of the Adequate Protection Obligations and the granting of the Adequate Protection Liens (as defined herein)), in accordance with the terms hereof, and the Prepetition Agent and Prepetition Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of sections 363(m) of the

Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is vacated, reversed or modified, on appeal or otherwise.

(ix) The Prepetition Secured Parties are entitled to the Adequate Protection provided in the Interim Order and this Final Order as and to the extent set forth herein and therein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Prepetition Collateral (including Cash Collateral) are fair and reasonable, reflect the Debtor DIP Loan Parties' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of the Prepetition Collateral, including the Cash Collateral, and the "Required Lenders" (as such term is defined in the Prepetition Credit Agreement, the "**Required Prepetition Lenders**"), have consented or are deemed hereby to have consented to the use of the Prepetition Collateral, including the Cash Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, and the Roll-Up; *provided* that nothing in the Interim Order, this Final Order or the DIP Documents shall (x) be construed as the affirmative consent by any of the Prepetition Secured Parties for the use of Cash Collateral other than on the terms set forth in this Final Order and in the context of the DIP Financing authorized by the Interim Order and this Final Order to the extent such consent has been or will be given, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the Prepetition Collateral (whether senior or junior) or (z) prejudice, limit or otherwise impair the rights of any of the Prepetition Secured Parties to seek new, different or additional adequate protection or assert the interests of any of the Prepetition Secured Parties, and the rights of any other party in interest, including the Debtor DIP Loan Parties, to object to such relief are hereby preserved.

(x) The exchange and substitution of Prepetition Loans with DIP Roll-Up Loans on a dollar-for-dollar basis in an amount of Prepetition Loans equal to 100% of the amount of the DIP Commitments (as of the Closing Date) reflects the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties. The Prepetition Secured Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined herein), and the DIP Secured Parties would not be willing to provide the DIP Facility or extend credit to the Debtor DIP Loan Parties thereunder without the Roll-Up. The Roll-Up will benefit the Debtors and their estates because it will enable the Debtors to obtain urgently needed financing critical to administering these Chapter 11 Cases and funding their operations, which financing would not otherwise be available.

(xi) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties an initial budget (the "**Initial DIP Budget**"), attached as Schedule 1 to the Interim Order. The Initial DIP Budget reflects, among other things, the Parent's and its Subsidiaries' anticipated cash receipts and anticipated disbursements for each calendar week, in form and substance satisfactory to the Requisite DIP Lenders. The Initial DIP Budget may be modified, amended and updated from time to time in accordance with the DIP Credit Agreement, and once approved by the Requisite DIP Lenders,[6] shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent approved budget, shall constitute without duplication, an "**Approved Budget**"). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances. The DIP Secured Parties are relying, in part, upon the DIP Loan Parties' agreement to comply with the Approved Budget (subject to only permitted

[6] "**Requisite DIP Lenders**" means, as applicable, pursuant to the requirements of the DIP Credit Agreement, either or both of the "Required IC Lenders" and/or "Required Lenders" (each as defined in the DIP Credit Agreement).

variances), the other DIP Documents and this Final Order in determining to enter into the postpetition financing arrangements provided for in this Final Order.

(xii) Each of the Prepetition Secured Parties shall 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 with respect to any of the Prepetition Collateral.

L. *Relief Essential; Best Interest*. Sufficient cause exists for entry of this Final Order pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2) and Bankruptcy Local Rule 4001-1(b). Consummation of the DIP Financing and the use of Prepetition Collateral (including Cash Collateral), in accordance with this Final Order and the DIP Documents are therefore in the best interests of the Debtor DIP Loan Parties' estates and consistent with the Debtor DIP Loan Parties' exercise of their fiduciary duties. The DIP Motion, the Interim Order and this Final Order comply with the requirements of Bankruptcy Local Rule 4001-1(b).

M. *Permitted Prior Liens; Continuation of Prepetition Liens*. Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtor DIP Loan Parties, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties 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 DIP Liens (as defined herein). The Prepetition Liens, and the DIP Liens

that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens in light of the integrated nature of the DIP Facility, the DIP Documents and the Prepetition Loan Documents.

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

IT IS HEREBY ORDERED THAT:

1. *Motion Granted*. The relief sought in the DIP Motion is granted, the financing described herein is authorized and approved, and the use of Cash Collateral is authorized, in each case, on a final basis, subject to the terms and conditions set forth in the DIP Documents and this Final Order. All objections to this Final Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits.

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

(a) The Debtor DIP Loan Parties were, by the Interim Order, and hereby are authorized, and the Debtors were, by the Interim Order, and hereby are authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties, as applicable, to execute, deliver, enter into and, as applicable, perform all of their obligations under the DIP Documents (including without limitation the DIP Intercreditor Agreement and the Syndicated Facility Amendment) and such other and further acts as may be necessary, appropriate or desirable in connection therewith. The Borrower was, by the Interim Order, and hereby is authorized to borrow money pursuant to the DIP Credit Agreement, each Debtor DIP Guarantor was, by the Interim Order, and hereby is authorized to, and the Debtors were, by the Interim Order, and hereby are authorized and directed to use reasonable best efforts to cause the Non-

Debtor DIP Loan Parties to, provide a guaranty of payment in respect of the Borrower's obligations with respect to such borrowings, subject to any limitations on borrowing under the DIP Documents, which shall be used for all purposes permitted under the DIP Documents (and subject to and in accordance with the Approved Budget) (subject to any permitted variances); *provided*, that the permitted variance set forth in Section 6.15(v) of the DIP Credit Agreement for the line items in the Approved Budget under the heading "Professional Fees" shall be (x) 12.5% for each Cumulative Budget Test Period ending through July 17, 2020 and (y) 10% thereafter.

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor DIP Loan Party is authorized to, and authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages, financing statements and other similar documents), and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable for the DIP Loan Parties' performance of their obligations under or related to the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents;

(ii) the execution and delivery of, and performance under, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the DIP Loan Parties and the DIP Agent (acting in accordance with the terms of the DIP Credit Agreement and at the direction of the Requisite DIP Lenders) may

agree, it being understood that no further approval of this Court shall be required for any authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees and other expenses (including attorneys', accountants', appraisers' and financial advisors' fees), amounts, charges, costs, indemnities and other obligations paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder; *provided* that, for the avoidance of doubt, updates and supplements to the Approved Budget required to be delivered by the DIP Loan Parties under the DIP Documents shall not be considered amendments or modifications to the Approved Budget or the DIP Documents;

(iii) the non-refundable payment to the DIP Agent and the DIP Secured Parties, as the case may be, of all fees, whether paid pursuant to the Interim Order or this Final Order, including unused facility fees, amendment fees, prepayment premiums, early termination fees, servicing fees, audit fees, liquidator fees, structuring fees, administrative agent's, collateral agent's or security trustee's fees, upfront fees, closing fees, commitment fees, exit fees, closing date fees, backstop fees, original issue discount fees, prepayment fees or agency fees, indemnities and professional fees (which fees shall be irrevocable, and were, and were deemed to have been, approved upon entry of the Interim Order, whether or not the fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, applicable non-bankruptcy law or otherwise) and any amounts due (or that may become due) in respect of the indemnification and expense reimbursement obligations, in each case

referred to in the DIP Credit Agreement or DIP Documents (or in any separate letter agreements, including, without limitation, any fee letters between any or all DIP Loan Parties, on the one hand, and any of the DIP Agent and/or DIP Secured Parties, on the other, in connection with the DIP Financing) and the costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained by, or on behalf of, any of the DIP Agent or DIP Secured Parties (including without limitation those of Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, Skadden, Arps, Slate, Meagher & Flom LLP, King & Wood Mallesons, Rapp & Krock, P.C., Greenhill & Co., LLC, and any local legal counsel or other advisors in any foreign jurisdictions and any other advisors as are permitted under the DIP Documents), in each case, as provided for in the DIP Documents (collectively, the "**DIP Fees and Expenses**"), without the need to file retention motions or fee applications; and

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

3. *DIP Obligations*. Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the DIP Loan Parties, enforceable against each Debtor DIP Loan Party and their estates and each Non-Debtor DIP Loan Party in accordance with the terms of the DIP Documents and this Final Order, and any successors thereto, including 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 execution and delivery of the DIP Documents, the DIP Obligations

included 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 DIP Loan Parties to any of the DIP Agent or DIP Secured Parties, in each case, under, or secured by, the DIP Documents or this Final Order, including all principal, interest, costs, fees, expenses, indemnities and other amounts under the DIP Documents (including the Interim Order and this Final Order); *provided*, that notwithstanding anything to the contrary in the DIP Credit Agreement, no Exit Fee shall be payable on the DIP Roll-Up Loans (as defined herein). The DIP Loan Parties shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the DIP Secured Parties (including their Representatives) 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 subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

4. *Prepetition Credit Facility Debt Roll-Up*.

(a) The Debtors were, pursuant to paragraph 4(a) of the Interim Order, deemed to, and are hereby deemed to have, exchanged and substituted Prepetition Loans of the DIP Lenders on a cashless, dollar-for-dollar basis with the DIP Roll-Up Loans in an amount equal to the Initial Commitments in effect as of the Closing Date allocated pro rata

among the DIP Lenders in accordance with the respective principal amounts of their DIP Loans as of such date and subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that were so exchanged remained and shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged pursuant to paragraph 4(a) of the Interim Order were thereby, and hereby are, deemed indefeasible and the applicable Prepetition Loans substituted thereby were by the Interim Order, and hereby are, deemed exchanged therefor. The cashless substitution and exchange dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(a) was, by the Interim Order, and hereby is authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein, in the Interim Order or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans and the Carve-Out in all respects.

(b) Effective upon entry of this Final Order, in accordance with the DIP Credit Agreement and the other DIP Documents, the Debtors shall be deemed to exchange and substitute Prepetition Loans of the DIP Lenders on a cashless dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the Delayed-Draw Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective

principal amounts of their DIP Loans as of such date, subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder; *provided, further*, that solely in the event that the Committee is granted standing to bring and actually brings a Challenge prior to the expiration of the Challenge Period (each as defined herein) and such Challenge results in a determination in a final, nonappealable order of the Bankruptcy Court that (i) some or all of the Prepetition Liens did not constitute valid or properly perfected liens on the Prepetition Collateral as of the Petition Date or (ii) some or all of the Prepetition Credit Facility Debt did not constitute valid and binding obligations of the Prepetition Borrower or Prepetition Guarantors as of the Petition Date, and the result of such defect is that the value of the Prepetition Credit Facility Debt that is secured by Prepetition Liens on the Prepetition Collateral as of the Petition Date was less than $90 million, the right of the Committee to argue that the DIP Roll-Up Loans approved pursuant to this paragraph 4(b) only (and not, for the avoidance of doubt, the DIP Roll-Up Loans approved pursuant to paragraph 4(a)) should be "rolled down" or disgorged solely in an amount equal to the negative difference between (x) the amount of the Prepetition Credit Facility Debt that is secured by valid and properly perfected Prepetition Liens on Prepetition Collateral as of the Petition Date and (y) $90 million (such loans in such amount, the "**Rolled Down Loans**"), is hereby preserved; *provided, further* that the rights of the Debtors and the Prepetition Secured Parties to object to the Committee's assertion that some or all of the DIP Roll-Up Loans should be rolled down or disgorged on any grounds are hereby expressly preserved; *provided, further* that such Rolled Down Loans shall (i) no longer be part of the DIP Facility and (ii) subject to

paragraph 20 hereof, shall be deemed to constitute Prepetition Loans held by the holders of the Rolled Down Loans immediately prior to such exchange and substitution for all purposes under the Prepetition Credit Agreement (and, for the avoidance of doubt, as Prepetition Loans shall not have the right to recover on a secured or priority basis from proceeds of Avoidance Actions successfully brought against the Prepetition Secured Parties), and the interest rate on the Rolled Down Loans will revert to the interest rate in effect on all amounts that were not "rolled-up" under the Prepetition Credit Agreement, as though the Roll-Up had never occurred with respect to such loans; *provided, further, however,* that in such an event the DIP Commitments for such Rolled Down Loans shall be deemed terminated. The DIP Roll-Up Loans deemed substituted and exchanged under this paragraph 4(b), except as provided above, shall be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged therefor. The cashless substitution and exchange dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(b) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans in all respects.

(c) The DIP Agent and Prepetition Agent, acting at the direction of, as applicable, the Requisite DIP Lenders or the Required Prepetition Lenders, was, by the Interim Order, and hereby is authorized to take any actions as may be necessary or advisable to

effectuate the terms of the Roll-Up, including entry into and performance under the DIP Intercreditor Agreement and in accordance with the terms thereof and of the other DIP Documents, and may conclusively rely on the provisions of the Interim Order and this Final Order, as applicable, in adjusting the Register and the Register (as defined in the Prepetition Credit Agreement) to reflect the Roll-Up.

5. *Professional Fee Account.*

(a) As soon as reasonably practicable following the entry of the Interim Order, the Debtors shall transfer an amount equal to the total budgeted (or actual, if available) weekly fees and expenses incurred or to be incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**" and, such fees and expenses of the Professional Persons, the "**Professional Fees**") for the weekly periods set forth in the Approved Budget through the weekly period that is two (2) weeks following such initial transfer into a segregated account not subject to the control, liens, security interests, or claims of the DIP Agent, any DIP Lender, or any Prepetition Secured Party, other than the reversionary interest of the DIP Agent and Prepetition Agent (for the benefit of the DIP Secured Parties and Prepetition Secured Parties, respectively), which interest shall be senior to any interest of the Debtors therein (the "**Professional Fees Account**"). Thereafter, on a weekly basis, the Debtors shall transfer into the Professional Fees Account cash proceeds from the DIP Facility or cash on hand in an amount equal to the aggregate unpaid amount of Estimated Fees and Expenses (as defined herein) included in all Weekly Statements (as defined herein) timely received by the Debtors, which shall be reported to the DIP Agent (or, in the event of a DIP

Repayment, the Prepetition Agent), or if an estimate is not provided, the total budgeted weekly fees of Professional Persons for the prior week set forth in the Approved Budget.

(b) Starting with the first full calendar week following the initial funding of the Professional Fee Account, each Professional Person shall have delivered and shall deliver to the Debtors a statement (each such statement, a "**Weekly Statement**") setting forth a good-faith estimate of the amount of unpaid fees and expenses incurred during the preceding week by such Professional Person (the "**Estimated Fees and Expenses**"). No later than one business day after the delivery of a Carve-Out Trigger Notice (as defined below) (the "**Carve-Out Statement Date**"), each Professional Person shall deliver one additional statement to the Debtors setting forth a good-faith estimate of the amount of Estimated Fees and Expenses incurred on and during the period prior to the Carve-Out Statement Date to the extent not otherwise paid or included in a previous Weekly Statement, and the Debtors shall transfer such amounts to the Professional Fees Account.

(c) The Debtors shall be authorized to use funds held in the Professional Fees Account to pay Professional Fees as they become allowed and payable pursuant to any interim or final order of the Bankruptcy Court or otherwise; *provided*, that when all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, any funds remaining in the Professional Fees Account shall revert to the Debtors for use solely in accordance with the Interim Order, this Final Order and the other DIP Documents and subject to the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims in the order of priority set forth herein; *provided, further*, that the Debtors' obligations to pay allowed Professional Fees shall in no way be limited or deemed limited to funds held in the Professional Fees Account.

(d) Notwithstanding anything herein to the contrary, (i) funds transferred to the Professional Fees Account shall be held in trust exclusively for the Professional Persons, including with respect to obligations arising out of the Carve-Out (as defined herein) and (ii) funds transferred to the Professional Fees Account shall not be subject to any liens or claims granted to the DIP Agent or DIP Lenders herein or any liens or claims granted to the Prepetition Agent or the Prepetition Secured Parties, and shall not constitute DIP Collateral, Prepetition Collateral, or Cash Collateral; *provided*, that the DIP Collateral and the Prepetition Collateral shall include a reversionary interest in funds held in the Professional Fees Account, if any, after all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, which reversionary interest shall be senior to (i) any liens and claims against the Debtors other than the Carve-Out and (ii) any interest of the Debtors therein.

6. *Carve-Out.*

(a) As used in this Final Order, the term "**Carve-Out**" means the sum of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate (without regard to the notice set forth in clause (iv) below); (ii) fees and expenses up to $100,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iv) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all professional fees and expenses (excluding any transaction fees or success fees) of Professional Persons (collectively, the "**Allowed Professional Fees**") incurred at any time before or on the day of delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined herein), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice (as defined herein) and

without regard to whether such fees and expenses are provided for in the Approved Budget; and (iv) Allowed Professional Fees incurred after the day following delivery by the DIP Agent of the Carve-Out Trigger Notice (as defined herein) in an aggregate amount not to exceed $7,000,000 (the amount set forth in this clause (iv) being the "**Post-Carve-Out Trigger Notice Cap**"); *provided*, *further*, that nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in this paragraph 6(a) on any grounds.

(b) 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 (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and lead counsel to the Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the obligations under the DIP Facility (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, any occurrence that would constitute an Event of Default hereunder) or the occurrence of the Stated Maturity Date (as defined in the DIP Credit Agreement), stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(c) On the day on which a Carve-Out Trigger Notice is received by the Debtors, the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand to transfer to the Professional Fees Account cash in an amount equal to all obligations benefitting from the Carve-Out.

(d) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by the Debtors at any time before or on

the first business day after delivery by the DIP Agent or the Prepetition Agent, as applicable, of a Carve-Out Trigger Notice but have not yet been allowed by the Bankruptcy Court, such professional fees and expenses of the Professional Persons shall constitute Allowed Professional Fees benefiting from the Carve-Out upon their allowance by the Bankruptcy Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the Debtors shall fund the Professional Fees Account in the amount of such professional fees and expenses.

(e) Following delivery of a Carve-Out Trigger Notice, the Debtors shall deposit into the Professional Fees Account any cash swept or foreclosed upon (including cash received as a result of the sale or other disposition of any assets) until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Notwithstanding anything to the contrary in the DIP Documents, the Interim Order, or this Final Order, following delivery of a Carve-Out Trigger Notice, the DIP Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Further, notwithstanding anything to the contrary herein, (i) disbursements by the Debtors from the Professional Fees Account shall not constitute DIP Loans, (ii) the failure of the Professional Fees Account to satisfy in full the Professional Fees shall not affect the priority of the Carve-Out, and (iii) in no way shall the Carve-Out, Professional Fees Account, any Approved Budget, the Permitted Variance, Weekly Statements, Estimated Fees and Expenses, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors or that may be allowed by the Bankruptcy Court at any time (whether by interim order, final order, or otherwise).

7. *DIP Superpriority Claims*. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtor DIP Loan Parties on a joint and several basis (without the need to file any proof of claim) with priority over any and all claims against the Debtor DIP Loan Parties, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the "**DIP Superpriority Claims**") shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which DIP Superpriority Claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtor DIP Loan Parties and all proceeds thereof (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") but including any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance Proceeds**")) in accordance with the DIP Documents, the Interim Order and this Final Order, subject only to the liens on such property and the Carve Out, and all other property of the Non-Debtor DIP Loan Parties as set forth in this Final Order and the DIP Documents. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is

vacated, reversed or modified, on appeal or otherwise. The DIP Superpriority Claims shall be *pari passu* in right of payment with one another and senior to the 507(b) Claims (as defined herein), and subordinated to the Carve Out.

8. *DIP Liens*. As security for the DIP Obligations, effective and automatically and properly perfected upon the date of the Interim Order and without the necessity of the execution, recordation or filing by the DIP Loan Parties or any of the DIP Secured Parties of mortgages, security agreements, control agreements, pledge agreements, financing statements, notation of certificates of title for titled goods or other similar documents, instruments, deeds, charges or certificates, or the possession or control by the DIP Agent of, or over, any Collateral, the following valid, binding, continuing, enforceable and non-avoidable security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to the Interim Order, this Final Order and the DIP Documents, the "**DIP Liens**") were, by the Interim Order, and hereby are granted to the DIP Agent for its own benefit and the benefit of the DIP Secured Parties (all property identified in clauses (a) through (c) below being collectively referred to as the "**DIP Collateral**"); *provided* that notwithstanding anything herein to the contrary, the DIP Liens shall be (a) subject and junior to the Carve Out in all respects, (b) senior in all respects to the Prepetition Liens and (c) senior in all respects to the Adequate Protection Liens:

(a) *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-

avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, including, without limitation, any and all unencumbered cash of the Debtor DIP Loan Parties (whether maintained with any of the DIP Secured Parties or otherwise) and any investment of cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, goodwill, commercial tort claims and claims that may constitute commercial tort claims (known and unknown), chattel paper, interests in leaseholds, real properties, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, wherever located, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing (the "**Unencumbered Property**"), in each case other than the Avoidance Actions (but, for the avoidance of doubt, "Unencumbered Property" shall include Avoidance Proceeds); *provided that*, the DIP Collateral shall not include any proceeds of Avoidance Actions that are successfully prosecuted against the Prepetition Secured Parties (for the avoidance of doubt for purposes of this proviso, solely in their capacity as Prepetition Secured Parties).

(b) *Liens Priming Certain Prepetition Secured Parties' Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties subject to the Prepetition Liens, regardless of where located, regardless whether or not any liens on such assets are voided, avoided, invalidated, lapsed or unperfected (the "**Priming Liens**"), which Priming Liens shall prime in all

respects the interests of the Prepetition Secured Parties arising from the current and future liens of the Prepetition Secured Parties (including, without limitation, the Adequate Protection Liens granted to the Prepetition Secured Parties) (the "**Primed Liens**").

(c) *Liens Junior to Certain Other Liens.* Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all tangible and intangible prepetition and postpetition property of each Debtor DIP Loan Party that is subject to either (i) valid, perfected and non-avoidable senior liens in existence immediately prior to the Petition Date (other than the Primed Liens) or (ii) any valid and non-avoidable senior liens (other than the Primed Liens) in existence immediately prior to the Petition Date that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, which shall be (x) junior and subordinate to any valid, perfected and non-avoidable liens (other than the Primed Liens) in existence immediately prior to the Petition Date, and (y) any such valid and non-avoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code; *provided* that nothing in the foregoing clauses (i) and (ii) shall limit the rights of the DIP Secured Parties under the DIP Documents to the extent such liens are not permitted thereunder; and

(d) *Liens Senior to Certain Other Liens.* The DIP Liens shall not be (i) subject or subordinate to or made *pari passu* with (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or in this Final Order, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental

unit (including any regulatory body), commission, board or court for any liability of the Debtor DIP Loan Parties, or (C) any intercompany or affiliate liens of the Debtor DIP Loan Parties or security interests of the Debtor DIP Loan Parties; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code granted after the date hereof.

9. *Protection of DIP Lenders' Rights.*

(a) So long as there are any DIP Obligations outstanding or the DIP Lenders have any outstanding Commitments (the "**DIP Commitments**") under the DIP Documents, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Loan Documents, the Interim Order or this Final Order, or otherwise seek to exercise or enforce any rights or remedies against the DIP Collateral, including in connection with the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, the DIP Collateral (but not any proceeds of such transfer, disposition or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments), to the extent the transfer, disposition, sale or release is authorized under the DIP Documents; (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral other than as necessary to give effect to this Final Order other than, (x) solely as to this clause (iii), the DIP Agent filing financing statements or other documents to perfect the liens granted pursuant to the Interim Order and this Final Order, or (y) as may be required by applicable state law or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-

avoidable liens or security interests existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the DIP Loan Parties' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent or the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the DIP Collateral subject to any sale or court-approved disposition.

(b) To the extent any Prepetition Secured Party has possession of any Prepetition Collateral or DIP Collateral or has control with respect to any Prepetition Collateral or DIP Collateral, or has been noted as secured party on any certificate of title for a titled good constituting Prepetition Collateral or DIP Collateral, then such Prepetition Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee and/or gratuitous agent for perfection for the benefit of the DIP Agent and the DIP Secured Parties, and such Prepetition Secured Party and the Prepetition Agent shall comply with the instructions of the DIP Agent, acting at the direction of the Requisite DIP Lenders, with respect to the exercise of such control.

(c) Any proceeds of Prepetition Collateral subject to the Primed Liens received by any Prepetition Secured Party, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Collateral or otherwise received by the Prepetition Agent, shall be segregated and held in trust for the benefit of and forthwith paid over to the DIP Agent for the benefit of the DIP Secured Parties in the same form as received, with any necessary endorsements. The DIP Agent is hereby authorized to make any such endorsements as agent for the Prepetition Agent or any such Prepetition Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) The Automatic Stay is hereby modified to the extent necessary to permit the DIP Agent (acting at the direction of the Requisite DIP Lenders) (and in the case of the following clause (i), after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent, acting at the direction of the Required Prepetition Lenders) to take any or all of the following actions, at the same or different time, in each case without further order or application of the Court and immediately upon the occurrence of an Event of Default: (i) deliver a notice of an Event of Default to the Debtors; (ii) declare the termination, reduction or restriction of any further DIP Commitment to the extent any such DIP Commitment remains outstanding; (iii) declare the termination of the DIP Documents as to any future liability or obligation of the DIP Agent and the DIP Secured Parties (but, for the avoidance of doubt, without affecting any of the DIP Liens or the DIP Obligations); and (iv) declare all applicable DIP Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Debtors (or, in the case of the Prepetition Agent, rescind consent to the use of Prepetition Collateral (including Cash Collateral)). Following the delivery of such notice, the DIP Agent (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) may file a motion (the "**Stay Relief Motion**") seeking emergency relief from the Automatic Stay on at least five (5) business days' notice to request a further order of the Court permitting the DIP Agent (or Prepetition Agent, if applicable), whether or not the maturity of any of the DIP Obligations shall have been accelerated, to proceed to protect, enforce and exercise all other rights and remedies provided for in the DIP Documents and under applicable law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in any such DIP

Document or any instrument pursuant to which such DIP Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of any of such DIP Secured Parties. The Debtors shall not object to the fact that the Stay Relief Motion is being heard on such shortened notice. Until such time that the Stay Relief Motion has been adjudicated by the Court the Debtor DIP Loan Parties may use the proceeds of the DIP Facility (to the extent drawn prior to the occurrence of Event of Default) or Cash Collateral to fund operations in accordance with the DIP Credit Agreement and the Approved Budget (subject to permitted variances).

(e) No rights, protections or remedies of the DIP Agent or the DIP Secured Parties granted by the provisions of the Interim Order, this Final Order or the DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral; (ii) any actual or purported termination of the Debtors' authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtors' continued use of Cash Collateral or the provision of adequate protection to any party.

10. *Limitation on Charging Expenses Against Collateral*. No costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral (including Cash Collateral) or Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent or the Prepetition Agent, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition

Secured Parties, and nothing contained in the Interim Order or this Final Order shall be deemed to be a consent by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise.

11. *No Marshaling*. In no event shall the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Credit Facility Debt, or the Prepetition Collateral; *provided* that prior to seeking payment of any DIP Claims, DIP Liens, 507(b) Claims or Adequate Protection Liens from Avoidance Proceeds, the DIP Secured Parties and Prepetition Secured Parties shall use reasonable best efforts to first satisfy such claims or liens from all other DIP Collateral. Further, in no event shall the "equities of the case" exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agent or the Prepetition Secured Parties with respect to proceeds, products, offspring or profits of any Prepetition Collateral.

12. *Payments Free and Clear*. Any and all payments or proceeds remitted to the DIP Agent by, through or on behalf of the DIP Secured Parties pursuant to the provisions of the Interim Order, this Final Order, the DIP Documents or any subsequent order of the Court shall be irrevocable, received free and clear of any claim, charge, assessment or other liability, including without limitation, any claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtors.

13. *Use of Cash Collateral*. The Debtors are hereby authorized, subject to the terms and conditions of this Final Order, to use all Cash Collateral; *provided* that (a) the Prepetition

Case 20-32243 Document 261-1 Filed on 05/20/20 in TXSB Page 41 of 71
Case: 20-32243 Document: 261 Filed in TXSB on 05/20/20 Page: 41 of 71
Case 4:20-cv-02095 Document 2-61 Filed on 06/02/20 in TXSD Page 864 of 1095

Secured Parties are granted the Adequate Protection as hereinafter set forth and (b) except on the terms and conditions of this Final Order, the Debtors shall be enjoined and prohibited from at any times using the Cash Collateral absent further order of the Court.

14. *Disposition of DIP Collateral*. The Debtor DIP Loan Parties shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as otherwise provided for in the DIP Documents or otherwise permitted by an order of the Court.

15. *Adequate Protection of Prepetition Secured Parties*. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, the Interim Order and this Final Order, the payment of any amounts under the Carve Out or pursuant to the Interim Order, this Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "**Adequate Protection Claims**"); *provided*, that the priming of the Prepetition Liens by the liens securing the DIP Roll-Up Loans (but not, for the avoidance of doubt, the DIP New Money Term Loans) shall not, in and of itself, constitute diminution in value for purposes of determining the amount of the Prepetition Secured Parties' Adequate Protection Claims;. In consideration of the foregoing, the Prepetition Agent, for the benefit of the Prepetition Secured Parties, was, by the Interim Order, and hereby is granted the following as Adequate Protection

for, and to secure repayment of an amount equal to such Adequate Protection Claims, and as an inducement to the Prepetition Secured Parties to consent to the priming of the Prepetition Liens and use of the Prepetition Collateral (including Cash Collateral) (collectively, the "**Adequate Protection Obligations**"):

(a) *Prepetition Adequate Protection Liens*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, was, pursuant to the Interim Order, and hereby is granted (effective and perfected upon the date of the Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Secured Parties' Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the "**Adequate Protection Liens**"), in each case subject and subordinate only to (A) the DIP Liens and (B) the Carve Out.

(b) *Section 507(b) Claims*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted, subject to the Carve Out and effective as of the date of the Interim Order, an allowed superpriority administrative expense claim as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Secured Parties' Adequate Protection Claims, with priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "**507(b) Claims**") which 507(b) Claims shall have recourse to and be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions, but including Avoidance Proceeds). The 507(b) Claims shall be subject and subordinate only to the Carve Out and the DIP Superpriority Claims; *provided, further* that the 507(b) Claims shall not recover on a priority basis from proceeds of Avoidance

Actions that are successfully prosecuted against the Prepetition Secured Parties (for the avoidance of doubt for purposes of this proviso, solely in their capacity as Prepetition Secured Parties). Except to the extent expressly set forth in this Final Order or the DIP Documents, the Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(c) *Prepetition Secured Parties Fees and Expenses*. The Debtor DIP Loan Parties shall provide the Prepetition Agent, for the benefit of the Prepetition Secured Parties, without duplication of fees paid for the benefit of the DIP Secured Parties, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Agent and ad hoc group of Prepetition Lenders, including without limitation (i) Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, King & Wood Mallesons, Greenhill & Co., LLC, Rapp & Krock, P.C., and any other advisors retained by or on behalf of the ad hoc group of Prepetition Lenders and (ii) Skadden, Arps, Slate, Meagher & Flom LLP as counsel to the Prepetition Agent (the "**Adequate Protection Fees and Expenses**") (and such counsel and advisors, the "**Prepetition Secured Parties Advisors**"), subject to the review procedures set forth in paragraph 19 of this Final Order.

(d) *Adequate Protection Payments.* Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to application of all mandatory prepayments as described in Section 2.13 of the

DIP Credit Agreement to repayment of the Prepetition Secured Obligations in accordance with the priorities set forth in the Prepetition Loan Documents (the "**Adequate Protection Payments**") and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification with respect to such Adequate Protection Payments; *provided* that the application of such mandatory prepayments shall only be permitted upon notice and hearing before the Court, and the rights of the Committee, the Debtors and other parties in interest to argue that such amounts should not be so applied are hereby expressly preserved; *provided further* that any amounts subject to application pursuant to this paragraph 15(d) shall, upon receipt by any DIP Loan Party, be held in a segregated escrow account by the Debtors until the time that such motion regarding the application thereof is resolved, at which time the proceeds shall be applied in accordance with such resolution.

(e) *Milestones*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to performance of those certain case milestones set forth in Section 5.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Milestones**"), and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification of such Adequate Protection Milestones.

(f) *Budget and Financial Covenants*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Budget Requirement**"), (ii) the Prepetition Secured Parties are hereby entitled to performance of those certain financial and other covenants

set forth in Section 6.15 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Covenants**") and (iii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Budget Requirement or Adequate Protection Covenants.

(g) *Prepetition Secured Parties' Information Rights*. The DIP Loan Parties shall promptly provide the Prepetition Agent, for distribution to the Prepetition Secured Parties (and subject to applicable confidentiality restrictions governing the Prepetition Credit Agreement, including with respect to any "private" side lender database), and the Committee or its professionals (pursuant to a confidentiality agreement or information sharing protocol in form and substance reasonably satisfactory to the Debtors) with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under Sections 5.04, 5.05, 5.06 and 5.07 of the DIP Credit Agreement (the "**Adequate Protection Reporting Requirement**"). Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties and the Committee shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Reporting Requirement.

(h) *Maintenance of Collateral*. The DIP Loan Parties shall continue to maintain and insure the Prepetition Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Credit Facilities and the DIP Documents.

(i) *Prepetition Secured Parties' Additional Adequate Protection*. In the event the Debtors file, support, make a written proposal or counterproposal to any party relating to, or take any other similar action in furtherance of (any of the foregoing, a "**Non-Permitted Action**"), a chapter 11 plan, sale process or other restructuring transaction that does not (i) provide for the indefeasible payment on the effective date thereof of all claims on account of the Prepetition Credit Facility Debt in full in cash or (ii) constitute an Approved Restructuring (as defined in the DIP Credit Agreement) (in each case, a "**Non-Permitted Restructuring**"), the Debtors shall provide notice to counsel to the ad hoc group of Prepetition Lenders not less than seven (7) business days before taking such Non-Permitted Action (the "**Non-Permitted Restructuring Notice**"). Upon receipt of a Non-Permitted Restructuring Notice, each of the Prepetition Secured Parties shall have the right to immediately file a Stay Relief Motion on five Business Days' notice seeking to terminate the Debtor DIP Loan Parties' right to use Cash Collateral pursuant to this Final Order (consistent with the procedures set forth in paragraph 9 of this Final Order), and seek authority thereby to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

16. *Reservation of Rights of Prepetition Secured Parties*. Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties and any other parties' holding interests that are secured by Primed Liens; *provided* that the Prepetition Agent, acting on its own behalf or at the direction of the requisite Prepetition Secured Parties, may request further or different adequate protection and the Debtor DIP Loan Parties or any other party in interest may contest any such request.

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

(a) Without in any way limiting the automatically effective perfection of the DIP Liens granted pursuant to paragraph 8 hereof and the Adequate Protection Liens granted pursuant to paragraph 15 hereof, the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the DIP Loan Parties and the Prepetition Secured parties (as applicable), as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be reasonably required or deemed appropriate by the DIP Agent, acting at the direction of the Requisite DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, under applicable local laws, or take possession of or control over cash or securities, or to amend or modify security documents, or enter into, amend or modify intercreditor agreements, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to document, validate and perfect the liens and security interests granted to them hereunder the ("**Perfection Actions**"). Whether or not the DIP Agent, on behalf of the DIP Secured Parties and acting at the direction of the Required DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Parties and acting at the direction of the Required Prepetition Lenders, shall take such Perfection Actions, the liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of the Interim Order. Upon the request of the DIP Agent, acting at the direction of the Required DIP Lenders, or the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, each of the

Prepetition Secured Parties and the Debtor DIP Loan Parties, without any further consent of any party, and at the sole cost of the Debtors as set forth herein, is authorized (in the case of the Debtor DIP Loan Parties), authorized and directed to use reasonable best efforts to cause (in the case of the Debtors with respect to the Non-Debtor DIP Loan Parties) and directed (in the case of the Prepetition Secured Parties), and such direction is hereby deemed to constitute required direction under the applicable DIP Documents or Prepetition Loan Documents, to take, execute, deliver and file such actions, instruments and agreements (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens in all jurisdictions required under the DIP Credit Agreement, including all local law documentation therefor determined to be reasonably necessary by the DIP Agent, acting at the direction of the Required DIP Lenders; *provided*, *however*, that no action need be taken in a foreign jurisdiction that would jeopardize the validity and enforceability of the Prepetition Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. To the extent necessary to effectuate the terms of the Interim Order, this Final Order and the DIP Documents, each of the DIP Agent and the Prepetition Agent hereby is deemed to appoint the other (and deemed to have accepted such appointment) to act as its agent with respect to the Shared Collateral (as defined in the DIP Documents) and under the Common Security Documents (as defined in the DIP Documents) to which they are a party in such capacity, with such powers as are expressly delegated thereto under the DIP Documents and Prepetition Loan Documents (and even if it involves self-contracting and multiple representation to the extent legally possible), together with such other powers as are reasonably incidental thereto.

(b) A certified copy of the Interim Order and/or this final Order may, in the discretion of the DIP Agent, acting at the direction of the Required DIP Lenders, and the

Prepetition Agent, acting at the direction of the Required Prepetition Lenders, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized and directed to accept a certified copy of the Interim Order and/or this Final Order for filing and/or recording, as applicable. The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent and the Prepetition Agent to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

18. *Preservation of Rights Granted Under this Final Order.*

(a) Other than the Carve Out and other claims and liens expressly granted by this Final Order, no claim or lien having a priority superior to or *pari passu* with those granted by this Final Order to the DIP Agent and the DIP Secured Parties or the Prepetition Agent and the Prepetition Secured Parties shall be permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in this Final Order, the DIP Liens and the Adequate Protection Liens shall not be: (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise; (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the DIP Loan Parties; or (iv) subject or junior to any intercompany or affiliate liens or security interests of the DIP Loan Parties.

(b) The occurrence of (i) any Event of Default or (ii) any violation of any of the terms of this Final Order, shall, after notice by the DIP Agent (acting in accordance with the terms of this Final Order) in writing to the Borrower (and, in the case of violation of any terms of this Final Order, and after indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments, notice by the Prepetition Agent acting at the direction of the Required Prepetition Lenders), constitute an event of default under this Final Order (each an "**Event of Default**") and, upon any such Event of Default, interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Credit Agreement. Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code: (A) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full (and that such DIP Superpriority Claims, 507(b) Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest); (B) the other rights granted by this Final Order, including with respect to the Carve Out, shall not be affected; and (C) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in this Final Order.

(c) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect: (i) the validity, priority or enforceability of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent,

as applicable, of the effective date of such reversal, modification, vacatur or stay; or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens or the Carve Out. Notwithstanding any reversal, modification, vacatur or stay of any use of Cash Collateral, any DIP Obligations, DIP Liens, Adequate Protection Obligations or Adequate Protection Liens incurred by the Debtor DIP Loan Parties to the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties, as the case may be, prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Final Order, and the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in sections 364(e) and 363(m) of the Bankruptcy Code, this Final Order and the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, the 507(b) Claims and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Final Order and the DIP Documents and the Carve Out shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases or terminating the joint administration of these Chapter 11 Cases or by any other act or omission; (ii) the entry of an order approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents);

(iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the DIP Loan Parties have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Final Order and the DIP Documents shall continue in these Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens and the Adequate Protection Obligations and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Final Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated (and in the case of rights and remedies of the Prepetition Agent and Prepetition Secured Parties, shall remain in full force and effect thereafter, subject to the terms of this Final Order), and the Carve Out shall continue in full force and effect.

19. *Payment of Fees and Expenses*. The Fee Letter is hereby approved, and the Debtor DIP Loan Parties are authorized to and shall pay the DIP Fees and Expenses. Subject to the review procedures set forth in this paragraph 19, payment of all DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and the Prepetition Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines, however any time that such professionals seek payment of fees and expenses from the Debtor DIP Loan Parties prior to confirmation of a chapter 11 plan, each professional shall provide summary copies of its invoices (which shall not be required to contain time entries and which may be redacted or modified to

the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of their invoices shall not constitute any waiver of the attorney client privilege or of any benefits of the attorney work product doctrine) to the Debtor DIP Loan Parties, the U.S. Trustee, and counsel to the Committee (together, the "**Review Parties**"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after the receipt by the Review Parties (the "**Review Period**"). If no written objection is received by 12:00 p.m., prevailing Eastern Time, on the end date of the Review Period, the Debtor DIP Loan Parties shall pay such invoices within three (3) calendar days. If an objection to a professional's invoice is received within the Review Period, the Debtor DIP Loan Parties shall promptly pay the undisputed amount of the invoice and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtor DIP Loan Parties are authorized and directed to pay on the Closing Date the DIP Fees and Expenses and Adequate Protection Fees and Expenses incurred on or prior to such date without the need for any professional engaged by, or on behalf of, the DIP Secured Parties or the Prepetition Secured Parties to first deliver a copy of its invoice or other supporting documentation to the Review Parties (other than the Debtor DIP Loan Parties). No attorney or advisor to the DIP Secured Parties or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Secured Parties in connection with or with respect to the DIP Facility and (ii) Prepetition Secured Parties in

connection or with respect to these matters, are hereby approved in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtor DIP Loan Parties or any other person.

20. *Effect of Stipulations on Third Parties.* The Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) in all circumstances and for all purposes. The Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding upon all parties in interest, including, without limitation, any Committee or other statutory or non-statutory committees appointed or formed in the Chapter 11 Cases and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors, in all circumstances and for all purposes unless: (a) such committee or any other party in interest with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so) has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by no later than (i) the earlier of (x) an order confirming a chapter 11 plan, and (y) July 6, 2020; (ii) any such later date agreed to in writing by the DIP Agent (acting with the direction of the Requisite DIP Lenders) and Prepetition Agent (acting with the direction of the Required Prepetition Lenders); and (iii) any such later date as has been ordered by the Court for cause upon a motion filed and served within any applicable period (the time period established by the foregoing clauses (i)-(iii), the "**Challenge Period**"), (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Credit Facility Debt or the

Prepetition Liens, or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "**Challenges**") against the Prepetition Secured Parties or their respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (each, a "**Representative**" and, collectively, the "**Representatives**") in connection with matters related to the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral (*provided* that in the event that the Committee files a motion seeking standing to pursue a Challenge prior to the end of the Challenge Period, the Challenge Period shall be extended, solely with respect to the Challenges for which the Committee seeks standing as set forth in a reasonably detailed complaint attached to such motion, to two business days after entry of a final, non-appealable order granting or denying such motion, and solely with respect to the Challenges that the Committee is granted standing to pursue by such order); and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; *provided*, *however*, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred. If no such Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding then: (1) the Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding on all parties in interest, including, without

limitation, the Committee; (2) the obligations of the Debtor DIP Loan Parties under the Prepetition Loan Documents, including the Prepetition Credit Facility Debt, shall constitute allowed claims not subject to defense, claim, counterclaim, recharacterization, subordination, recoupment, offset or avoidance, for all purposes in the Chapter 11 Cases, and any subsequent chapter 7 case(s); (3) the Prepetition Liens on the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to recharacterization, subordination, avoidance or other defense; and (4) the Prepetition Credit Facility Debt and the Prepetition Liens on the Prepetition Collateral shall not be subject to any other or further claim or challenge by the Committee or any other statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party in interest acting or seeking to act on behalf of the Debtor DIP Loan Parties' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition Secured Parties and their Representatives arising out of or relating to any of the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral shall be deemed forever waived, released and barred. If any such Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements and releases contained in this Final Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this

paragraph) on the Committee or any other statutory or non-statutory committee appointed or formed in the Chapter 11 Cases and on any other person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in the Interim Order or this Final Order vests or confers on any Person (as defined in the Bankruptcy Code), including the Committee or any other statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition Loan Documents, the Prepetition Credit Facility Debt or the Prepetition Liens, and any ruling on standing, if appealed, shall not stay or otherwise delay the Chapter 11 Cases or confirmation of any plan of reorganization.

21. *Limitation on Use of DIP Financing Proceeds and Collateral*. Notwithstanding any other provision of the Interim Order, this Final Order or any other order entered by the Court, no DIP Loans, DIP Collateral, Prepetition Collateral (including Cash Collateral) or any portion of the Carve Out, may be used directly or indirectly, (a) in connection with the investigation, threatened initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against any of the DIP Secured Parties, or the Prepetition Secured Parties, or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, in each case in their respective capacity as such, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Credit Facility Debt, and/or the Adequate Protection Obligations and Adequate Protection Liens granted to the Prepetition Secured Parties, as applicable, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the

DIP Obligations, the Prepetition Credit Facility Debt and/or the liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under the Interim Order, this Final Order, the DIP Documents or the Prepetition Loan Documents in respect of the Prepetition Credit Facility Debt, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise (*provided* that, notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and/or DIP Collateral (including Cash Collateral) may be used by any Committee to investigate but not to prosecute (A) the claims and liens of the Prepetition Secured Parties and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties (together, the "**Investigation**"), up to an aggregate cap of no more than $250,000 (the "**Investigation Budget**"), (b) to prevent, hinder, or otherwise delay or interfere with the Prepetition Agent's, the Prepetition Secured Parties', the DIP Agent's, or the DIP Secured Parties', as applicable, enforcement or realization on the Prepetition Credit Facility Debt, Prepetition Collateral, DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or this Final Order, as applicable, each in accordance with the DIP Documents, the Prepetition Loan Documents or this Final Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, or the DIP Secured Parties under this Final Order, the Prepetition Secured Debt Documents or the DIP Documents, as applicable; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims granted to the Prepetition Secured Parties; or (e) to pay or to

seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved or authorized by the Court, agreed to in writing by the DIP Lenders, expressly permitted under this Final Order or permitted under the DIP Documents (including the Approved Budget, subject to permitted variances), in each case unless all DIP Obligations, Prepetition Credit Facility Debt, Adequate Protection Obligations, and claims granted to the DIP Agent, DIP Secured Parties, Prepetition Agent and Prepetition Secured Parties under this Final Order, have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the DIP Secured Parties. For the avoidance of doubt, this paragraph 21 shall not limit the Debtors' right to use DIP Collateral to contest that an Event of Default has occurred hereunder pursuant to and consistent with paragraph 9(d) of this Final Order.

22. *Final Order Governs*. In the event of any inconsistency between the provisions of the Interim Order, this Final Order and the DIP Documents (including, but not limited to, with respect to the Adequate Protection Obligations) or any other order entered by this Court, the provisions of this Final Order shall govern. Notwithstanding anything to the contrary in any other order entered by this Court, any payment made pursuant to any authorization contained in any other order entered by this Court shall be consistent with and subject to the requirements set forth in this Final Order and the DIP Documents, including, without limitation, the Approved Budget (subject to permitted variances).

23. *Binding Effect; Successors and Assigns*. The DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties, the Committee or any other statutory or

non-statutory committees appointed or formed in these Chapter 11 Cases, the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties and the Debtors and their respective successors and assigns; *provided* that the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties shall have no obligation to permit the use of the Prepetition Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

24. *Exculpation*. Nothing in the Interim Order, this Final Order, the DIP Documents, the Prepetition Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Secured Party or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts. The DIP Secured Parties and Prepetition Secured Parties shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the DIP Collateral or Prepetition Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person and (b) all risk of loss, damage or destruction of the DIP Collateral or Prepetition Collateral shall be borne by the Debtors.

25. *Limitation of Liability*. In determining to make any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or Prepetition Collateral (including Cash Collateral) or in exercising any rights or remedies as and when permitted pursuant to this Final Order or the DIP Documents or Prepetition Loan Documents, none of the DIP Secured Parties or Prepetition Secured Parties shall (a) have any liability to any third party or be deemed to be in "control" of the operations of the Debtors; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (c) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" or "managing agent" with respect to the operation or management of any of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in this Final Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Agent, DIP Secured Parties, Prepetition Agent or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

26. *Master Proof of Claim*. The Prepetition Agent, and/or any other Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Cases or any Successor Case in order to assert claims on behalf of themselves or the Prepetition Secured Parties for payment of the Prepetition Credit Facility Debt arising under the Prepetition Loan Documents, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts under the Prepetition Loan Documents. The statements of claim in respect of such indebtedness set forth in this Final Order, together with any evidence accompanying the

DIP Motion and presented at the Hearings, are deemed sufficient to and do constitute proofs of claim in respect of such debt and such secured status. However, in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, the Prepetition Agent is authorized, but not directed or required, to file in the Debtors' lead chapter 11 case *In re Speedcast International Limited*, Case No. 20-32243 (MI), a master proof of claim on behalf of its respective Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Loan Documents and hereunder (each, a "**Master Proof of Claim**") against each of the Debtors. Upon the filing of a Master Proof of Claim by the Prepetition Agent, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Loan Documents, and the claim of each applicable Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if it had filed a separate proof of claim in each of these Chapter 11 Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among the holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 26 and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Chapter 11 Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition

Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the Prepetition Agent. The DIP Agent and the DIP Secured Parties shall similarly not be required to file proofs of claim with respect to their DIP Obligations under the DIP Documents, and the evidence presented with the DIP Motion and the record established at the Hearings are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

27. *Forbearance of the Prepetition Secured Parties*. Except as expressly permitted pursuant to the terms of this Final Order, the Prepetition Secured Parties shall not (i) exercise any rights or remedies with respect to any Prepetition Liens or Prepetition Collateral, (ii) enforce or pursue an event of default or other breach under any Prepetition Loan Document, or (iii) assert any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any Prepetition Obligations; *provided* that, following (x) payment in full of the DIP Obligations and termination of the DIP Commitments, (y) the occurrence of any Event of Default or other violation of the terms of this Final Order and (z) five (5) business days' notice delivered to the Debtors and the Committee or counsel thereto (which may be delivered via email) the (i) the forbearance set forth in this paragraph 27 shall be of no further force or effect, and (ii) the Prepetition Secured Parties shall be permitted to rescind any consent given under the Interim Order or this Final Order regarding the use of Prepetition Collateral (including Cash Collateral) and file a Stay Relief Motion (consistent with the procedures set forth in paragraph 9 of this Final Order and which Stay Relief Motion may, for the avoidance of doubt, be filed immediately upon the occurrence of the conditions set forth in clauses (x) and (y) of this paragraph 27) seeking authority to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or

applicable law; *provided* that (i) for the avoidance of doubt, no Stay Relief Motion shall be required to be filed with respect to any non-Debtor and (ii) with respect to any Government Business Subsidiary (as defined in the DIP Credit Agreement), the condition set forth in clause (z) of this paragraph 27 shall not apply, or to the extent commenced shall immediately terminate without notice or otherwise, as a result of (I) any Default or Event of Default under the Prepetition Credit Agreement (including as a result of an Event of Default under Sections 7.01(g), (h) or (i)), that occurs as a result of any act or omission by any Government Business Subsidiary or (II) the seeking of any legal action or request for relief in connection with the Prepetition Obligations by any Government Business Subsidiary from any Governmental Authority (as defined in the Prepetition Credit Agreement) other than the Bankruptcy Court); *provided* that the each of the Debtors and the Prepetition Agent shall provide counsel to the Committee with notice (which shall include email) of the existence of any event or condition described in clauses (I) or (II) of this paragraph as soon as reasonably practicable after having or receiving actual knowledge thereof.

28. *ING ISDA.* Prior to the Petition Date, SpeedCast International Limited entered into that certain ISDA 2002 Master Agreement, dated as of May 15, 2018 (as amended, supplemented, or otherwise modified as of the Petition Date, together with any schedules thereto and confirmations thereunder (the "**ISDA Master Agreement**"), and together with all security, pledge, and guaranty agreements and all other documentation executed in connection with any of the foregoing, the "**ING Swap Documents**"), pursuant to which SpeedCast International Limited owes to ING Bank N.V. ("**ING**") certain secured swap obligations (together with accrued and unpaid interest thereon and unpaid fees, expenses, disbursements, indemnifications, obligations, and charges or claims of whatever nature (including attorneys' fees), in each case, whether or not

contingent, whenever arising, due or owing pursuant to the terms of the ING Swap Documents or applicable law under each Transaction (as such term is defined in the ING Swap Documents) (collectively, the "**ING Swap Obligations**")). To resolve any and all objections that may be raised by ING to the DIP Motion or the DIP Facility, upon entry of this Final Order, and subject to the conditions set forth in this paragraph 28, the ING Swap Documents will be terminated (including a designation by ING of an Early Termination Date thereunder as of May 21, 2020) with the consent of each of the Debtors and ING; provided, that notwithstanding anything in this Final Order to the contrary, nothing in this Final Order shall prevent, hinder or otherwise limit ING's ability to (i) submit a calculation or similar statement to the Debtors setting forth ING's determination of the Early Termination Amount (calculated in accordance with Section 6(e)(i) of the ISDA Master Agreement, and which such Early Termination Amount shall, solely for the purposes of Section 6(d)(ii) of the ISDA Master Agreement, be payable on the day on which the calculation or similar statement is submitted by ING to the Debtors) and the amount of the ING Swap Obligations owed (or payable, as appropriate) under the ING Swap Documents in connection with such Early Termination Date (including, without limitation, interest payable on the Early Termination Amount in accordance with Section 9(h)(ii)(2) of the ISDA Master Agreement and any other amounts due and payable in accordance with the terms and conditions of the ING Swap Documents), and/or (ii) file a proof of claim (any such proof of claim, an "**ING Proof of Claim**") in the Chapter 11 Cases for any amount of the ING Swap Obligations owed under the ING Swap Documents in connection with such Early Termination Date (including, without limitation, interest payable on the Early Termination Amount in accordance with Section 9(h)(ii)(2) of the ISDA Master Agreement and any other amounts due and payable in accordance with the terms and conditions of the ING Swap Documents); provided, further, that the rights of

the Debtors and any other party in interest to object to any ING Proof of Claim on any grounds are hereby expressly preserved; provided, further that except as provided in this paragraph, the forbearance provisions set forth in this Final Order and the Automatic Stay (as and to the extent set forth in, as applicable, this Final Order, including paragraph 27 hereof, and the Bankruptcy Code, but, for avoidance of doubt, subject to the applicable terms and conditions of such forbearance provisions set forth in this Final Order) shall be of full force and effect against ING, and ING shall not be permitted to exercise any rights or remedies other than those described in clauses (i) and (ii) of this paragraph, whether pursuant to this Final Order and the terms and conditions of the ING Swap Documents or otherwise permitted under the Prepetition Loan Documents, including (x) taking action to setoff, foreclose upon, or recover in connection with, the liens granted pursuant to or in connection with the ING Swap Documents, or otherwise seek to exercise or enforce any netting, setoff or other rights or remedies under the ING Swap Documents (other than those set forth in Section 6 of the ISDA Master Agreement for purposes of determining the Early Termination Amount) or against any Prepetition Collateral, DIP Collateral or other property of the DIP Loan Parties, Prepetition Borrowers or Prepetition Guarantors, (y) enforcing or pursuing an event of default, termination event or other breach under the ING Swap Documents, or (z) asserting any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any obligations under the ING Swap Documents; provided, further that nothing in this Final Order shall affect or otherwise limit ING's right to vote on, object to, or otherwise respond in any way to any plan filed in these Cases in connection with the ING Swap Obligations; provided, further that, notwithstanding the foregoing, in determining the Early Termination Amount (as defined under the ISDA Master Agreement), no effect shall be given to any rights of setoff with

respect to any agreements or arrangements other than Transactions under and as defined in the ISDA Master Agreement.

29. *Texas Tax Liens*. Notwithstanding any provisions of the Motion, the Interim Order, this Final Order, or the other DIP Documents, any valid, binding, perfected, enforceable, and non-avoidable liens currently held by the Texas Taxing Authorities[7] for state or local taxes on any DIP Collateral that under applicable non-bankruptcy law are granted priority over a prior perfected security interest or lien (the "**Texas Tax Liens**") shall neither be primed by nor subordinated to any DIP Liens or Adequate Protection Liens granted under the Interim Order or this Final Order, and the Texas Tax Liens shall attach to any proceeds of any sale of DIP Collateral subject to the Texas Tax Liens in accordance with such priority. All parties' rights (a) to object to the priority, validity, amount, and extent of the claims and liens, including any Texas Tax Liens, asserted by the Texas Taxing Authorities and (b) with respect to any rights of the Texas Taxing Authorities to request an ad valorem tax reserve from the proceeds of the sale of any DIP Collateral that is secured by the Texas Tax Liens are fully preserved.

30. *Intercompany Transfers*. The Debtors shall provide not less than two (2) business days' notice to counsel to the Creditors' Committee prior to (i) any DIP Loan Party making any investment in any Subsidiary that is not a DIP Loan Party (including any Guarantees by any DIP Loan Party of any Indebtedness or other obligations of any Subsidiary that is not a DIP Loan Party and any loans and advances made by any DIP Loan Party to any Subsidiary that is not a DIP Loan Party) (each, as defined in the DIP Credit Agreement) to the extent that the aggregate

[7] For purposes of this Final Order, the term "Texas Taxing Authorities" shall refer to Bexar County, Cleveland ISD, Culberson Co – Allamoore ISD, Culberson County, Dallas County, Harris County, Hidalgo Country Hood CAD, Jasper County, Jim Wells CAD, City of McAllen, Nueces County, Parker CAD, Rio Grande City CISD, Smith County, Starr Country, Tarrant Country, Victoria County, Midland County, Cooke County, Alvarado Independent School District, Johnson County, Zavalla Independent School District, Tyler Independent School District, and Brazoria County Tax Office.

of all such investments outstanding would exceed $500,000; (ii) entering into any agreement with respect to Section 6.04(c)(ii) of the DIP Credit Agreement to increase, waive or otherwise modify the $500,000 investment threshold set forth therein; or (iii) the addition or removal of any entity as a Non-Debtor DIP Loan Party.

31. *Insurance*. To the extent that the Prepetition Agent is listed as loss payee under the Borrower's or DIP Guarantors' insurance policies, the DIP Agent is also deemed to be the loss payee under the insurance policies and shall act in that capacity and distribute any proceeds recovered or received in respect of the insurance policies, to the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments, and to the payment of the applicable Prepetition Credit Facility Debt.

32. *Credit Bidding*. (a) The DIP Agent shall have the right to credit bid, in accordance with the DIP Documents, up to the full amount of the DIP Obligations in any sale of the DIP Collateral and (b) the Prepetition Agent shall have the right, consistent with the provisions of the Prepetition Loan Documents (and providing for the DIP Obligations to be indefeasibly repaid in full in cash and the termination of the DIP Commitments), to credit bid up to the full amount of the Prepetition Credit Agreement Debt, in each case as and to the extent provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether any such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, in each case unless the Court for cause orders otherwise.

33. *Effectiveness*. This Final Order shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052 and shall take effect and be fully enforceable

nunc pro tunc to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

34. *Modification of DIP Documents and Approved Budget*. The Debtors are hereby authorized, without further order of this Court, to enter into agreements with the DIP Secured Parties (or the Prepetition Secured Parties after the indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments) providing for any consensual non-material modifications to the Approved Budget or the DIP Documents, or of any other modifications to the DIP Documents necessary to conform the terms of the DIP Documents to this Final Order, in each case consistent with the amendment provisions of the DIP Documents; *provided*, *however*, that notice of any material modification or amendment to the DIP Documents shall be provided to the U.S. Trustee, the Committee and any other statutory committee which shall have five (5) days from the date of such notice within which to object, in writing, to the modification or amendment. If the U.S. Trustee, the Committee or any other statutory committee timely objects to any material modification or amendment to the DIP Documents, the modification or amendment shall only be permitted pursuant to an order of the Court. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a material modification on an expedited basis.

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

36. *Payments Held in Trust*. Except as expressly permitted in this Final Order or the DIP Documents and except with respect to the DIP Loan Parties, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the benefit of the DIP Agent and the DIP Secured Parties and shall immediately turn over the proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Final Order.

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

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

39. *Necessary Action*. The Debtors, the DIP Secured Parties and the Prepetition Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of this Final Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in these Chapter 11 cases to take all actions as are necessary or appropriate to implement the terms of this Final Order.

40. *Interim Order*. Except as specifically amended or otherwise modified hereby, all of the provisions of the Interim Order and any actions taken by the Debtors, the DIP Secured Parties or the Prepetition Secured Parties (including, without limitation, the DIP Agent and the

Prepetition Agent) in accordance therewith shall remain in effect and are hereby ratified by this Final Order.

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

42. The Debtors shall serve this order in accordance with all applicable rules and orders and shall file a certificate of service evidencing compliance therewith.

Signed: May 20, 2020

Marvin Isgur
United States Bankruptcy Judge

Tab 6

Transcript - Motion Hearing of May 20, 2020
[Transcript Page Nos. 1–120]

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

IN RE:	§	CASE NO. 20-32243-H1-11
	§	
SPEEDCAST INTERNATIONAL LIMITED AND SPEEDCAST	§	HOUSTON, TEXAS
	§	
COMMUNICATIONS, INC.,	§	WEDNESDAY,
	§	MAY 20, 2020
DEBTORS.	§	1:30 P.M. TO 4:31 P.M.

MOTION HEARING
(TELEPHONIC CONFERENCE)

BEFORE THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: (SEE NEXT PAGE)

CASE MANAGER: LINHTHU DO

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FOR THE PREPETITION AGENT:	Alex Thompson, Esq.

INDEX

WITNESS:	Direct	Cross	Redirect	Recross
MICHAEL HEALY				
By Mr. Sparacino:	21		--	
ADAM WALDMAN				
By Mr. Sparacino:	27		--	
ANANT BHATNAGAR				
By Mr. Jones:	37		--	

EXHIBITS:	Offered	Received
DEBTORS' EXHIBITS		
No. 208-2:	18	19
No. 208-4 through 208-20:	18	19
Credit Agricole Exhibits		
No. 207-3:	64	65
No. 207-4:	48	49
No. 207-5:	50	50
No. 207-9:	60	61

HOUSTON, TEXAS; WEDNESDAY, MAY 20, 2020; 1:30 P.M.

(TELEPHONIC CONFERENCE)

THE COURT: All right. Good afternoon. It's 1:30. We're going to go ahead and begin our hearing in the SpeedCast International case. It's 20-32243.

I'm going to start by asking Debtors' counsel to give us an update on where we are with respect to the proposed form of order. I'm not sure who that is so if the right person from the Debtor will press five star, we'll start with you.

MR. PEREZ: Good afternoon, Your Honor.

Alfredo Perez, on behalf of the Debtors.

THE COURT: Good afternoon.

MR. PEREZ: I believe that Mr. David Griffiths is going to give the Court kind of a general update and then Ms. Kelly DiBlasi will go through the DIP Order, Your Honor. And I think we've made significant progress and we filed a form of revised order, although it didn't resolve everything, at Docket No. 236.

THE COURT: I think 1263 maybe? Wait, hold on, I'm in the wrong case. Just a minute. I did read an order right before I came out where you had uploaded a new form of order. Hold on. I got on the wrong case for a second.

MR. PEREZ: That's happened to me before, Your Honor.

THE COURT: More often than we would both like I'm sure, Mr. Perez. The one that I looked at before I came out was at 236-1.

MR. PEREZ: That's correct, Your Honor.

THE COURT: So, Mr. Griffiths, go ahead please.

MR. GRIFFITHS: Thank you, Your Honor.

David Griffiths of Weil Gotshal Manges, on behalf of the Debtors. Your Honor, do we have video on for the hearing today, or I'm not sure if we do, but I was checking.

THE COURT: If you want to present by video, that's no problem.

Is that what you're asking to do?

MR. GRIFFITHS: Yes. I would just check my camera here, see if that works. Okay.

Thank you, Your Honor.

THE COURT: Do you me to see your face or do you want me to see a document, Mr. Griffiths?

MR. GRIFFITHS: Your Honor, just our communicator (indiscernible).

THE COURT: All right. Thank you.

MR. GRIFFITHS: Thank you, Your Honor.

So, Your Honor, we're pleased to report (indiscernible) consensual hearing and so if Your Honor permits just a brief overview, I can do just a brief overview (indiscernible) here and then to provide a short

update on the timeline for the cases (indiscernible).

As my partner, Mr. Perez, noted most of our secondary (indiscernible) no objection and entered. The final hearing on SpeedCast net operating loss Motion has been adjourned to May 27th, at 2:00 p.m.

And so the general item for today is the final hearing on SpeedCast DIP Motion and my partner, Kelly DiBlasi, will handle that portion of the hearing along with my colleague, Amanda Pennington Prugh, will handle election matters.

And, Your Honor, because of a conflict that Weil Gotshal Manges has with the contested portion of this hearing, which relates to Credit Agricole, Ms. DiBlasi now with McCool Smith will then handle the Credit Agricole objection on behalf of the Debtors.

And, Your Honor, I believe that Mr. Schiff of Davis Polk would like to be heard on behalf of the DIP lenders and Ad Hoc Group of lenders and then Mr. Howard of Skadden would also like to be heard along with the agent. And then following the argument around Credit Agricole, Your Honor, Ms. DiBlasi will then go through the redline of the DIP Order.

Is that acceptable to Your Honor?

THE COURT: All that’s fine, if it’s okay with the parties. I’m not sure -- when were you going to have the

Credit Agricole lawyer make his presentation? I'm going to let him go ahead and respond to anything you're saying pretty early on.

MR. GRIFFITHS: After McKool Smith has presented.

THE COURT: All right. Mr. Sparacino, why don't you go ahead?

MR. GRIFFITHS: Well, Your Honor, (indiscernible), just a brief update on the cases just before we move forward. I will be glad to say that Your Honor's -- with Your Honor's support and support of our lenders, the company has done remarkably well since the First Day Hearing and obviously we will be focused on the ensuring that the company's business and operations have been stabilized and the DIP financing has been part of that.

THE COURT: Mr. Griffiths, your microphone is a bit fuzzy and I'm not sure what's going on. It's not that we can't hear you, but it's not as good as if you were on a handset or wearing a headset. I'll tell you that.

MR. GRIFFITHS: Is that better, Your Honor?

THE COURT: That's a whole lot better. Thank you.

MR. GRIFFITHS: Okay. And then -- thank you, Your Honor. And so I was just saying that the company's business and operation has been significant and stabilized since the commencement of the case and that's in large part to receiving DIP financing and support of our lenders.

As Your Honor recalls, there were some milestones and elections to occur on the First Day Hearing. We are pleased to report that the lenders and the company have decided together to pursue a plan process for the Chapter 11 cases and the lenders have actually made a plan of action and we anticipate amending the DIP Credit Agreement and the milestones in other creditor agreements shortly to reflect some extended milestones.

So what Your Honor can expect in terms of timing is that the company is required that its lenders --

THE COURT: Mr. Griffiths, every time you look at the camera and away from the microphone, you get fuzzy, just so you know.

MR. GRIFFITHS: Okay. I'll note those.

The company has elected to -- the company will deliver its business plan to the lenders by May 28th so by the end of this month. Then we are (indiscernible) an acceptable plan and relative Disclosure Statement documents by June 12th and that will then lead us to our conditional approval of our Disclosure Statements, 17 days after filing our Plan and Disclosure Statement on June 29th. And then we hope to have confirmation of our Chapter 11 cases and the Confirmation Hearing on August 8th.

That's just kind of a brief overview of the timeline going forward.

THE COURT: Thank you.

MR. GRIFFITHS: With that, Your Honor, I would just turn over the podium to my colleague, Kelly DiBlasi, to handle the DIP portion.

THE COURT: All right. Ms. DiBlasi.

MS. DIBLASI: Good afternoon, Your Honor.

Kelly DiBlasi, Weil Gotshal and Manges, co-counsel for the Debtors.

As Mr. Griffiths noted, I will briefly present -- enter three remarks on the DIP Motion and then my colleague, Amanda Prugh, will handle introduction of the Debtors' evidence in support of the DIP Motion followed by Mr. John Sparacino from McCool Smith, proposed conflicts counsel for the Debtors, who will handle evidentiary and legal issues in response to the objections raised by Credit Agricole. And they, of course, Your Honor, will have an opportunity to present whatever evidence and argument they would like to in support of their objection.

As Mr. Griffiths noted, the Debtors conveyed very significant progress even in the early stages of these Chapter 11 cases. We continue to work collaboratively with the DIP lenders and the prepetition lenders and in the short time the Committee is appointed, we have developed a cooperative working relationship with the Committee and its advisors and we look forward to continuing to collaborate

and work together on issues as the cases progress.

All the parties have been working extremely hard to get up to speed and resolve issues in an efficient and practical way to keep these cases on track and as one significant example of this collaboration, we're able to present to you today an almost fully-consensual final DIP order.

We cannot overstate the importance of the DIP facility to these Debtors. The unique and precarious nature of the Debtors' situation was not lost on this Court at the First Day Hearing. The Debtors' business was already struggling when the oil and gas market began experiencing a significant downturn earlier this year followed by the COVID-19 pandemic, which continues, and both of which exacerbated the Debtors' struggles and have had a disproportionate impact on their businesses and customer base.

So the liquidity provided by the DIP financing is essential to stabilizing the (indiscernible) and provide the company with sufficient funds to conduct a successful Chapter 11 reorganization. With the funding in place, the Debtors are prepared to move into the next phase of the (indiscernible) and look forward to working with the company's stakeholders to hopefully agree on a path forward and out of Chapter 11.

So in this regard, we're here today seeking final approval of the Debtors' post-petition DIP facility. As a reminder, the DIP Motion was filed at Docket No. 27. Following the First Day Hearing, the Court entered the corrected interim Order at Docket No. 77. And as Mr. Perez noted, the proposed Final Order, clean and redline interim Order were filed today at Docket No. 236.

Debtors received only a handful of objections to the DIP Motion both of which were resolved through the inclusion of agreed-upon language in the Order and we thank the Court for the brief adjournment of the hearing which enabled us sufficient time to resolve these points.

The first objection received was filed on May 11th by certain Texas taxing authorities. That objection was filed at Docket No. 169 and it was informally joined by a group of other Texas taxing authorities. The essence of the objection was related to ensuring that any priority tax liens of these authorities would not be primed by the DIP facility and preserve the authorities' rights in the event the Debtors hold any property subject to those liens. These issues were resolved by the inclusion of language at paragraph 29 of the final DIP Order and, as a result, on May 19th at Docket No. 224, the Texas taxing authorities withdrew their objection.

The next objection, which was not formally filed,

came from ING Bank N.V. This is one of the Debtors' prepetition secured hedge banks. Counsel for ING reached out to the Debtors and the DIP lenders and raised potential objections to the DIP Order seeking clarification that ING could terminate its prepetition hedge agreement. Debtors' provided ING with an extension of the objection deadline to provide parties with sufficient time to negotiate and try to resolve these issues.

We were successful in doing so and incorporated changes in paragraph 28 of the final DIP Order. The language in this provision permits ING to terminate its swap contracts but precludes ING from exercising any other remedies including setoff or recoveries from liens against the Debtors' assets. And as a result of that resolution, ING did not file an objection.

Next, Your Honor, we have the Committee who contacted the Debtors and the DIP lenders in advance of the objection deadline, shared their comments and objections to the DIP facility and the final DIP Order. We immediately began working with them to try to resolve these issues and provided the Committee with an extension of the objection deadline to May 15th. By that date, the parties were narrowing the issues and had not yet reached an agreement. The Committee --

THE COURT: Ms. DiBlasi, I'm going to interrupt

you for a moment. I'm getting messages that people can't hear. I believe that's because they're only on join.me and not on the phone, but I'm going to type them back a message and I don't want to be typing something and not paying full attention to you so give me just a moment if you would please?

MS. DIBLASI: Thank you, Your Honor, of course.

(Pause in the proceedings.)

THE COURT: All right. Sorry to interrupt you, but I wanted to be sure those people could hear.

MS. DIBLASI: Absolutely, Your Honor. I was saying that we've extended the Committee's objection deadline to May 15th. By that date, we had narrowed the issues, but not resolved them all. So the Committee did file its objection at Docket No. 200, but the parties agree to continue negotiating in good faith and yesterday reached an agreement in principal that resolves all the Committee's issues.

The Debtors, the DIP lenders and the Committee spent last night and this morning negotiating and documenting this resolution via various changes in the final DIP Order all of which are reflected in the version that was filed shortly before the hearing. These revisions are understandably important to the parties and complicated enough that I would not do justice to summarize them now so

what I would recommend, if it's okay with Your Honor, is that after we present evidence and argument on the Credit Agricole objection, we can then walk through the changes of the Final Order (indiscernible) and answer questions Your Honor has with respect to the rest of the Order.

THE COURT: That's fine.

MS. DIBLASI: So, Your Honor, that leaves us with the Credit Agricole objection, which was filed at Docket No. 167. There were three replies filed to this objection by the Debtors at Docket No. 223, the Ad Hoc Group of Secured Lenders at Docket No. 229 and the prepetition agent at Docket No. 233.

At this time, I will turn it over to my colleague, Ms. Prugh, to present the Debtors' evidence in support of the DIP Motion and respond to the Credit Agricole objection.

THE COURT: I appreciate your opening statement.

Does any other party wish to make an opening statement before we move into the evidentiary Record?

(No audible response.)

THE COURT: If anybody else does, then -- there's Mr. Beckham.

Mr. Beckham, did you want to make an opening statement before we open the evidentiary Record?

MR. MUHAMMAD: Yes, Your Honor. Good afternoon. This is Arsalan Muhammad (indiscernible) and I have

Mr. Beckham here with me and Mr. Jones also on the phone. We also have a representative of Credit Agricole, Mr. Anant Bhatnagar, who is -- who I can see on the camera and who's joining us from Hong Kong.

THE COURT: All right. Thank you. Go ahead please, Mr. Muhammad.

MR. MUHAMMAD: Your Honor, just a quick opening statement. As you know, we represent Credit Agricole. Credit Agricole was a revolving bank and a secured hedging bank under the prepetition Syndicated Facility Agreement, which we'll probably just refer to as "SFA." Pursuant to that Agreement, Credit Agricole had a revolving piece, which Credit Agricole has sold, and so here today is largely in its capacity as a secured hedging bank.

Credit Agricole believes and will show today both through testimony and legal argument that certain provisions of the SFA are being violated and we believe those are enforceable under the Bankruptcy Code in here by you, Your Honor, and enforcement of that means that the rollup portion of the DIP cannot be granted.

We are not objecting with respect to the new money. We appreciate and understand that SpeedCast is in difficult circumstances and, as the parties know, Credit Agricole is owed, we believe, approximately $23.8 million and so we have every desire for SpeedCast to be successful

and part of that would likely be a post-petition lending facility. So we do not object to the new money coming in. We do however believe that that cannot happen in the manner that has been proposed because that would violate the hard-fought negotiated rights that we bargained for under the SFA.

Your Honor, that's primarily it for my opening statement. Mr. Jones will present evidence and testimony from Mr. Bhatnagar and then I will present our legal arguments.

THE COURT: Mr. Muhammad, thank you.

So, Ms. Prugh, I think you wanted to make a presentation, right?

MS. PRUGH: Yes, Your Honor. Good afternoon. Amanda Prugh, Weil Gotshal and Manges for the Debtors. Your Honor, the Debtors filed a witness and exhibit list at Docket No. 208.

THE COURT: All right.

MS. PRUGH: And I would -- in particular, I would draw your attention to Exhibit No. 1, which is the sworn Declaration of Mr. Michael Healy, and that Declaration is also filed on the Docket at Docket No. 16.

And I would also draw your attention to Exhibit No. 3, the sworn Declaration of Mr. Adam Waldman. His Declaration is also filed on the Docket at No. 34.

And as Your Honor may recall, these are the same Declarations that were admitted for purposes of the First Day Hearing. Both Mr. Healy and Mr. Waldman are in attendance today via videoconference and available for cross-examination. As you heard earlier, Mr. John Sparacino of McCool Smith, proposed conflicts counsel for the Debtors, will handle any cross-examination or redirect as necessary.

At this time, Your Honor, the Debtors respectfully move to admit Debtor Exhibit Nos. 1 through 20 into evidence including the Declarations of Mr. Healy and Mr. Waldman as the witnesses' direct testimony.

THE COURT: All right. Do we have objections to the admission of 1 through 20 filed at ECF 208? So it's 208-1 to 20?

We do have an objection.

Yes, who do we have from the 214 area code?

MR. JONES: Good afternoon, Your Honor.

Charlie Jones, on behalf of Credit Agricole.

Can you hear me, Your Honor?

THE COURT: I can, Mr. Jones. Good afternoon.

MR. JONES: Good afternoon. Thank you. We have no objections to the balance of the documents that are being offered other than Docket 16, the Declaration of Mr. Healy, and Docket 35, the Declaration of Mr. Waldman. We ask that it's a -- just for the testimony that they do so in a live

question-and-answer forum.

THE COURT: All right. Ms. Prugh, do you have any basis on which those are admissible over an objection?

MS. PRUGH: Your Honor, I apologize. This is the first we're hearing of an objection to these Declarations. Again they are the same Declarations that are submitted at the First Day Hearing and admitted for that purpose at the time. They support the general relief that the Debtors are requesting. As I mentioned earlier, both Mr. Healy and Mr. Waldman are available for cross should there be any additional questions that Credit Agricole and others have and Mr. Sparacino is prepared to address those issues.

THE COURT: 208-2 and 208-4 through 20 are admitted.

(Debtors' Exhibit No. 208-2, 208-4 through 208-20 received in evidence.)

THE COURT: 208-1 and 208-3 have objections and they are not independently admissible in light of those objections. The Declarations signed in advance of the hearing are the ultimate form of leading testimony. We normally do admit them because the Court doesn't raise leading objections, but with an objection, they are not admissible, but you can call the witnesses live and ask them questions. But I'm admitting the rest of the exhibits.

I'm sustaining the objections to 208-1 and 208-3.

MR. JONES: Thank you, Your Honor.

MS. PRUGH: Your Honor, at this time, I believe we're going to pass the podium to Mr. Sparacino to respond to Credit Agricole's objections to our exhibits.

THE COURT: All right. Mr. Sparacino.

Could I get you to press five star on your phone please?

(Pause in the proceedings.)

THE COURT: All right. Mr. Sparacino, go ahead please.

MR. SPARACINO: Yes. Can you hear me now? Thank you. Okay. Well, in light of the Declarations there, Your Honor, I guess the Debtors will call their first witness and the first witness would be Mr. Michael Healy.

THE COURT: All right. Mr. Healy, hold on just a moment.

(Pause in the proceedings.)

THE COURT: Mr. Healy, I am passing the presenter role to you in case there's anything that you need to show us, but for now can I get you to raise your right hand?

(Witness sworn.)

THE COURT: Oh, Mr. Healy, we don't have your line activated. I need you to press five star so we can hear you. Let's try that again, Mr. Healy, now that I've got you on the line.

Now would you raise your hand a second time?

(Witness sworn.)

THE COURT: Thank you.

All right. Mr. Healy and Mr. Sparacino, I would encourage you both to get closer to your handsets.

Go ahead please, Mr. Sparacino.

MR. SPARACINO: Okay. Thank you, Your Honor.

Good afternoon, Mr. Healy.

DIRECT EXAMINATION OF MICHAEL HEALY

BY MR. SPARACINO:

Q Would you please state your full name for the Record?

A Michael P. Healy.

Q And what is your connection to these cases?

A I'm currently serving at the chief restructuring officer of SpeedCast International Limited.

Q And when did you first become engaged on behalf of the Debtors, SpeedCast and their affiliates?

A April 8th of 2020.

Q And how are you employed, Mr. Healy, generally?

A I work for the firm FTI Consulting where I am employed full-time as a senior managing director out of their New York office.

Q And has FTI been engaged in these bankruptcy cases on behalf of the Debtors?

A Yes.

THE COURT: Mr. Healy, if you don't have a handset close to your face, it's really not working.

THE WITNESS: I'm sorry, can you hear me now?

THE COURT: That's much better. But we did not get your answer to the last question.

THE WITNESS: Can you repeat the question?

BY MR. SPARACINO:

Q Has FTI been engaged on behalf of the Debtors in connection with these cases?

A Yes, they have.

Q In connection with -- Mr. Healy, you understand where -- that this hearing is in connection with -- there's a motion to approve Debtor-In-Possession financing, correct?

A I understand.

Q Are you generally familiar with the Debtor-In-Possession financing that's been requested for approval today?

A Yes, I'm generally familiar with it.

Q Have you had any role in the Debtors' negotiation and analysis of the Debtor-In-Possession financing that's up for consideration today?

A Yes, I have.

Q Will you please describe your role in connection with -- let's start with just the size and the form of the DIP that is proposed today beginning since prior to the

petition date.
A Yes. So post-engagement, FTI with its advisors in connection with the company undertook a process whereby we evaluated the liquidity, both the current liquidity and go-forward liquidity of SpeedCast International and all its various subsidiaries to determine what the liquidity runway was. Our (indiscernible) it was deemed that the liquidity runway was not going to be sufficient to execute what the potential out-of-court strategies that the company was evaluating. As such, we --
THE COURT: Mr. Sparacino, we may need to move Mr. Healy to a different phone.
THE WITNESS: I'm sorry, is this better?
THE COURT: It would be better if you were close to your headset or if you picked it up and put it in your hand.
THE WITNESS: All right. I will try -- this is as close as I can get so hopefully this works.
Is this better?
THE COURT: That was better, but you've got to look at it --
THE WITNESS: Okay.
THE COURT: -- because when you turn your head, I'm not hearing you.
THE WITNESS: So the next exercise we undertook

was to size based upon a reasonable time frame of restructuring the case of what we thought the liquidity needs of the company would be through that period and that process looking at all the various debtor entities that would be included, we worked to assess the overall liquidity needs to properly fund this company through the restructuring process.

BY MR. SPARACINO:

Q And in connection with those efforts, did you come to a decision as to whether or not the Debtors needed to obtain DIP financing?

A Yes, we did.

Q And what was that determination?

A That they would require DIP financing to have adequate liquidity to make it through the restructuring process.

Q And did you or did primarily Moelis work with the Debtors in locating Debtor-In-Possession financing?

A Moelis in its capacity as investment bankers to SpeedCast along with in consultation with FTI Consulting and the company worked to secure the Debtor-In-Possession financing.

Q Did you participate in the negotiation with these proposed DIP lenders as to the terms of the financing?

A There were certain aspects of the negotiations that I participated in. There were certain that I did not.

Q Would you please generally describe the aspects of the negotiation that you participated in?
A So the primary role that we participated in, as indicated earlier, was the overall sizing need of the liquidity over the duration of the expected case.
Q And is it your view that absent approval of DIP financing that these Debtors would not have the liquidity and access to funding required to survive the Chapter 11 process?
A It is my view that this Debtor absolutely required the Debtor-In-Possession financing to maintain its normal operations to make it through the bankruptcy process, yes.
Q Did you and FTI assist the Debtors preparing the cash forecast or budget associated with the DIP and the cash collateral (indiscernible) request?
A Yes, we did.
Q Will you generally describe the budgeting process that you and your firm employed in developing the cash needs budget?
A Sure. So we worked very closely with the company and its financial staff, the CFO and those people in the -- within his division around the world, to develop a view of what we thought the receipts that would be linking to the business over the time period across it would be and then we worked with various individuals within the entities who

specialize in certain areas on the expense side of the house to develop a view of what we thought the expending cash disbursements that would be required over the period in question would be.

MR. SPARACINO: Bear with me please one moment, Your Honor?

THE COURT: Sure.

MR. SPARACINO: I need to (indiscernible).

(Pause in the proceedings.)

BY MR. SPARACINO:

Q Mr. Healy, the Debtor-In-Possession financing, it is a priming DIP; is that correct?

A Yes, it is.

Q Did FTI and the Debtors seek out other alternative financing arrangements and sources other than a priming DIP?

A So that was one of the aspects where Moelis, in conjunction with the Debtor, undertook that exercise.

MR. SPARACINO: Your Honor, I have no further questions for this witness.

THE COURT: All right. Thank you.

Mr. Jones, go ahead.

MR. JONES: I have no questions, Your Honor.

THE COURT: Thank you. Does any other party have any questions for Mr. Healy?

(No audible response.)

(Witness excused.)

THE COURT: All right. Mr. Sparacino, who's your next witness?

MR. SPARACINO: Yes, Your Honor. The next witness that the Debtors would call is Mr. Adam Waldman.

THE COURT: All right. Mr. Waldman, if you would press five star on your phone please?

(Pause in the proceedings.)

THE COURT: Mr. Waldman, if you would raise your right hand please, sir?

(Witness sworn.)

THE COURT: Thank you, Mr. Waldman.

Go ahead please, Mr. Sparacino.

MR. SPARACINO: Thank you, Your Honor.

Good afternoon, Mr. Waldman.

DIRECT EXAMINATION OF ADAM WALDMAN

BY MR. SPARACINO:

Q Will you please state your full name for the Record?

A Adam Benjamin Waldman.

Q And, Mr. Waldman, how are you employed?

A I'm employed by Moelis and Company. We are (indiscernible).

Q Mr. Waldman, what is your connection to this case?

A Moelis and Company and our colleagues at Moelis Australia Advisory are the proposed investment bankers for

the Debtors.

Q And when was Moelis first engaged by the SpeedCast Debtors to assist in these cases?

A Sure. We were engaged in late February, the exact date I believe was February 24th, 2020.

Q Would you please describe for the Court very briefly your professional background and qualifications?

A Sure. For the last 10 years, I have worked with Moelis and Company specifically in our recapitalization and restructuring group. Prior to that I was an analyst with a hedge fund called “Lexberg Capital” for a number of years and I started my career at Citigroup as an analyst in their loan finance capital market group.

Q Now since Moelis’ engagement in February 2020 to work with these Debtors, can you just briefly describe the types of services that Moelis has provided to the Debtors?

A Sure. So under our engagement, we have been asked to provide advice on a number of fronts, financing possibilities both out of court and if necessary on an in-court basis, to assist as necessary in the valuation of any (indiscernible) transaction which may include the sale of assets, business line or the entire operation, the entire business.

We are also hired to advise on the restructuring from a balance sheet valuation perspective and go-forward

capitalization perspective of the Debtors. Again that was to be done either on an in-court or an out-of-court basis if that was possible.

Q And I take it -- have you been involved in most of those facets along with others on your team?

A Either myself or other members of my team have been involved in all the different facets.

Q In connection with your involvement with the Debtors, have you become familiar with the Debtors' capital structure and whether or not it needs post-petition financing?

A Yes, I have.

Q And what are your views in regards to the Debtors' need for post-petition financing?

A In the absence of receipt of post-petition financing, my understanding based on both (indiscernible) valuation at Moelis, as well as conversations with the Debtors' other advisors, and both at the company, at the Debtors, the -- if there's no post-petition financing, the company faced liquidation.

Q Would it be correct to assume that you came to that determination prior to the petition date?

A Yes.

Q So after you came to that determination, what then did you and/or Moelis do in your attempts to locate Debtor-In-Possession financing?

A Sure. So beginning in mid-April after a bridge financing process (indiscernible) and out-of-court restructuring (indiscernible) was effectively terminated, we began -- we at Moelis and others on my team began looking at immediately to folks who had been involved in our bridge financing process in order to see if they would have an interest in providing DIP financing for the company. We also began and immediately approached the lenders, the Ad Hoc Group of lenders, and asked them as well if they would have an interest in providing (indiscernible) financing.

Q Did you, on behalf of the Debtors, enter into negotiations with any other potential financing sources other than the (indiscernible) lenders today?

A We attempted to. So when we began our marketing process for a DIP, we reached out to 11 parties who had been tied or under a NDA or previously contacted during the bridge financing process. We (indiscernible). We had approached these individuals to provide junior DIP financing. None of those parties were interested or willing to entertain or enter into --

MR. JONES: Your Honor, this is hearsay testimony about what these other 11 parties said or what their positions were and that's our objection to his testimony.

THE COURT: I'm going to overrule the objection. What we're going to is whether the Debtor attempted to get

this, not whether someone told them the truth about what they were willing to do so it's not hearsay.

MR. JONES: All right. Thank you, Your Honor.

THE COURT: Thank you. Go ahead please.

THE WITNESS: Sure. So those 11 parties -- of these 11 parties, not one of them was willing to provide or even enter into a negotiation for post-petition financing here.

THE COURT: So I'm now going to sustain his objection to the wording of that question because that doesn't go to what he learned, but what they were actually willing to do. It's one thing to -- the second half of it's okay. The first half of it's not.

MR. SPARACINO: Thank you, Judge.

BY MR. SPARACINO:

Q So, Mr. Waldman, eventually you and the Debtors' other advisors settled upon the present proposed DIP lenders, correct?

A Correct.

Q And what were your reasons for that decision vis-â-vis other alternatives that may have been present, if any?

A The current DIP facility or the proposed DIP facility was the only available financing. Absent this financing, we would have had to liquidate -- the company would face liquidation.

Q Did you, in your search of post-petition financing, find anyone willing to make financing available on an unsecured basis?
A No.
Q In your search for post-petition financing, did you locate anyone willing to provide post-petition financing on a junior or subordinated lien basis?
A No.
Q In your search for post-petition financing, did you locate any potential lenders willing to provide funds on a *pari passu* lien basis?
A No.
Q You understand that there is a rollup component to the existing -- the proposed DIP facility, correct?
A Yes.
Q Will you just briefly describe how that proposed rollup works?
A Sure. So in the first -- (indiscernible) the way this rollup works is: if you put any dollar of new money, you then receive a dollar of the rollup DIP. The new money -- within the DIP facility, the new money DIP is first where I would put (indiscernible) senior to the rollup in terms of how it's repaid.
Q So in other words, the new advanced money is a first-out tranche of the DIP and the rollup is a second-out

tranche of the DIP?

MR. JONES: Objection. Leading.

THE COURT: Sustained.

BY MR. SPARACINO:

Q Mr. Waldman, were the DIP lenders willing to provide post-petition financing to the Debtors without a rollup feature?

A No.

MR. JONES: Objection. Calls for hearsay.

THE COURT: Sustained.

BY MR. SPARACINO:

Q Mr. Waldman, did the Debtors have -- did the DIP lenders propose to provide DIP financing that did not contain a rollup component?

MR. JONES: Objection. Calls for hearsay.

THE COURT: Sustained. Actually I'm going to reverse that. That does not go to the truth of whether they were willing to do it or not. It goes to what they proposed so it is not done for the truth of the matter.

I'm going to overrule my ruling -- change my ruling and allow the testimony.

Did they propose it --

MR. JONES: Thank you, Your Honor.

THE COURT: Did they propose it is the question.

THE WITNESS: Apologies, can you repeat the

question? I lost it in the objection.

THE COURT: Yeah, I'm sorry. This one's my fault. I apologize for making everybody go through it again.

MR. SPARACINO: Your Honor, no worries.

BY MR. SPARACINO:

Q Did the DIP lenders propose to provide post-petition financing that did not include a rollup feature?

A No. The DIP lenders' proposal included a rollup feature.

Q Now in your capacity or role as one of the investment bankers for the Debtors, do you believe -- do you have a view as to whether or not the proposed DIP facility is reasonable?

A Yes. I believe that the proposed --

Q What is that view?

A I believe that the proposed facility is reasonable.

Q Do you have a view as to whether or not there is a better post-petition financing opportunity available to the Debtors?

A I do have a view. We have not seen anything.

Q Did you participate in negotiations with the proposed DIP lenders as to the terms --

A Yes.

Q -- of the facilities?

A Yes.

Q Do you have a view as to whether or not those negotiations proceeded in good faith?
A Yes, I believe they did.
Q And do you have a view as to whether or not those discussions -- negotiations were arm's length or not?
A I believe they were arm's length.
Q Do you have a view as to whether the DIP lenders would be willing to do a DIP loan and post-petition financing without a rollup?
MR. JONES: Objection.
THE WITNESS: I do.
MR. JONES: Hearsay. Calls for speculation, Your Honor.
THE COURT: I'm going to -- I don't think it asks what anyone else said. This only asked for his view.
Tell me whether this is speculative or not please, Mr. Sparacino.
MR. SPARACINO: Your Honor, Mr. Waldman is a professional, the investment banker that was tasked with locating and sourcing Debtor-In-Possession financing. He saw that -- he already testified that he spoke with several potential parties. He's already testified that he would engage in negotiations with these post-petition -- with the DIP lenders and certainly overlaying his professional expertise, he most likely came to some opinion as to whether

or not, in the course of the negotiations, a non-rollup DIP loan was available here.

THE COURT: Mr. Jones, what's your --

MR. SPARACINO: I'm asking about --

THE COURT: -- response to that? What's your response, Mr. Jones?

MR. JONES: Your Honor, if he wants to give his opinion, I'm fine with that, but it shouldn't be accepted as whether the Ad Hoc lenders or the DIP lenders actually would have extended the DIP loan absent the rollup.

THE COURT: This is --

MR. SPARACINO: Your Honor, let me ask --

THE COURT: As I understand it, he's being asked his opinion as to whether or not they would do that. That does not incorporate, in my view, any statements made by them as to whether they would do that as to the truth of those although, as an expert, he can listen to that and then form expertise as to whether that was bluffing or negotiating or real.

So I'm going to limit it the way Mr. Jones is requesting. This is his opinion and that's the extent of what it is. It may be very valuable opinion and it -- we'll see on cross. It may turn out to be a worthless opinion, Mr. Waldman, but we'll see how that goes.

So what's your opinion?

THE WITNESS: I believe that if we do not have a rollup, there would be no DIP facility, there would be no new-money DIP facility.

MR. SPARACINO: Your Honor, I will pass this witness.

THE COURT: Thank you. Mr. Jones, go ahead.

MR. JONES: I have no questions, Your Honor.

THE COURT: Does any other party have any questions for Mr. Waldman?

(No audible response.)

(Witness excused.)

THE COURT: All right. Mr. Sparacino, any other evidence?

MR. SPARACINO: Your Honor, that --

THE COURT: I'm sorry.

MR. SPARACINO: No, Your Honor, that's the final witness that we -- that the Debtors will call. And the Debtors would be -- introduction of the Debtors' various exhibits and with those two testimonies, the Debtors will close their evidence.

THE COURT: Thank you. Is there any party that supports approval of the DIP as proposed that wishes to introduce any evidence in support of the DIP?

(No audible response.)

THE COURT: All right. Mr. Jones, you're up.

MR. JONES: Thank you, Your Honor. Charlie Jones of Haynes and Boone, on behalf of Credit Agricole. Your Honor, at this time, we would call Mr. Anant Bhatnagar. That's A-N-A-N-T, B-H-A-T-N-A-G-A-R, a representative of Credit Agricole.

THE COURT: Thank you, Mr. Jones.

Is it Bhatnagar or how do we pronounce the last name? I just want to be sure I get it.

MR. JONES: I think you're as close as I've gotten so far, Your Honor, Anant Bhatnagar.

THE COURT: Well, I see someone that's labeled his name as Anant so I'm not going to call you that once we get you to tell me the -- your name, but can I get you to press five star on your phone please so that I can get you activated? Thank you.

All right. Good afternoon. Would you go ahead and state your full name please?

THE WITNESS: Yes. My name is Anant Bhatnagar.

THE COURT: All right, Mr. Bhatnagar. Thank you.

Mr. Jones, go -- let me get him sworn him.

Would you raise your right hand please, sir?

(Witness sworn.)

THE COURT: Mr. Bhatnagar, like one of the earlier witnesses you're a little fuzzy and if I could get you closer to your microphone, we'll be able to hear you a

little bit better. Thank you.

All right. Mr. Jones, go ahead please.

MR. JONES: Thank you, Your Honor.

Good morning, Mr. Bhatnagar.

THE WITNESS: Good morning.

DIRECT EXAMINATION OF ANANT BHATNAGAR

BY MR. JONES:

Q Would you please tell the Court your position with Credit Agricole, sir?

A I'm the executive director in the Debt Restructuring Department in Credit Agricole Hong Kong.

Q And how long have you held that position, sir?

A For 30 years.

THE COURT: I'm not -- Mr. Jones, it's just not coming across clearly. Let's spend a moment if we could just to get the phone properly tuned up for distance and things that -- if I'm having trouble, I promise the appellate record will be worse. So if you'll take a moment with him and let's just play around and get this technology to where it's working the way you need it working.

MR. JONES: Sure.

THE COURT: I'll be quite patient about that. I'd much rather have it working right.

MR. JONES: I appreciate it, Your Honor. There's only about 9,000 miles between us.

(Pause/equipment being prepared.)

THE COURT: All right. Mr. Jones, let's move ahead. Thank you for experimenting with me.

MR. JONES: Thank you for the Court's patience, Your Honor.

Mr. Bhatnagar, just back up a little bit.

BY MR. JONES:

Q Could you state your position with Credit Agricole please, sir?

A I'm executive director in the Debt Restructuring Department in the Credit Agricole Hong Kong.

Q Thank you. And could you tell us how long you've held that position please, sir.

A More than 30 years.

Q And as we've just learned, you're in Hong Kong right now, correct, sir?

A Correct.

Q And what time is it in Hong Kong right now?

A It's around 3:30 a.m.

Q Okay.

MR. JONES: Your Honor, if you could please give the presenter role to my colleague, Mr. Muhammad, I would appreciate it very much, sir.

THE COURT: Thank you.

(Pause in the proceedings.)

BY MR. JONES:

Q Mr. Bhatnagar, through your duties with Credit Agricole, are you familiar with the Syndicated Facility Agreement that is at issue in this?

A Yes, I'm familiar.

Q And through your duties with Credit Agricole, are you also familiar with the third amendment to the Syndicated Facility Agreement that is at issue in this case?

A Yes.

Q Let's take a look at the Syndicated Facility Agreement please, sir, which is up on the screen now, which for the Record is Docket 208-10, and I'd like to look at the definition of "lender" on page 35 of Docket 208-10.

A Sure. Mr. Jones, can you just give me one minute please? I need to get the (indiscernible) on my computer. I (indiscernible) technique to power up. I just need one minute off, excuse please.

Q Yes.

A Sorry about that. Sorry about that. (Indiscernible). I'm so sorry.

MR. JONES: May I proceed, Your Honor?

THE COURT: Yes, please.

MR. JONES: I was at the Syndicated Facility Agreement --

THE WITNESS: Got it.

MR. JONES: -- 210-8, page 35, the definition of "lender."

If you could put that on the screen please, sir, Mr. Muhammad?

BY MR. JONES:

Q And to your understanding, was Credit Agricole a "lender" under the Syndicated Facility Agreement, as that term is defined on page 35 of Docket 208-10?

MR. SPARACINO: Your Honor, if I may interrupt? This is John Sparacino. I've never seen this demonstrative. I'm not saying that -- I guess it appears that they are just taking snippets out from exhibits that I assume are in the Record today, but I don't know that. I haven't seen this demonstrative. I don't know if these are exact duplications and pullouts from exhibits or not and so I don't know if it's appropriate to use this demonstrative now absent some definitive affirmation that these are exact duplicates out of these documents, but we haven't had an opportunity to review them.

MR. JONES: They are, Your Honor. I've just pulled these into the PowerPoint to ease the burden of drifting through the multi-hundred-page document, but we're happy to pull up the Syndicated Facility Agreement itself

and do it that way, if Your Honor prefers.

MR. SPARACINO: Your Honor?

THE COURT: Go ahead, Mr. Sparacino.

MR. SPARACINO: Your Honor, I would prefer that because I don't know if they've left out a key follow-on sentence or if -- you know, anything in that regard so I think it's more appropriate to use the exhibits as they're entered into the Record.

THE COURT: I'll sustain the objection and require that the witness only be shown documents that have been admitted into the Record.

MR. JONES: Yes, Your Honor. Well, I guess before we proceed, I need to --

MR. MUHAMMAD: Your Honor?

MR. JONES: Go ahead.

MR. MUHAMMAD: This is Arsalan Muhammad, Your Honor. I would just like to be able to change the sharing from the PowerPoint to a Word document. I'm going to try that, but if I can't do it, can you -- can I give the presenter role back and get it back so I can do that?

THE COURT: Yeah, but it should work fine. You should be able to go back and forth, but if you have a problem, that's fine. I also can pull up 208-10 on my own and show it to everybody, so we'll get there. Let's just take --

MR. JONES: Your Honor made a comment that you were only going to allow me to show documents to the witness that have been admitted. I was just going to show the witness and put in his testimony, then move the documents into evidence after establishing what they were.

Would you prefer to do it in a different order?

THE COURT: Well, no. I heard an objection from Mr. Sparacino that you were showing him documents that hadn't yet been authenticated, for example, excerpts, and I'm sustaining that. I don't know that we're going to draw an objection to this. It's probably pretty easy and let's find out.

Is there an objection to the admission of 208-10?

MR. JONES: I believe it's already in the Record, Your Honor.

MR. SPARACINO: Yes, Your Honor, this is a debtor exhibit. It's already in the Record.

THE COURT: All right. Then you're free to ask him about these so let's move ahead.

MR. JONES: Thank you.

BY MR. JONES:

Q Do you see this definition of "lender," sir?

A Yes.

Q Your understanding was Credit Agricole a "lender" under the Syndicated Facility Agreement, as that term is defined

on page 35 of Docket 208-10?
A Yes, that's correct.
MR. JONES: Mr. Muhammad, if we could please go to the definition of "revolving credit lender" on page 48 of Docket 208-10?
(Pause in the proceedings.)
BY MR. JONES:
Q Are you familiar with the definition of "revolving credit lender" shown on the screen, Mr. Bhatnagar?
A Yes.
Q And to your understanding, does Credit Agricole act as a revolving credit lender to the Debtors?
A Yes, they did.
Q Is Credit Agricole still a revolving credit lender under the Syndicated Facility Agreement?
A As of (indiscernible), it is not. We haven't signed or reject on the second amended (indiscernible).
MR. JONES: Mr. Muhammad, if we could please look at the definition of "secured hedging bank" on page 49 of Docket 208-10?
BY MR. JONES:
Q Are you familiar with this definition of "secured hedging bank, Mr. Bhatnagar?
A Yes, I am.
Q To your understanding, did Credit Agricole also served

a secured hedging bank under the Syndicated Facility Agreement?
A Yes, they did.
Q Do you know what amount Credit Agricole is claiming under the syndicated credit facility as a secured hedging bank?
A It's around $33.8 million US dollars.
MR. JONES: If we could please go to 7.02 of the Syndicated Facility Agreement on page 152, starts on 152?
(Pause in the proceedings.)
BY MR. JONES:
Q Are you familiar with this provision 7.02 of the Syndicated Facility Agreement, sir?
A Yes.
Q And what do you understand Section 7.02 of the Syndicated Facility Agreement to be?
A It's the waterfall of proceeds received by the agent.
Q Thank you.
MR. JONES: Mr. Muhammad, if we could go to Section 9.08(c) of the Syndicated Facility Agreement on page 186 of Docket 208-10?
BY MR. JONES:
Q And the first sentence of Section 9.08(c) of the SFA reads:
"Any amendment or modification the following provisions

that would directly inadvertently affect the hedging bank shall not be (indiscernible) as such secured hedging bank without its prior written consent: (i) Section 7.02 or 9.08(c).”

Did I read that correctly, sir?

A Yes.

MR. JONES: Mr. Muhammad, if you could put on the screen Docket 207-4?

And, Your Honor, while he does that, I would ask that 207.4, which is an email string, be admitted into the Record.

MR. SPARACINO: Your Honor, as to any of the statements, it isn’t an email chain. I don’t know that this witness can authentic all of the emails on this chain and I certainly would assume that there’s quite a bit of hearsay. To the extent they’re introducing this as to the truth of any of the statements asserted in any of the emails, I would object.

MR. JONES: Your Honor --

THE COURT: What is the offer, Mr. Jones?

MR. JONES: I’m offering it for the fact that the statements were made as to the particular statements that we are going to look at that was made by Mr. Wagner of Skadden Arps in his capacity as counsel for Credit Suisse, the agent bank, I would ask that that be admitted for the truth of the

matter asserted. And we can look at that. That's on page 5.

MR. SPARACINO: And I don't know how --

THE COURT: Can we go down to page 5, just take a look at it?

MR. JONES: There it is, Your Honor, the email from Mr. Wagner writing to Mr. Bhatnagar and others regarding the consent rights of secured hedge providers under the Facility Agreement.

As to this portion of the this email string, I would ask that this particular email on page 5 by Mr. Wagner on March 24th, 2020 be admitted for the truth of the matter asserted as an admission of a party opponent.

THE COURT: Mr. Sparacino?

MR. SPARACINO: Your Honor, I'm not sure that the agent qualifies as a party opponent here, but the prepetition agent or his counsel -- or its counsel.

THE COURT: I'm going to admit -- let me just interrupt for a minute. I think I'm actually being asked to admit it for slightly different purposes than truth of the matter. I just want to get some clarification on this.

I don't think it's being offered by Agricole to demonstrate that they would only have consent rights if there's an amendment to the waterfall section. I think it's being offered to say that that was the position of the agent

that they would only have consent rights if there's an amendment to the waterfall, not that the agent was right about that so --

MR. JONES: That is better stated.

THE COURT: So is there any objection to admitting it just to say that was the position taken by the agent?

MR. SPARACINO: No objection here to that, Your Honor.

THE COURT: Okay. We'll admit it to show that the agent took the position that Credit Agricole would only have consent rights if there was an amendment to the waterfall Section in the Credit Agreement or the hedging related definitions.

(Credit Agricole's Exhibit No. 207-4 received in evidence.)

MR. JONES: Thank you, Judge.

BY MR. JONES:

Q Mr. Bhatnagar, is --

MR. JONES: And just for the Record, Your Honor, the highlight was added by us just to help everyone focus on the right parts at the top.

THE COURT: Right, right.

BY MR. JONES:

Q Mr. Bhatnagar, this portion of Docket 207-4 you see on the screen from Mr. Wagner, is that statement consistent

with your understanding of the secured hedge provider's consent rights under the Syndicated Facility Agreement?
A Yes, it's consistent.
Q Mr. Bhatnagar, did you ever remind the Debtors that modifying the waterfall in the Syndicated Facility Agreement required Credit Agricole's consent as a secured hedging bank?
A Yes, we sent them (indiscernible) them on this point.
MR. JONES: If I could have please, Mr. Muhammad, 207-5 on the screen?
Your Honor, I'd ask that 207-5 be admitted, not for the truth of the matter asserted, but merely for the fact that Mr. Bhatnagar made these statements on the dates shown in these emails.
MR. SPARACINO: No objection, Your Honor.
THE COURT: They're admitted for that purpose.
(Credit Agricole's Exhibit No. 207-5 received in evidence.)
MR. JONES: Thank you, Judge.
If we could go down to the earlier email in time on page 2?
BY MR. JONES:
Q Do you recognize this email string at 207-5, Mr. Bhatnagar?
A Yes, I do.

Q And if you look on page 2, this is an email from you.

MR. JONES: If you could go back please, Mr. Muhammad? There you go.

BY MR. JONES:

Q It's an email from you on Thursday, March 19th, to Peter Myers at SpeedCast and others; do you see that?

A Yes.

Q Do you understand that Mr. Myers is the CFO of SpeedCast?

A That's right.

Q And you wrote:

"Please be reminded that any change in the position of the secured hedging bank will need to be approved in advance by us."

Do you see that, sir?

A Yes.

Q Why did you write that sentence to Mr. Myers on March 19th, 2020?

A We wrote that because we had heard in the news about the appointment of the financial advisor and we also heard that the company was (indiscernible) and (indiscernible).

MR. JONES: If we could please, Mr. Muhammad, scroll up the chain in Docket 207-5 at number page 1? There you are. Thank you.

BY MR. JONES:

Q And this -- do you recognize this email, sir?
A Yes, I do.
Q This is an email from you written April 9 of 2020 to Mr. Myers at SpeedCast again and Ms. Sara Saenz (phonetic); is that correct?
A Correct.
Q Again you wrote, quote:
"The approval of CACID (phonetic), a senior secured hedge provider, is required on any change to the waterfall."
Did I read that correctly?
A Correct.
Q Why did you write that sentence to Mr. Myers and Ms. Saenz on April 9, 2020?
A To continue (indiscernible) were concerned again because (indiscernible) and that we had (indiscernible) from the company on a specific hedging position.
Q Thank you, Mr. Bhatnagar.
Sometime was Credit Agricole presented with the third amendment to the Syndicated Facility Agreement?
A Yes.
MR. JONES: If you could please, Mr. Muhammad, put on the screen Docket 208-14, which is one of the Debtors' exhibits, Your Honor, that was admitted earlier I believe.
THE COURT: Thank you.

BY MR. JONES:
Q Are you familiar with this document, sir?
A Yes.
Q Who presented the third amended -- amendment to the SFA to Credit Agricole?
A We received it from Davis Polk.
Q Do you know in what capacity Davis Polk was acting when they sent you the third amendment to the SFA?
A It was a legal counsel for the (indiscernible) lending group and specifically for the DIP financing.
Q And do you know who prepared the third amendment to the SFA?
A I think it was prepared in -- I believe Davis Polk and Moelis (indiscernible). I'm not sure exactly who prepared it.
MR. JONES: Could you please, Mr. Muhammad, turn to page 57 of Docket 208-14?
BY MR. JONES:
Q Do you recognize page 57 of Docket 208-14, Mr. Bhatnagar?
A Yes.
Q What do you recognize it as?
A It (indiscernible) the third amendment.
Q And the top -- do you recognize the top signature on page 57 of Docket 208-14 as your own signature?

A Yes, that is.
Q So you signed this third amendment on behalf of Credit Agricole; is that correct?
A Correct.
Q This is important, Mr. Bhatnagar.
When you signed this third amendment, were you signing on behalf of Credit Agricole in its capacity as a secured hedging bank?
A No. This was signed (indiscernible).
Q When you signed this third amendment to the SFA, that is, 208-14, did you have any intention for Credit Agricole would act in any capacity other than as a lender under the Syndicated Facility Agreement?
MR. SPARACINO: Your Honor, I'm going to object to the question regarding his intent. Number one, it's not relevant. And, number two, it constitutes impermissible parol evidence. The third amendment is not ambiguous, the signature is not ambiguous. And his intent when he signed, to the extent it has any relevance at all, can be determined to be agreement.
THE COURT: What's your response to that, Mr. Jones?
MR. JONES: I think there's some lingering argument that Credit Agricole intended to sign this document as a secured hedging bank and if that argument is going to

persist, I think given the plain language on page 57 “as lender,” then Mr. Bhatnagar’s intent absolutely is relevant.

THE COURT: And so --

MR. JONES: No one -- nobody’s -- I apologize, Your Honor. If nobody’s making that argument, then we can move on.

THE COURT: No. I want to look at --

MR. SPARACINO: Your Honor?

THE COURT: Hold on. Back to 208-10. You had introduced what the definition of “lenders” was and it refers to the persons listed on Schedule 2.01.

Where would I find Schedule 2.01?

MR. JONES: I think that would be in the second half of the Credit Agreement that was filed at 208-11, Your Honor.

THE COURT: Okay.

MR. JONES: I don’t know that Mr. Muhammad has that document ready to go.

THE COURT: I’m just -- I can show it from my screen once I get there. I’m trying to figure out where to find it on there.

Do you know where it is on there?

MR. MUHAMMAD: Your Honor, this is Arsalan Muhammad. Your Honor, I think the Schedules may not be attached to the Debtors’ version that they filed of the

Syndicated Facility Agreement. I think Part 2 includes exhibits but I'm not sure they include schedules.

THE COURT: So how will I find out what's on 2.01 schedule? Can we get that available?

MR. MUHAMMAD: Your Honor, I have a copy of it. Just, Your Honor, if I may just go back for a second? So the Debtors and Credit Agricole discussed, you know, exhibits and we all agreed that the loan documents should be submitted and admitted so we have no objection over those. The Debtors suggested that there's no need to waste (indiscernible) space and put up, you know, hundreds of pages that are identical so we did not.

I do have a copy of these Schedules to the Credit Agreement on my hard drive so I can put that up, if that's okay with everyone.

THE COURT: I'm going to order you to put it --

MR. MUHAMMAD: Your Honor --

THE COURT: I'm going to order you to put it up. I don't care if it's okay with everyone.

MR. MUHAMMAD: Okay. Works great for me, Your Honor. Give me one second and I'll pull it up.

THE COURT: Thank you.

MR. SPARACINO: And, Your Honor, this is John Sparacino. I was under the impression that Part 2 of Debtors' Exhibit 1 should have the exhibits and the

schedules. That's certainly what I thought was there.

Is Ms. Prugh still available as -- and she assisted for the Weil Gotshal team in putting together and getting on file the various exhibits.

THE COURT: That's okay. It sounds like Mr. Muhammad has it and he's going to put it up in a moment.

MR. SPARACINO: Okay.

THE COURT: I'm just trying to rule on the objection and I don't think I can rule on the objection until I see that schedule because it refers to the persons generally on 2.01. It doesn't refer to the persons act in a particular capacity. And I want to understand by looking at 2.01 whether those persons are limited to acting in some certain capacity. And without looking at it, I don't know how it would rule on your objection.

MR. MUHAMMAD: Your Honor, join.me had kicked me off. I'm the presenter again when I (indiscernible) --

THE COURT: Okay.

MR. MUHAMMAD: -- and I have it up on the screen again.

THE COURT: So I'll send you back to presenter role once you get there.

MR. MUHAMMAD: I'm there.

THE COURT: Okay. But, sorry, I may have logged in back as a different -- okay. Let me just get that.

Your Honor, I'm going to -- your memory is better than mine.

Do you remember which schedule it was referring to?

THE COURT: I think it was 2.01.

MR. JONES: It was.

THE COURT: Okay.

MR. JONES: Your Honor, we're happy to file it after the -- at the conclusion of the hearing. If you'd like to admit this into the Record, we can -- we're happy to do so and move it in and we can file it afterwards.

THE COURT: So tell me why I wouldn't sustain the objection. It says the entities listed on 2.01 and they are listed on 2.01.

So when he signs it, what is the argument that there is ambiguity in the Agreement that he signed it in whatever capacity it is?

MR. JONES: It's not that -- sure, Your Honor. It's not that he signed it. It's whether he signed it as a secured hedging bank.

THE COURT: He signed it as an entity. The entity signed it. And if that entity has multiple roles, I don't understand how signing it can limit his consent to being in one or the other.

MR. JONES: Okay.

THE COURT: I'm going to sustain the objection and

now allow him to vary the meaning of the document. I find that he signed it.

MR. JONES: Thank you, Judge.

Can we go back to the signature page on the third amendment please, Mr. Muhammad, which is on page 57?

MR. MUHAMMAD: Your Honor, apologies. Join.me kicked me off again so I've requested permission again.

THE COURT: I don't know what's going on with that, but hold on. I will get you back on. I'll blame you however, Mr. Muhammad, not me.

(Laughter.)

MR. MUHAMMAD: That's completely acceptable, Your Honor.

THE COURT: Thank you.

MR. MUHAMMAD: And, Mr. Jones, which document number are you referring to?

MR. JONES: Page 57 of the third amendment, which is 208-14 please.

BY MR. JONES:

Q Do you see this page 57 of 208-14, Mr. Bhatnagar?

A Yes.

Q What does this document to you indicate that Credit Agricole signed as?

MR. SPARACINO: Your Honor --

THE WITNESS: That (indiscernible).

MR. SPARACINO: Same objection, Your Honor. The document speaks for itself. There is no ambiguity of this document. And they're trying to enter various parol evidence as they did intend or what Credit Agricole's intent was.

THE COURT: Sustained.

BY MR. JONES:

Q Mr. Bhatnagar, do you see the words "secured hedging bank" anywhere on the signature page of the third amendment for Credit Agricole?

THE COURT: Sustain the objection.

THE WITNESS: No.

THE COURT: Sustain the objection. We're not going into that.

MR. JONES: I understand. I'm moving on, Your Honor. Thank you.

THE COURT: Thank you.

MR. JONES: Mr. Muhammad, if you could put 207-9 up on the screen?

Your Honor, while we're doing this, I would ask that Docket 207-9 be entered into the Record. It is a letter from Mr. George Howard's law firm, Skadden Arps, on behalf of Credit Suisse.

THE COURT: Is there any objection to the admission of 207-9?

MR. SPARACINO: Your Honor, I would make a hearsay objection, but it's not being introduced to prove any of the statements or as to the truth of any of the statements made in the letter, I don't have any objection to the admissibility.

THE COURT: It's in order to prove that he made the statements, not that they are true; is that what you're saying?

MR. SPARACINO: Yes, Your Honor.

THE COURT: Okay. It's admitted for that purpose. I can't see it yet, but it's admitted for that purpose.

(Credit Agricole's Exhibit No. 207-9 received in evidence.)

MR. JONES: Can you see 207-9 now on your screen, Judge?

THE COURT: I can't. All I see is up at the top of the page and it ends in "Dear Sir or Madam."

MR. JONES: Oh, okay. Could you scroll down?

BY MR. JONES:

Q And are you familiar with this letter, Mr. Bhatnagar?

A Yes, I am.

Q And could you -- and do you see that it's from --

MR. JONES: If you could scroll up just a little bit, Mr. Muhammad?

BY MR. JONES:

Q Would you agree that's a letter from Mr. George Howard at the Skadden law firm dated May 17th, 2020?
A Yes.
MR. JONES: And if you would scroll down to page 2, Mr. Muhammad, the first full paragraph on page 2? Can you scroll up, Mr. Muhammad?
I'm sorry, Your Honor, I'm on page 3 of the letter.
BY MR. JONES:
Q Do you see where Mr. Howard wrote:
"In fact, since the third amendment was not only signed -- was only signed by the lenders that at the time constituted the required lenders and an amendment or modification of Section 7.02 of the Facility Agreement requires the consent of all lenders and all secured hedging banks, the third amendment could not affect any amendment or modification to 7.02 of the Facility Agreement."
Do you see that, sir?
A Yes.
Q Did Credit Agricole have to obtain consent from anyone outside of Credit Agricole before it released its signature page to the third amendment that we were just looking at earlier?
A Yes. We had sent the pre-confirmation (indiscernible)

send this RCF exposure to one of the banks and during that time we had finally closed on the assignment (indiscernible). We were having discussions with the attorney of any action related to RCF exposure.

Q And what do you mean by “RCF exposure” in your last answer, sir?

A The revolving credit facility exposure, our exposure as the lender and the facility.

MR. JONES: I have no further questions at this time, Your Honor.

THE COURT: All right. Does any other party that opposes the approval of the DIP have any questions for this witness?

(No audible response.)

THE COURT: All right. Mr. Sparacino?

MR. SPARACINO: Yes, Your Honor. I do not have any questions for this witness.

THE COURT: Thank you, Mr. Sparacino.

Does any other party have any questions for this witness?

(No audible response.)

THE COURT: All right. Thank you. Thank you, sir.

MR. JONES: Your Honor, I apologize, just didn’t (indiscernible).

THE COURT: I was only going to say it's 4:00 o'clock in the morning. If he wants to go to sleep and find out from you in the morning what happens, he's excused from continuing to attend the hearing.

You're also welcome to stay onboard if you want to, sir. Thank you so much for being up in the middle of the night for us.

MR. JONES: Thank you for waiting on us.

THE WITNESS: Thank you very much.

THE COURT: Thank you.

THE WITNESS: Thank you very much for that. I will sign off then.

THE COURT: All right. Thank you.

THE WITNESS: Thank you. Bye, bye.

THE COURT: Bye, bye.

(Witness excused.)

THE COURT: Mr. Jones, go ahead.

MR. JONES: I have no further testimony at this time, Your Honor. I do believe Mr. Muhammad would like to offer a few additional exhibits into the Record that should not be controversial, but I'll let him proceed with that and my part of the presentation is at an end. Thank you, Your Honor.

THE COURT: Thank you. Mr. Muhammad, which exhibits do you want to offer?

MR. MUHAMMAD: Your Honor, I believe Exhibit -- so as I had mentioned, the Debtors offered many of the same exhibits so although, Your Honor, we have the same exhibits, we have a number of exhibits. Many of them have been offered by the Debtors already. Many of them were just offered by Mr. Jones and Mr. Anant, which were admitted earlier in the case.

The only other exhibit that I have that I would request be entered is Exhibit 12 on our witness and exhibit list, which is the DIP Intercreditor Agreement, which is on Docket 70 -- I'm sorry -- 207-3.

THE COURT: 207-3 is being offered. I'm going to pull it up on my screen so that folks can look at it. Hold on.

MR. SPARACINO: And, Your Honor, I can tell you I have no objection.

THE COURT: Does any party have any objection to the DIP Intercreditor Agreement's submission?

(No audible response.)

THE COURT: All right. 207-3 is admitted.

(Credit Agricole's Exhibit No. 207-3 received in evidence.)

THE COURT: What else do we need to do in the way of completing the evidentiary Record by any party?

(No audible response.)

THE COURT: All right. I'm closing the evidentiary Record. There's no other party that has any evidence to introduce.

I want to take a moment and I want to look at 208-10 now without a witness there and just understand better its structure.

Where would I find the definition of "hedging lenders"?

MR. SPEAKER: Your Honor, it's in the Syndicated Facility Agreement right above -- I can give -- it's hedging -- secured hedging banks, which is right below secured hedging agreements.

THE COURT: Are you able to see my screen by the way?

MR. SPEAKER: Yes, I am.

MR. SPEAKER: Judge, at 208-10, on page 49 is the definition of "secured hedging bank."

THE COURT: Thank you.

MR. SPEAKER: And I'm referring to the number of the document itself and not the ECF header.

THE COURT: Got it.

MR. SPEAKER: Page 49, Your Honor.

THE COURT: Thank you.

(Pause in the proceedings.)

THE COURT: All right. Thank you. Does anyone

wish to make any closing argument today?

MR. SPARACINO: Your Honor, this is John Sparacino on behalf of the Debtors. I certainly would like to make a closing argument in connection with the Credit Agricole objection.

THE COURT: All right.

MR. MUHAMMAD: Your Honor, this is Arsalan Muhammad and we would also like to make a presentation on the legal agreements and the closing argument.

THE COURT: Sure. Let's go.

MR. SPARACINO: Your Honor --

MR. MUHAMMAD: Your Honor, this is Arsalan Muhammad. Sorry, Mr. Sparacino.

MR. SPARACINO: Would Your Honor like the Debtor proceed first or the objecting party to proceed --

THE COURT: I don't care.

MR. SPARACINO: -- (indiscernible) objection?

THE COURT: I don't care.

MR. SPARACINO: I'm happy to start, Your Honor.

And just by -- for logistics purposes, Your Honor, are you able to maintain control of the exhibits on the screen? Because we will be walking through a couple of documents so (indiscernible).

THE COURT: I can do that or I can turn it over to

someone at your firm to do it, but I'm more than happy to play that role.

MR. SPARACINO: Well, we're primarily going to stick with the exhibit that's on the screen now, which is Debtors' Exhibit 10.

THE COURT: Okay. No problem.

MR. SPARACINO: And this is the secured --

THE COURT: I need to -- hold on, I need to interrupt you for minute. I hadn't noticed it and I don't know how long he's been holding.

Mr. Schiff, I apologize I did not call on you before now, but before we have closing arguments, in case I missed you, I'm going to let you speak.

MR. SCHIFF: Thank you, Your Honor.

THE COURT: Go ahead, Mr. Schiff.

MR. SCHIFF: Thank you. This is David Schiff of Davis Polk and Wardwell for the Ad Hoc Group of Secured Lenders for the Record. Your Honor, I just wanted to raise my hand and say that we'd like to make brief remarks as part of (indiscernible) and obviously not before Mr. Sparacino.

THE COURT: But do you have any -- just in case I missed you and I closed the evidentiary record contrary to your desires, did you have any evidence you were trying to put in?

MR. SCHIFF: No, thank you, Your Honor. No

evidence (indiscernible).

THE COURT: All right. Well, I'm just going to leave you on the phone and when it's your turn, you speak up and you make your closing argument as well.

MR. SCHIFF: Thank you.

THE COURT: So go ahead, Mr. Sparacino.

MR. SPARACINO: Thank you, Your Honor. As noted earlier, the Debtors did file a reply to the Credit Agricole objection that's at Docket No. 223. I do want to start by focusing on the authority or the standing issue. We'll need to turn in this Syndicated Facility Agreement and this is the prepetition Credit Agreement. I'd like to turn to Section 8.01 of the SFA. It's at file mark page 170 of 212 on the ECF pagination, Judge.

THE COURT: Right. Okay. I'll get there. Got it.

MR. SPARACINO: Okay. There we go, got it. Okay. Your Honor, (indiscernible) under the SFA sets forth provisions that, number one, assign rights and authorities to the agent and, number two, bar or prohibits individual actions by the lenders and the secured hedging banks.

As you can see here, Section 8.1, this first paragraph says that:

> "Credit Suisse is hereby irrevocably appointed to act as agent on behalf of each of the lenders and their

respective affiliates that are secured parties."

In a moment here, Your Honor, we will cross-reference to the document where "secured parties" is defined, but I'll tell you right now that is a broadly-defined term and includes the secured hedging banks. So secured parties include lenders and secured hedging banks.

The first paragraph at 8.01 continues"

"Each of the lenders on behalf of itself and each of its affiliates that are secured parties" -- again moving unsecured hedging banks -- "(indiscernible) bank irrevocably authorizes each of the agents to take such actions on behalf of such lender or other secured party and exercise such powers as are delegated by the terms and provisions hereof."

And it continues:

"Together with special actions and powers as are reasonably incidental thereto."

So here we have a very broad grant to engagement of authority and this grant includes a grant by the secured hedging banks in such capacity.

THE COURT: So let me assume for a moment that, Mr. Sparacino -- and this is a very hypothetical question as far as I'm concerned, but it goes to the standing issue. If Credit Suisse is acting in its capacity as an agent and I find that no one has standing to challenge what they are

doing, am I also finding that they are correct or if they are incorrect, is that matter that is external to my Order?

MR. SPARACINO: And if you mean by "are they correct" meaning did the -- did what's happened comply with this prepetition Agreement?

THE COURT: Yes.

MR. SPARACINO: Your Honor, part 2 or the more important part of my presentation is going to go to that question and show there has been no violation of this prepetition Agreement. I agree --

THE COURT: I got it, but I want you to assume though for the question without any implication on my part at all that there has been, assume that there has been because I'm going to standing question only, not to the merits questions.

So assume they violate the Agreement by approving it and that they didn't have the actual authority, is that something that is between Credit Suisse and Credit Agricole or am I determining that Credit Suisse has acted properly?

MR. SPARACINO: Your Honor, I question whether you are to be burdened with the policeman role as to whether or not this prepetition Credit Agreement is being complied with or has been complied with.

THE COURT: And is there anything --

MR. SPARACINO: I would question --

THE COURT: -- in the proposed Order that makes me find that they have acted properly or improperly?

MR. SPARACINO: Your Honor, I'm going to have to plead ignorance or inability to answer that question. It is a very dense Order and I have not been the scribner of that Order so I don't know every facet and every provision in that Order.

THE COURT: Because let me --

MR. SPARACINO: We certainly --

THE COURT: The reason I'm asking this is: the standing argument and the 510 argument kind of go hand in hand and if you're asking me to make a determination -- and we'll let whoever needs to speak speak to this question, but if you're asking me to make a determination that Credit Suisse acted properly, that may be something I'm perfectly prepared to find one way or the other, but I can't do that and find simultaneously that Credit Agricole has no standing to participate in that question. And so that's why I'm asking this question.

I know Mr. Howard wants to pitch in. Let me see if -- he may able to tell us if that is something Credit Suisse is even seeking here.

Mr. Howard, go ahead please.

MR. HOWARD: Thank you so much, Your Honor. And just for the Record, it's George Howard of Skadden, on

behalf of the prepetition agent. I would just say in response to your question, Judge, that there are provisions in the Order that find the agent has acted in good faith in connection with the DIP financing. That's not being sent to us because we're authorizing this financing. So we are looking to Your Honor here to determine that what's been done has been proper and that we've done this properly.

THE COURT: So I just want some meat on those bones. In your capacity as a lender of the DIP and a rollup party, I can find you've acted in complete good faith in your capacity as a lender/rollup party without getting into your underlying documents to see whether you have some breach of your underlying documents with Credit Agricole.

But if you think that part of that good faith determination is also a determination that you properly acted under your documents with respect to the complaint that Credit Agricole has, then I don't understand the argument that they wouldn't have standing, and that's why I'm trying to cross this bridge now.

So are you looking for me to say that -- are you try to estop Credit Agricole from claiming you breached the Agreement? That's the simple question.

MR. HOWARD: Well, I would say -- Your Honor, again this is George Howard for the Record.

To be clear, of course, we did not (indiscernible)

under the DIP at all. We are only acting in an agency role here --

THE COURT: Correct.

MR. HOWARD: -- under the DIP, but do own a small part of the prepetition (indiscernible) we have not voted on the third amendment (indiscernible).

THE COURT: Fair enough. Fair enough.

MR. HOWARD: So just wanted to be clear on that. So to be honest, we hadn't really thought about this as our issue as the agent about who has standing over the other. We just looked at the four corners of the amendments put in front of us and determined that it was proper and then we were looking to Your Honor obviously to approve and authorize the (indiscernible). That probably wasn't directly responsive to your question, but that's how we've been thinking about it from the agent's perspective.

THE COURT: So let me go back to Mr. Sparacino and then I'm going to interrupt what he's doing for a moment and go to Mr. Muhammad or Mr. Jones, whoever wants to address it.

Are you looking for a determination in the Order not that your -- not that Credit Suisse in its capacity as agent acted in good faith, that's in good faith with respect to the Debtor, but are you looking for a determination that they acted properly within their own internal agency

documents within the SFA?

MR. SPARACINO: And, Your Honor, I'm going to have to give the same answer that I candidly have not thorough reviewed and studied the DIP Order. I was not the drafter of the DIP Order, did not participate in the negotiations of it. I do not know all of its parameters. I would assume that there are certain findings requested as to at least the good faith and likely that it didn't -- that the agent hasn't violated any of the provisions of the Syndicated Facility Agreement.

THE COURT: Let me ask Mr. Griffiths.

Is there anything in the Order, Mr. Griffiths, that you believe constitutes a direct or indirect finding that Credit Suisse has acted internally to its own documents correctly or only that they've acted in good faith with respect to the Debtor and the loan that their constituency is making?

MR. GRIFFITHS: Your Honor, not (indiscernible), Your Honor, but I would defer to my (indiscernible) about that specific question. And, Kelly, you want to do that?

MS. DIBLASI: Yes. Your Honor, this is Kelly DiBlasi, Weil Gotshal. The Order asked for a finding that the agent and the prepetition secured parties acted in good faith and the Debtors also ask for a finding that requisite lender consent was given in order to approve the

timing and other features of the DIP facility.

There is no finding however that seeks to whether the agent specifically or any other party specifically complied with the terms of the prepetition credit documents.

THE COURT: What do you mean by --

MS. DIBLASI: There's no finding --

THE COURT: What do you mean by "requisite lender consent"? Is that lenders within the document or do you mean that the agent has consented on behalf of the group?

MS. DIBLASI: That the "required lenders," as defined in the prepetition Credit Agreement, consented to the priming, the use of cash collateral, the granting of the DIP liens and the rollup.

THE COURT: So, Mr. Sparacino, how do I then find there's no standing?

MR. SPARACINO: Your Honor, I'm prepared to move on and forego a standing argument. I just -- I believe it's not even a close call when we just look at the four corners of the document as to whether or not the document has been complied with. So I'm prepared to move on from the standing argument.

THE COURT: All right. I'm going to -- then just to be sure that it's a clear Record in terms of what Mr. Muhammad's burden is, I'm going to find that your standing objection is withdrawn and that Credit Agricole

does have standing today to challenge the Order given the findings that are being requested, so I'll save them having to make that argument one way or the other.

So let's move on down then into whether, in fact, the lenders' consents were all given in accordance with the document. So go ahead.

MR. SPARACINO: I will move on, Your Honor, and I would ask that we move on to Section 9.08(c) of Exhibit 10, ECF file page 191 of 212.

THE COURT: All right.

MR. SPARACINO: And, Your Honor, this is the heart of the Credit Agricole objection. The heart of their objection is that the rollup feature of the DIP violates Section 9.08(c). The fundamental premise of their opposition is that the waterfall that's sets forth in Section 7.02 of the prepetition Agreement has been modified or is modified and that that modification violates the protections that are afforded here in Section 9.08(c) of the prepetition Agreement.

The Debtors assert that their fundamental premise is just flat wrong. Nothing under the third amendment, nothing under the DIP Motion, nothing under the DIP Order will touch or change the waterfall. Simply Section 9.08(c) has not been implicated much less violated.

As we look at 9.08(c), we see that it very plainly

states:

> "Any amendment to any of the following provisions that would directly and adversely affect a secured hedging bank shall not be effective as to such secured hedging bank without its prior written consent."

So none of (i), (ii) and (iii) may be modified absent secured hedging bank consent, (1) Section 7.02 or 9.08(c). So certainly nothing has modified this provision of the -- this Section 9.08(c). Similarly nothing has modified the waterfall.

The same holds true for items (ii) and (iii). Basically, Judge, none of these three things have occurred. You can scour the third amendment. You will find nothing in there that purports or that does make any of these descriptive changes. Similarly you can scour the DIP Credit Agreement. You will not find any of those provisions modified or changed in this Credit Agreement. You can scour the DIP Order. Nothing changes or affects those Romanette provisions there. Simply nothing touches the prepetition waterfall, Your Honor.

Indeed, if there were any language in any of those documents that did modify any of these provisions, you can be sure that that would have been the highlight of Credit Agricole's objections today. Instead they relied in their objection on the qualifying word "effectively." They argue

that the DIP Credit Agreement effectively changes Section 7.02, the waterfall provision.

What they're really saying there when they use the qualifier "effectively," the translation is: they know that Section 7.02 has not actually been modified. There has been no change to Section 7.02 that we need -- we, Credit Agricole, really want to make this argument that there has been some impact on the waterfall. Their use of the word "effectively" concedes the point that none of these changes have been -- no changes to these provisions have been made or proposed under the DIP.

I'd like now to turn Your Honor to Section 7.02 and again that is -- the same Debtor exhibit is ECF filing page 168 of 212. And as you see, Section 7.02:

"Application of proceeds, the agent shall apply:

"(a) The proceeds of any collection, sale, foreclosure or other realization upon any collateral including cash and;

"(b) Any amounts received in respect of the capital obligations following the termination of the commitments all in the event of default."

So by its expressed terms, Section 7.02 require -- relates only to proceeds of collateral or other amounts received in respect of the obligations by the agents.

It's indisputable today that the agent has

received nothing. The agent hasn't received any payments, any cash that are to be applied or disputed out, pursuant to the Section 7.02 waterfall.

The DIP describes the rollup as a cashless dollar-for-dollar exchange or prepetition (sic). Again -- excuse me -- or prepayment. Again it's beyond contention that the agent has received no proceeds or any amount. The cashless payment represented under the DIP is simply not provided for in this waterfall. In other words, a cashless exchange does not flow through the waterfall. There is no obligation that the agent apply any such cashless exchange.

The Syndicated Facility Agreement, the prepetition Agreement, just does not contain any guardrails whatsoever against the rollup that's proposed from taking place and getting implement. Again if there were any such guardrails in this SFA, you can be sure that those would have been highlighted in Credit Agricole's objection. Simply Section 7.02 has not been triggered and it is not implicated by the Debtor -- by the DIP Motion.

May I reply, Your Honor? We also addressed whether the third amendment, in fact, constitutes the consent under Section 9.08(c) of the Credit Agreement, the consent of Credit Agricole as a secured hedging bank. We made the same point, Your Honor. I believe it's earlier. There is no qualification on the signature. There is no

statement on the signature that we are only signing as a secured hedging bank and not as a lender. We're only signing as a lender and not as a secured hedging bank. There's no limitation against a single entity Credit Agricole commercial investment bank and that entity through its authorized signatory, the gentleman that was a witness today, signed and agreed to that third amendment, consented to the third amendment.

And so I'm not going to rehash the entirety of our consent argument again simply because there's really no reason to even get there. Credit Agricole consented -- excuse me. Credit Agricole's consent to the third amendment even solely limited to its role as a secured hedging bank was simply not needed as Section 9.08(c) was not implicated by the third amendment and is not implicated by the Debtor-In-Possession financing.

THE COURT: Thank you, sir.

Does anyone wish to make any statement in support of the Debtors' position before we go to the Credit Agricole position?

MR. SCHIFF: Your Honor, this is David Schiff of Davis Polk and Wardwell, on behalf of the Ad Hoc Group of Secured Lenders. I would like to, but glad to also wait for others (indiscernible) to address the Court.

THE COURT: No, go ahead, Mr. Schiff.

MR. SCHIFF: Thank you, Your Honor.

I just would like to make a few points to the Court and I will apologize. I'm having some issues with my browser so I actually can't -- I clicked away a moment ago from the join.me tab and I'm not able to click back to it right now so that's potentially the reason why (indiscernible). I'm glad to just proceed, Your Honor, (indiscernible) connected.

For the most part, Mr. Sparacino has spoken to the specific provision and I'm glad to try to (indiscernible) page references. Right now I just -- I can't see the screen myself unfortunately. Alternatively, Your Honor, I'd like to take a minute and just try to refresh my browser and log back in.

THE COURT: Whatever you want to do is fine with me.

MR. SCHIFF: Okay. Well, let me start if that's okay --

THE COURT: Sure.

MR. SCHIFF: -- (indiscernible) and thank you again for your patience, my apologies. So I am -- I'm turning on my screen to the Debtors' witness and exhibit list. It's at 208-14 to 968 of 1403 and that's Section 2 (indiscernible).

THE COURT: Hold on, wait. I'm sorry, you wanted

208-14, not 208-10?

MR. SCHIFF: Yes, that's correct, 208-14. And, Your Honor, just by way of (indiscernible) here, I want to respond on the -- I understand that Mr. Sparacino has withdrawn the standing argument, but I think it's our position, Your Honor, that the Court can and should make a determination that the agent properly complied with the Credit Agreement and that (indiscernible) that the DIP and the rollup are properly complied with the SFA and prepetition Credit Agreement.

And I think it's also important that the third amendment to the Credit Agreement, which is the page that I was referring to, provides that acknowledgement of that by the lenders that signed it including importantly Credit Agricole.

I apologize again, I can't back to the screen so I don't know if this is up, but I can read from the first paragraph of Section 2. The final sentence there says:

> "The (indiscernible) of the amendment (indiscernible) effective date, the DIP Credit Agreement and the other loan documents that (indiscernible) the Credit Agreement and all (indiscernible) shall be permitted and not in conflict with the provisions of the Credit Agreement or any other loan document."

THE COURT: Let me slow down a little bit. So I'm

on 208-14 and I'm on Section 2 and where are you reading from?

MR. SCHIFF: It is the first paragraph of Section 2 and it's four lines from the bottom of that first paragraph.

THE COURT: Okay. So hold on just a minute. I'm going to read that slowly to myself.

(Pause in the proceedings.)

THE COURT: All right.

MR. SCHIFF: And again that's just -- again, Your Honor, just we want to point out the fact that Credit Agricole did acknowledge in signing that document that the agent was acting properly.

The second thing, Your Honor, is -- you know, again it's our position that Credit Agricole consented by executing the third amendment. More importantly and what's uncontroverted here is that the required lenders consented. Credit Agricole, as a secured hedging bank, if you were to take out Credit Agricole's role as a lender, it would be a party to the Credit Agreement. And as a secured hedging bank, Credit Agricole is not a secured creditor in its own (indiscernible), but it has its own lien. It has the benefits of the liens granted under the SFA. It has the benefits of the liens under the prepetition credit facility.

And as such -- and I think Mr. Sparacino laid this

out. I'm not trying to go into certain Section references, but Mr. Sparacino walked through Section 9.08 which has no prescribed consent rights for secured hedging banks. Consenting to a DIP priming, to adequate protection and to the rollup, none of that is contemplated there and instead those are consents that are properly given and were given here by the required lenders and those are actions that the administrative agent did at the direction and the consent of the required lenders. And again the Credit Agricole signature in whatever capacity (indiscernible), the Credit Agricole's signature, that's what happened here.

And so the last point, Your Honor, that I want to make is -- if you'd just give me one second because I think this doesn't require going back to 208-10.

THE COURT: All right. What page?

MR. SCHIFF: Let me just try to find the page. It is -- apologies, Your Honor. It is -- I believe it's 182 of 212. It's Section 9.04 of the prepetition Credit Agreement.

THE COURT: All right.

MR. SCHIFF: And that is the beginning of Section (b), subsection (b) of 9.04 and that provision says that each lender that assigns to one or more assignees other than (indiscernible) all or a portion of its interests, rights and obligations under this agreement including all or a portion of its commitment (indiscernible) provided however

that a parent, which is SpeedCast International Limited for the Record, and (indiscernible) and the administrative agent -- and I'll just note that that's unqualified that the administrative agent has a consent right (indiscernible) and in the case of any assignment of the revolving credit limit, to extend the revolving credit limit or any revolving credit exposure, the issuing banks must give the prior written consent to such assignment.

And I read this, Your Honor, just in response to the end of the testimony of Credit Agricole's witness regarding the fact that there's some pending assignment of Credit Agricole's loans at the time that they executed the third amendment.

And I read this because I read those provisions to be clear that an assignment of all or a portion of its interests, rights and obligations under the Agreement -- and I read that to include rights to vote, rights to give consent, rights to sign amendments. And (indiscernible) that that assignment is subject to the consent of the administrative agent. And I don't think that there's anything in the Record to suggest that at the time that Credit Agricole signed the third amendment that the administrative agent had given that consent.

And so I read this just to say that, you know, I don't think that there is a -- aside from this, I don't

think that there is some weight to the argument that Credit Agricole has made that it signed the Agreement only because it was directed. To the extent that it contracted to sign away those rights, (indiscernible) is that contract knowingly?

But I think more importantly the Credit Agreement does not actually recognize the right to contract any voting rights before there is a settled plan as I read it here and so again I just -- I think that that particular point is not (indiscernible).

THE COURT: All right. Thank you. Any other party in support of the Debtors' position?

All right. And who --

MR. THOMPSON: Good afternoon.

THE COURT: Go ahead.

MR. THOMPSON: Alex Thompson. Thank you, Your Honor. I'll be very brief. (Indiscernible) the prepetition agent. We filed a statement with the Court, Your Honor, at Docket No. 233 and I think that really sets forth our position as the agent.

I would just reinforce two key points. Point one, the agent was given two very specific instructions by the third amendment. Number one, don't object (indiscernible) anything. And, number two, enter into the DIP Intercreditor Agreement. And our view is that neither one of those

instructions on its face amends or modifies Section 7.02 of the SFA and therefore those instructions were properly given by the requisite lenders, which is a simple majority.

Point two is that the prepetition agent hadn't received any proceeds, collateral or other amounts in connection with the DIP facility (indiscernible) that would trigger provisions of Section 7.02 of the SFA. So that's how we view this and I don't have anything else to add, but of course happy to answer any questions that the Court has from the agent's perspective.

Thank you.

THE COURT: Thank you. Anyone else on the same side?

(No audible response.)

THE COURT: All right. I don't if that's Mr. Muhammad or Mr. Jones who wants to go, but whoever wants to take it for Credit Agricole?

MR. MUHAMMAD: Your Honor, this is Arsalan Muhammad.

Can I proceed please?

THE COURT: Yes, sir, please.

MR. MUHAMMAD: Your Honor, I understand that you may prefer me pointing to documents or I can use my PowerPoint in which I've kind of pasted kind of specific sections. Happy to proceed with whatever you think is most

appropriate, Your Honor.

THE COURT: You can make any presentation you want, Mr. Muhammad. Just tell me.

MR. MUHAMMAD: Okay. Can I get the presenter role please?

THE COURT: Of course.

MR. MUHAMMAD: Your Honor, I won't spend too much of this Court's time on the various aspects that we've gone through so first I wanted to talk about the waterfall. I think 7.02 has been discussed in some detail. I would like to point out that 7.02 provides that the agent shall apply the proceeds of any collection or any amounts received and then, you know, after the first, second and third tier -- the third tier and the fourth tier, but the third tier is really regarding to the payment in full of all obligations and those -- and then later it says including the termination values and any other obligations in respect of the secured hedging agreements. And those amounts are applied because (indiscernible) the secured parties pro rata in accordance with the amount of the obligations.

Now "obligations" is actually not defined in the SFA itself. It references the Guarantee Agreement. I believe the Guarantee Agreement is Exhibit B to the SFA so you would be able to find it in the Debtors' Exhibit 10-2 and I pulled up how "obligations" is defined in the

Guarantee Agreement there and it includes the loan document obligations (indiscernible) and (b), the due and punctual payments and performance of all obligations of each loan party under the secured hedging Agreement.

So any obligations that the Debtors have with regard -- under the Secured Hedging Agreement and also the loan document obligations are all within the definition of "obligations" and should be treated the same.

Your Honor, next just wanted to touch on the modification provision. I would submit, Your Honor, we hear you loud and clear on your view on the signature page. I would also submit that the prepetition agent's counsel has made representations both in the letter that was sent to Credit Agricole I believe two or three days ago and of course the email exchange that Credit Agricole, as a secured hedging bank, did not sign. And parties didn't request secured -- Credit Agricole's signature as a secured hedging bank because the parties submit that they don't need to. So I would submit, Your Honor, that Credit Agricole has only signed as a "lender," which is specifically defined.

Your Honor, with respect to -- well, you know, with respect to standing, I think I'll pass over that given what this Court has said for the most part. I would like to say that 8.01 of the SFA goes on for multiple pages. Near the end -- this cutout is from near the end of 8.01 and it

says:

> "No secured party other than the agent shall have any right individually to realize upon or commence any remedial procedures with respect to the collateral or to enforce the guarantee of the obligations or take or institute any actions or proceedings to deter otherwise for any right or remedy against the loan parties under the loan documents or with respect to property of the loan parties unless expressly provided."

So, Your Honor, I would submit that Credit Agricole in objecting to this DIP isn't doing any of those things. It's not trying to enforce on the guarantee of the obligations, it's not doing any procedures with respect to the collateral, it's not doing anything with respect to property of the loan parties.

And to the extent, Your Honor, there's argument that this objection is an action for a right or remedy against the loan parties, you know, there is a clause at the end that "unless expressly provided for herein."

To the extent we are right that the waterfall is being impacted, then I think asserting that right that the waterfall's being impacted without our consent is certainly considered in this document so we would submit under the SFA, specifically under Section 8.01 of the SFA, although the agent is granted initial rights as is customary, our

objection here is not prohibited.

THE COURT: So let me back up for two steps if I could, Mr. Muhammad.

MR. MUHAMMAD: Of course.

THE COURT: Before I do that, I have somebody that's clicked in and I don't know if they're objecting to what you are saying or not.

So from the 516 area code, let me see if this is an objection. Go ahead.

MR. SILVERMAN: Good afternoon, Your Honor. This is Ron Silverman.

Are you able to hear me?

THE COURT: I can, Mr. Silverman. Good afternoon.

MR. SILVERMAN: Thank you, Your Honor. My hand was raised some time ago when you asked the question would anyone like to speak in support of the DIP financing. I did not raise my hand to object or in objection to the testimony of the evidence. It was only to speak briefly in support of the DIP financing. I can do that at the appropriate time, Your Honor.

THE COURT: Mr. Silverman, I'm sorry if I didn't properly refresh my screen.

Do you mind doing that after Mr. Muhammad has finished so that we don't interrupt his train of thought?

MR. SILVERMAN: That makes perfect sense,

Your Honor. Thank you.

THE COURT: Thank you, Mr. Silverman.

So the two things I want to try and understand a little bit better in terms of where you are right now, Mr. Muhammad, first can you describe to me from just a factual point of view what is getting rolled in? In other words, my understanding is that parties that fund new money then get a cashless rollup of an equal amount of their old money. This isn't a rollup of the entirety of the Credit Agreement, but rather a rollup of those that make funding. I want to know if I'm right about that just to be sure I get my facts right.

MR. MUHAMMAD: Your Honor, that's my understanding, that they get a dollar-for-dollar rollup of their prepetition amounts so they put in $90 million, they get a rollup of the prepetition obligations in the amount of $90 million to (indiscernible) DIP.

THE COURT: Okay. So you're telling me that this has the effect of adversely affecting the waterfall, which would be true of any DIP, right? Any DIP adversely affects the waterfall.

How does this violate in their argument that they have to violate, as Mr. Sparacino says, the specific provisions of 7.02 and that is by changing the waterfall as opposed to affecting the waterfall? So I don't have any

problem with your being here today in terms of the argument you're making, but the fact that it might affect the waterfall, as any DIP might do, how does that invoke 7.02?

MR. MUHAMMAD: Your Honor --

THE COURT: If you can just go back a couple of pages there?

MR. MUHAMMAD: Of course. So I will leave the waterfall provisions up there. Your Honor, so first I would disagree that any DIP would affect the waterfall. A new-money DIP would not actually change the waterfall with respect to the obligations that are owed under the prepetition documents.

Here, the obligations that are owed with respect to the SFA are changing so instead of -- and these are including ballpark. I'm sure parties on the phone will have a set of numbers, but let's just say that under the prepetition documents, the obligations (indiscernible) are something around $500 million. Once the DIP is effectuated, that number would go down to $410 million. And that is a -- the change that is not I would submit similar to any other DIP. It is --

THE COURT: Yeah, but that's a beneficial change. And I thought when we looked at 9.08(c) that it has to be an adverse change to you.

MR. MUHAMMAD: Yeah. I think, Your Honor, that

would be adverse to us, right? Because the $90 million, which we would share -- so how could the $90 million of new money if paid off, you know, let's say the next million dollars that enters the hands of the lenders and all the prime lenders of all -- everyone around here on this side of the Debtors, that $1 million would be shared pro rata amongst the $500 million of prepetition obligations. Now that $1 million is only going to go to the rollup. And so until the $90 million have come in so the total of $180 million have come in, we won't see a penny of that as a secured hedging bank and our obligation.

THE COURT: Well, sure. No, I got that. But if the DIP is 180 million, then the first 180 million goes to repay the DIP and your participation rights start after that 180.

MR. MUHAMMAD: That's correct.

THE COURT: And then is shared among 500 and is now shared among 410.

How does sharing among 410 affect your clients adversely as opposed to any other $180 million DIP, other than the fact you don't like the terms of the DIP? They're very expensive terms, but I'm trying to figure out why that invokes 9.08(c)'s rights.

MR. MUHAMMAD: Because, Your Honor, the way we see it is that essentially there is this arrangement that's

agreed to by all the parties. The waterfall isn't just about whether a prepetition agent gets those amounts. The lenders are also bound to the waterfall provision and they have gotten and transacted with SpeedCast and entered into this new proposed arrangement in which they can just move $90 million of obligations that would be, you know -- the distributions on which would be shared pro rata amongst them. And now they have a separate agreement in which they get paid first on that and we don't see any of those amounts.

To the extent that there was $180 million DIP that was required and proposed, those would be different circumstances that wouldn't amend -- that wouldn't impact the prepetition documents. It would just be new money and we're taking the position that we're not objecting to the new money.

But we do think that effectively -- and, Your Honor, the description was right, we did say "effectively" because we think that's the right term here -- the DIP allows the prepetition -- or the DIP lenders who intercept the money that would otherwise go to the prepetition waterfall and be treated under 7.02 and now they get to take a prior claim to that which --

THE COURT: I got that. But look, I don't think there's any dispute that the agent with requisite consent of

the lenders could agree to subordinate to a DIP and your clients would have no say about that.

MR. MUHAMMAD: I believe that's right, Your Honor.

THE COURT: So let's -- this is an international company. Let's assume they could go borrow money in a country with no restriction on how much you have to pay back and they borrow 90 and the deal is: to borrow 90 from us, you have to pay us back 180. And they do that from a complete third party, not from parties that are currently in this Credit Agreement. That means they're going to get 90 and repay 180 before your client ever gets the money. That's what they're doing here.

Why does it matter that the 90 is coming from some existing lender as opposed to a new lender if the price is when you get 90, you've to repay 180?

MR. MUHAMMAD: Your Honor, the DIP lenders agreed to this Syndicated Facility Agreement as well and they have now contracted outside of it. They may have, you know, sidestepped it. They think this is a new document so the previous prohibitions will say don't apply, but the company (indiscernible) over (indiscernible), right, Your Honor, but they should also be bound to these terms. They are going around these terms and we don't think under the prepetition documents they're allowed to.

This is their -- I would -- maybe this,

Your Honor, is getting ahead so I'm happy to limit it, but I think there has been no testimony here that the DIP lenders wouldn't do this deal without us being primed with respect to the waterfall. The DIP lenders have not, you know, submitted any evidence of that. Completely understand the Debtor believe -- and I take Mr. Waldman at his word -- that they may believe that (indiscernible), but we don't know that. There's been no evidence regarding that.

In any of these negotiations, DIP lenders always asked for a lot. They often asked for a rollup. And depending on the circumstances, you know, Debtors have to push back on that and often times that's appropriate or the (indiscernible) push back on that.

Here, we just don't see why this rollup is acceptable under the prepetition documents given how 9.08(c) and 7.02 work. We believe that the lenders have agreed to these provisions and we think that that has -- that that is enforceable under 510(a) of the Bankruptcy Code. That is what 510(a) is here for, I guess, in this process.

THE COURT: All right. Thank you. Go ahead.

MR. MUHAMMAD: Thank you, Your Honor. So the other quick point I'll note on this same area is the Debtor's cite a number of cases, three specifically including (indiscernible). I would like to present that there's not -- those cases are distinguishable because in

each of those cases, there was requisite lender voting and we believe under these documents (indiscernible) because the third amendment provides that the DIP Credit Agreement is effective and the DIP Credit Agreement in our view does end-run around the waterfall provisions in the SFA are consent was required. That consent wasn't granted and so it's different in those cases in which a lender -- a DIP lender that gets outvoted per the terms of a prepetition agreement can't raise objections.

Your Honor, I will like to touch on 510(a) just quickly. As I mentioned, we think that the waterfall provisions here are the subordination provisions that are enforceable under 510(a) under seven parties. Again that would be irrelevant, but don't necessarily object to that reading.

We cited a number of cases in our objection in a multitude of scenarios where 510(a) has been held to be enforceable including, for example, (indiscernible 35522) where there's an agreed order and in *Interland* (phonetic) where there was a (indiscernible) venture and in *Blue Ridge* (phonetic) where there was an intercreditor agreement.

Essentially we think the *Heart-E Manufacturing* (phonetic) language that the intent of 510(a) is to allow consensual and contractual priority of payments to be maintained between creditors. And those types of provisions

are -- first of all, we think that's the right reading, Your Honor, then we think the provisions here apply.

Your Honor, getting to the rollup -- and admittedly this is really the heart of the issue -- the way we see it is: either the rollup modifies the waterfall provision or is a payment that is subject to the waterfall provision. Under the DIP Motion, the Debtors say that first (indiscernible) and they factor into the interim Order loans under the prepetition Credit Agreement held by the DIP lenders in a principal of 35 million will be in exchange for the DIP rollup loaned on a cashless dollar-for-dollar basis. And the same happens with respect to 55 million under the Final Order if you grant it, Your Honor.

We don't see how that wouldn't really be (indiscernible) on the waterfall which would necessarily flow through the waterfall because explicitly on account of loans under the prepetition Credit Agreement.

Your Honor, in the interim DIP Order, there's one provision and I believe in the proposed final DIP Order although I do not have that but I'm looking at the version that was filed right before the hearing, but when you look at that, if I'm wrong in my assumption, the interim DIP Order I believe provides that the Debtor shall be deemed to exchange and substitute and prepay prepetition loans of the DIP lenders on a cashless dollar-for-dollar basis.

Your Honor that seems to require that those cashless dollar-for-dollar DIP rollup loans are a prepayment and hence a payment and therefore should flow through the waterfall. So if there's no modification of the waterfall, then these are payments under the waterfall.

I forget exactly who brought this up. I think it was Mr. Schiff brought up the amendment to the Credit Agreement, Section 2 under the third amendment and it does provide in the last sentence of the first paragraph with respect as of amendment No. 3 effective date. The DIP Credit Agreement and the other loan documents, as defined under the DIP Credit Agreement, and all liens granted in connection therewith shall be deemed permitted and not in conflict with the provisions of the Credit Agreement or any loan document.

Your Honor, we think this is a pretty clear provision that says although only requisite lenders have signed on to the third amendment, the third amendment references the DIP Credit Agreement and says even if it violates any provision of the prepetition docs, that's okay. That seems to, in our opinion, not be adhering to the modification provision of Section 9.08(c).

Your Honor, I would also like to point one footnote that the Ad Hocs included in their Reply and it's on page 5, it's footnote 4, and it says that Section then

creates the seven-tier waterfall -- and that's regarding 7.02 -- for distribution by the prepetition agent to parties in the SFA as relevant here. Credit Agricole, as a secured hedging bank, would be entitled to collect under the waterfall third and fourth tier. I think the rollups are being administered through the prepetition agent as part of the SFA, which it is not.

So the way I read this, Your Honor, is the Ad Hocs are stating that if the same exact conduction was instead an add-on to the SFA instead of explicitly basic Credit Agreement, that would -- and with a waterfall that would pay us in the third and fourth rate under Section 7.02. Just because they put it in a separate document means they can end-run around the waterfall provisions of the SFA. We just don't see how that's an argument that should be upheld here.

We think the waterfall provisions effectively are being modified or there's a (indiscernible) being made with respect to the rollup. And for that reason, Your Honor, we think that the rollup should be denied.

Your Honor lastly I would like to touch on a couple of ancillary points I guess. One, Your Honor, because we do not consent and we believe that we have shown that we have the right to consent under the prepetition documents, we should be entitled to adequate protection. The notion that we don't get adequate protection is part and

parcel of the fact that the Debtors, we believe incorrectly, state that we didn't have the right for that. Because we do, we should be granted adequate protection.

With respect to the adequate protection that's being granted to the other party, it's not the same because they have consented to that arrangement. We have not consented to that arrangement in terms of a rollup (indiscernible) help us. There are provisions -- you know, the legal fees that are being paid to various parties are not being paid to us. We don't believe we have been granted adequate protection and so we would submit that in -- to the extent that Your Honor wants to grant the rollup aside our objection, that it would be without our consent and we would be entitled to adequate protection.

THE COURT: Mr. Muhammad, thank you.

Mr. Silverman?

MR. SILVERMAN: Thank you, Your Honor.

Can you hear me well?

THE COURT: I can. Thank you.

MR. SILVERMAN: Thank you. Good afternoon, Your Honor. This is Ron Silverman from Hogan Lovells US, LLP, proposed counsel for the Official Committee of Unsecured Creditors. It's a pleasure to be here today, Your Honor, along, of course, with our proposed co-counsel, Mr. Randy Rios and Tim Williams, from the Husch Blackwell

firm.

We just wanted to say that, as you know from the Committee's objection filed to the proposed DIP financing and as you heard from the Debtors and proposed DIP lenders today, the Committee had substantial concerns to the proposed DIP financing. There have been extensive negotiations, modifications to the proposed DIP financing that are embodied in the proposed Final Order submitted to Your Honor this morning. And the Committee does support the proposed financing in the form as amended and reflected in the proposed Order that was filed. And therefore we did want to state for the Record that we are in support of the proposed DIP financing as the process.

THE COURT: Mr. Silverman, thank you. It's good to have you back in my court as well.

MR. SILVERMAN: Thank you, Your Honor.

THE COURT: Does anyone else have any closing argument they want to make?

(No audible response.)

THE COURT: All right.

MR. SCHIFF: Your Honor?

THE COURT: Yes.

MR. SCHIFF: Apologies. It's David Schiff again. I think there were one or two places where I think Mr. Muhammad referred to statements we made. If they were

going to be responsive, but perhaps I could respond? Could I --

THE COURT: If you want. I'm not sure that I need it.

MR. SCHIFF: Okay. Your Honor (indiscernible).

THE COURT: Thank you.

All right. This is a matter over which we have jurisdiction under 28, U.S.C., Section 1334. This concerns whether we should authorize a DIP loan on pretty arduous terms for the Debtor. We've already authorized an interim DIP loan. This would authorize a final DIP loan. Accordingly, this is a core matter under 28, U.S.C., Section 157. I'm going to cut to the end and then I'm going to go back and give reasons.

I'm going to approve it almost as proposed with really only one what I believe slight change. The issue before me is isolated down to one and that is whether Credit Agricole is having its rights violated, which rights need to be preserved under Section 510 of the Bankruptcy Code by the approval of the DIP loan and I find that its rights are not being violated.

I start with Section 9.08(c) of document 208-10, which is the basic Credit Agreement between the parties. It runs through what cannot be done without the hedge party's consent. The plain language of the Contract -- and it's a

very sophisticated contract -- is simply not violated and I don't really think we have a dispute about that.

The dispute we have is whether there is something cute going on here that actually results in a violation and in that regard, I don't think so. I think we may have some cute language that's being utilized to try and avoid this getting close to the line, but I don't think it actually does get close to the line when it comes down to it.

I want to deal with the economic practicalities of what is going on. I have a group of lenders. That group of lenders is prepared to put in $90 million, but they're only prepared to put in $90 million if they get back 180 million before anybody else gets paid. It is not subject to any reasonable dispute that the hedging lenders would have no right of consent nor right to complain if this money was coming from a third party. So if the Debtors were able to arrange -- and they're not -- a third-party loan for $90 million, the provisions of which said, "We get repaid $180 million plus a bunch of fees before anybody else gets paid anything," that's just fine under the Agreements.

The complication that Credit Suisse is arguing about is: it's the same lenders here. Now there is a provision that adds a complicating factor, which is because it's the same lenders, they actually agreed to something less than that. They agreed "We're going to lend 90, we're

going to get back 180 and we're going to waive a claim of 90 that is junior to the 180 that we are getting back." That is not getting prepaid, which is the one sort of minor issue with which I take disagreement, and it will not be included in the documents. They're getting 180 up front and they're waiving in exchange 90.

There is just no question that it does not violate Credit Agricole's rights to borrow 90 and repay 180 nor does it violate their rights for somebody else to agree to waive collection of the 90 out of their Credit Agreement. And although it's true you can collapse all of this and come up with some sort of an arrangement where you say, "Well, that violates the waterfall," it doesn't violate the waterfall, it affects the waterfall, but it affects the waterfall no differently than if there had been a third-party loan. And that is simply all permitted to occur if the agent determines that he has the votes of the lenders in order to get that done.

So I reject the way that this is being collapsed because I think it's just not the economic reality of what is going on. We really have a group that's willing to put in the new 90 in order to get back 180.

The standing issue I didn't realize I was going to have to overrule today. I didn't know that I was going to be asked today to find that all this was correctly done, but

the standing issue is now moot.

The 510 protections are there and I find there isn't any violation of Agricole's rights because of the structure of the transaction.

Independently I find that Credit Agricole consented. When it signed the third amendment, it consented. I will note that the definition of a "secured hedging bank" actually notes in it within that definition that secured hedging banks can include lenders. So the fact that Credit Agricole signs an agreement and they sign an agreement and say, "As lender," doesn't mean anything because a "secured hedging bank" can also be a "lender." Those are not mutually exclusive terms.

And moreover in signing the Agreement, Credit Agricole, which is a single entity, actually put into the Agreement that it signed that all of this arrangement was consistent with the SFA and that all the requisite votes were there so I think Credit Agricole has, in fact, consented. They acknowledged that this was being duly and properly signed and done.

The next reason why I believe I have to approve this: the agent under the structure of this Agreement simply cannot be charged with having to make a discretionary decision when it receives instructions as to whether there is an adverse economic effect on the waterfall. That's

simply not the structure of the document nor is that possibly what the agent is intended to do.

The agent gets an instruction. The instruction does not impermissibly modify any part of the Agreement and the agent must follow it. That is what is occurring here and I need to respect the agent following that decision. That is what Credit Agricole agreed as part of the deal.

Credit Agricole argues that under 364(d) there is no proof that it was required to have the Subordination Agreement -- excuse me -- that this debt was required to be senior and therefore there be a subordination agreement. I disagree. The question is: what is proof under 364(d)? And I'll read the language into the Record so that it is clear. The burden is on the Debtor to authorize that the Debtor-In-Possession -- it says, "The Trustee" and in a Chapter 11 case, that's the Debtor-In-Possession -- "is unable to obtain such credit otherwise." That's 362(d)(1)(A).

The testimony that the Debtors' extremely high-qualified professionals, who are very credible witnesses, concluded after investigating the marketplace that they couldn't obtain the credit otherwise is proof. That's not to say it's unchallengeable proof, but it is unchallenged proof. And that professional expert opinion that came into the Record makes the showing under 364(d).

As to whether Agricole is entitled to adequate

protection, I find they are not. They are not because this is being done in a manner consistent with the Agreement that they signed up to do and the agent under that Agreement has, in fact, consented. And whether they like that consent today or not, the consent that they authorized is not a basis on which they are entitled to anymore adequate protection than is already authorized under the proposed DIP Order.

Finally, this turned out to be a much closer call than I thought it would be. This was not a -- in any way an argument by Credit Agricole that should have been made. I understand it. I understand why they are concerned about it. And I think my call is based on the evidentiary Record that is before me, it is based on the proofs that I got and it is based on my reading of the documents, but it is not based on a finding that Credit Agricole is raising an issue that is in the slightest bit frivolous or inappropriate. It's just one on which I'm ruling against them.

Those are my findings of fact and conclusions of law. The proposed Order should include a statement in it that I incorporate my oral findings into that Order. If you want, we can try and do that now, but we need to take out the prepayment provisions in the Order.

And let me hear from the Debtors how you want to proceed.

MS. DIBLASI: Your Honor, Kelly DiBlasi from Weil Gotshal, on behalf of the Debtors. We're happy to work with you now, if Your Honor has time, to incorporate those revisions and get the Order signed.

THE COURT: How do we do that?

MS. DIBLASI: Your Honor, the clean version of the Final Order is Docket No. 236-1.

THE COURT: Are we going to be able to make these changes in a PDF manner?

MS. DIBLASI: I think so, Your Honor.

THE COURT: Okay, good. I'll put it up on my screen and I'll take all the time we need to get it done. This is not being in a rush. It's just wanting to be sure we get it done right.

MS. DIBLASI: Yes.

THE COURT: I have reviewed the Order fully before I came out. I reviewed all the briefing. So I've read the briefing, read the Order and I'm ready to go on it. So tell me where we need to go to make this change or these changes.

MS. DIBLASI: Your Honor, the reference to the prepayment appears in paragraph 4(a) of the Order on page 23 of the Order so I think using the ECF number, page 23 of 71.

THE COURT: All right. Are you sure we can fix this here without thinking through all these terms?

MS. DIBLASI: Is Your Honor concerned that other

parties may want to go through this Order more carefully offline and then submit it after the hearing?

THE COURT: So let me just -- I'm perfectly prepared to do this online, but I think as you go through this prepayment language, it does cause me problems. I don't think that's really what's happening. I think you should rethink some of the language in here to be more consistent with the ruling. And we can try and do it now, but I bet --

MS. DIBLASI: That's fine, Your Honor.

THE COURT: Yeah. I bet that Mr. Schiff is going to want to have more opportunity to think about it than that.

MS. DIBLASI: We are happy to take this offline and work on it with Mr. Schiff and his clients and get a revised order with your ruling.

THE COURT: When is the deadline for getting this entered?

MR. SCHIFF: Your Honor, this is David Schiff. The deadline I believe is not going to run tomorrow or this week so setting the Order offline should be fine. And (indiscernible) the parties have been very constructive at working (indiscernible) the Order quickly so I think we can have something back in front of the Court subject to Ms. DiBlasi's views by tonight or first thing tomorrow

morning.

THE COURT: Okay. And do you want to try and do this now online? Because I am willing to do that. I just -- I think it's more complicated than just crossing out a couple words.

MR. SCHIFF: Your Honor, apologies, I'm just getting (indiscernible) from my finance colleagues. I think we would be glad to do it, if it's convenient for the Court and other parties.

THE COURT: To do it right now?

MR. SCHIFF: Yes, Your Honor.

THE COURT: Okay. Well then I'll let you all dictate to me how you think it ought to go so I'm -- let me save this.

(Pause in the proceedings.)

THE COURT: All right. So if you will dictate to me. Let's first get my oral findings incorporated.

Where do I do that?

MS. DIBLASI: This is Kelly DiBlasi again, Your Honor. If you'll bear with me as I scroll through? Perhaps, Your Honor, on page 6 of the Order before the findings are listed, there's the bold all caps language. Maybe Your Honor would like to include in there a reference to the addition of your oral findings.

(Pause/Court preparing Order.)

THE COURT: Let's be sure that we didn't mess up the document towards the end of the page, and we did.

(Pause/Court preparing Order.)

THE COURT: All right. I'm good.

MS. DIBLASI: Okay. Your Honor, we have quite a few references to "prepayment." I believe it's 21 times by the count of my associate so thank you in advance for your patience.

THE COURT: Tell me where to go.

MS. DIBLASI: The first reference is on page 2 of the Order in subparagraph (b) as in boy, in the parenthetical "and in prepayment of."

THE COURT: Okay.

MS. DIBLASI: The next reference, Your Honor, is on page 3 --

THE COURT: All right.

MS. DIBLASI: -- near the top of paragraph 4, second line in the parenthetical "and the prepaid."

THE COURT: All right.

MS. DIBLASI: A few lines below that another reference to "and prepayment."

THE COURT: All right.

MS. DIBLASI: And then, Your Honor, the line right below that.

THE COURT: All right.

MS. DIBLASI: And two lines down from that, Your Honor, right before the defined term "(indiscernible)."

THE COURT: All right.

MS. DIBLASI: The next, Your Honor, is on page 17 at the top of the page.

MR. SCHIFF: Apologies. That last change, I think there actually was a missing close parens and Ms. DiBlasi, would you agree that -- Your Honor, I mean --

MS. DIBLASI: Yes.

MR. SCHIFF: A little bit closer right now --

MS. DIBLASI: Yes.

MR. SCHIFF: -- I think that closed paren should stay there because of the type of the proposed order.

THE COURT: So then where's the opening parens for this closed parens here?

MR. SCHIFF: It's right before such -- oh, you know what? I apologize, Your Honor.

MS. DIBLASI: No, it's okay.

MR. SCHIFF: I said -- yeah, it's correct as it is.

THE COURT: Okay. Thank you. All right.

MS. DIBLASI: Now to page 17, Your Honor, please.

THE COURT: All right.

MS. DIBLASI: At the very first line, there's another parenthetical that says "and prepayment."

THE COURT: Did I get that?

MS. DIBLASI: Yes, Your Honor.

THE COURT: Okay.

MS. DIBLASI: The next reference is on page 23 in paragraph 4(a).

(Pause in the proceedings.)

THE COURT: Okay.

MS. DIBLASI: The next one is page 24.

THE COURT: Okay.

MS. DIBLASI: It's about one, two, three -- six lines down, the parenthetical says "and used to prepay prepetition loans."

THE COURT: I think I got that.

MS. DIBLASI: Okay. Then same page a few lines down, the sentence begin "The cashless substitution and exchange" there.

THE COURT: Okay.

MS. DIBLASI: Bottom of page 24, three lines up from the bottom, there's a parenthetical that says "and prepay."

THE COURT: Okay.

MS. DIBLASI: Page 26, it's sort of in the middle of the page in a proviso "that's provided further however" two lines below that it says that you could pay -- yes, you got it, Your Honor.

THE COURT: All right.

MS. DIBLASI: And then two lines down from that at the end of that same sentence.

THE COURT: Got it.

MS. DIBLASI: And then the sentence that follows "The cashless substitution and exchange." And I believe that is the last reference.

Mr. Schiff, or anyone else on the phone, if you found other places, let us know.

MR. SCHIFF: I'm sorry, can we possibly go back to that last deletion?

THE COURT: I will. Let me -- if you'll tell me again what page that was on?

MS. DIBLASI: Page 26.

MR. SCHIFF: I just wanted to make sure. It looked like there -- okay. I think that is fine. I just wanted to make sure there wasn't an extra row that was excluded.

THE COURT: No. I think this actually worked. I interpret the language that is in here about how the loans are being handled is effectively what I said, which is there are new loans getting put in place and there is an effective waiver of the old loans. And I got it that there's some details about how that waiver looks, but this is the economic reality of what I think is going on.

Are there any parties -- and all of the objections of Credit Agricole that I overruled are now preserved for them on appeal. Are there any additional objections by Credit Agricole or anyone else that have not already been overruled?

(No audible response.)

THE COURT: All right. Then based on the Record before me and the testimony and the documents that are incorporated into the evidentiary record, I am approving the DIP loan.

Are there any attachments to this Order?

MS. DIBLASI: No, there are not, Your Honor. And they've asked us to bring that back up please. One of my partners is telling me that we had a typo in the language you added referencing your oral ruling.

THE COURT: Well, that's not very good since that's all going to be my fault and I can't blame you for that, but okay.

MS. DIBLASI: It happens to the best of us, Your Honor.

(Pause in the proceedings.)

THE COURT: That didn't work well. Let's see.

MS. DIBLASI: So in the footnote in the all caps, Your Honor, we just need to supplemented.

THE COURT: Yeah. Hold on, it's --

(Pause in the proceedings.)

THE COURT: Does that work better?

MS. DIBLASI: Yes. Thank you, Your Honor.

THE COURT: Thank you.

I know it's been a longer than expected hearing this afternoon and I want to thank everybody for their courtesies to me. If I got short with anyone over trying to deal with technology, I apologize, but it's just a new part of my job I have to deal with and I'll try and keep my cool a little bit better.

Thank you all.

Is there anything else we need to do today?

MS. DIBLASI: Nothing from the Debtors, Your Honor, and we certainly appreciate the Court's time and patience with all of us.

THE COURT: Well, thank you so much, Ms. DiBlasi, and we will adjourn till in the morning. Thank you.

(The parties thank the Court.)

(Hearing adjourned at 4:30 p.m.)

* * * * *

I certify that the foregoing is a correct transcript to the best of my ability due to the condition of the telephonic and remote recording of the proceedings in the above-entitled matter.

/S/ MARY D. HENRY

*CERTIFIED BY THE AMERICAN ASSOCIATION OF ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337*

JUDICIAL TRANSCRIBERS OF TEXAS, LLC

JTT TRANSCRIPT #62205

DATE FILED: MAY 27, 2020

Tab 7

Notice of Appeal

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Jointly Administered)**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, that Appellant Credit Agricole Corporate and Investment Bank by and through its undersigned counsel, files this Notice of Appeal, pursuant to Rules 8002 and 8003 of the Federal Rules of Bankruptcy Procedure.

Specifically, Credit Agricole Corporate and Investment Bank appeals to the United States District Court for the Southern District of Texas this Court's *Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Dkt. No. 239] entered on May 20, 2020, and any adverse orders, rulings, decrees, decisions, or opinions subsumed therein.

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s):

Credit Agricole Corporate and Investment Bank

[1] A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

Creditor

Part 2: Identify the subject of this appeal

1. Describe the judgment, order or decree appealed from:

Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Dkt. No. 239], attached hereto as **Exhibit A**.

2. State the date on which the judgment, order, or decree was entered:

May 20, 2020

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. **Appellant:** Credit Agricole Corporate and Investment Bank

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2. **Debtors:** Speedcast International Limited; SpeedCast Communications, Inc., *fka* Caprock Communications Inc., *fka* Harris Caprock Communications Inc.; SpeedCast UK Holdings Limited; CapRock UK Limited; CapRock Communications Pte. Ltd; Speedcast Cyprus Ltd., *fka* SAIT Communications Limited; SpeedCast Limited; SpeedCast Group Holdings Pty Ltd; SpaceLink Systems, LLC; SpeedCast Australia Pty Limited, *fka* Australian Satellite Communications Pty Ltd; Satellite Communications Australia Pty Ltd; Oceanic Broadband Solutions Pty Ltd; SpeedCast Managed Services Pty Limited, *fka* Pactel International Pty Ltd, *fka* SpeedCast Pacific Pty Ltd; Maritime Communication

Services, Inc.; Telaurus Communications LLC; CCI Services Corp.; HCT Acquisition, LLC; Cosmos Holdings Acquisition Corp.; Globecomm Network Services Corporation; Hermes Datacommunications International Limited; SpeedCast Singapore Pte. Ltd., *fka* SpeedCast Singapore Pte. Ltd.; SpaceLink Systems II, LLC, *fka* SpaceLink System Inc; CapRock Comunicacoes do Brasil Ltda.; CapRock Participacoes do Brasil Ltda.; Speedcast Canada Limited; CapRock Communications (Australia) Pty Ltd; SpeedCast Norway AS, *fka* Schlumberger Information Technology Services Norge AS, *fka* Harris Norge AS; Globecomm Europe B.V., *fka* Carrier to Carrier Telecom BV; NewCom International, Inc.; Evolution Communications Group Limited; Speedcast Netherlands B.V., *fka* Electrikom BV, *fka* Speedcast Europe BV; SpeedCast Americas, Inc.; SpeedCast France SAS.

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4. **Interested Party:** Ad Hoc Group of Secured Lenders ("Ad Hoc Group")

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Dated: June 3, 2020

Respectfully submitted,

HAYNES AND BOONE, LLP

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ATTORNEYS FOR CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2020, a true and correct copy of the foregoing document was served upon all parties via ECF transmission who are authorized to receive electronic notice in this proceeding.

By: */s/ Charles A. Beckham, Jr.*
Charles A. Beckham, Jr.

EXHIBIT A

ENTERED
05/20/2020

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

In re:	§	**Chapter 11**
SPEEDCAST INTERNATIONAL LIMITED, *et al.*,	§	**Case No. 20-32243 (MI)**
Debtors.[1]	§	**(Jointly Administered)**

FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING LIENS AND PROVIDING CLAIMS WITH SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) MODIFYING THE AUTOMATIC STAY, AND (V) GRANTING RELATED RELIEF

Upon the motion (the "**DIP Motion**")[2] of SpeedCast International Limited and each of its affiliates that are debtors and debtors-in-possession (each, a "**Debtor**" and collectively, the "**Debtors**") in the above-captioned cases (the "**Chapter 11 Cases**") and pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506(c) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "**Bankruptcy Code**"), Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1 of the Bankruptcy Local Rules of the United States Bankruptcy Court for the Southern District of Texas (together, the "**Local Rules**"), and the Procedures for Complex Chapter 11 Bankruptcy Cases (the "**Complex Case Rules**" and, together with the Local Rules, the "**Bankruptcy Local Rules**"),

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[1] A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at http://www.kccllc.net/speedcast. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.

[2] Capitalized terms used but not defined herein are given the meanings ascribed to such terms in the DIP Credit Agreement (as defined herein).

seeking entry of an interim order (as entered at [ECF No. 77], the "**Interim Order**") and this final order (this "**Final Order**") among other things:

(i) authorizing SpeedCast Communications, Inc. (the "**Borrower**") to obtain postpetition financing ("**DIP Financing**") pursuant to a senior secured, superpriority and priming debtor-in-possession term loan credit facility (the "**DIP Facility**") subject to the terms and conditions set forth in that certain Senior Secured Superpriority Debtor-in-Possession Term Loan Credit Agreement attached hereto as **Exhibit 1** (as amended, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), in an aggregate principal amount of up to $180 million, consisting of:

a. new money term loans in the aggregate principal amount of $90 million (the "**DIP New Money Term Loans**") from the DIP Lenders (as defined herein), of which $35 million was made available upon entry of the Interim Order and of which the remaining $55 million is to be available in accordance with the terms of the DIP Credit Agreement; and

b. term loans in an aggregate principal amount of $90 million (the "**DIP Roll-Up Loans**" and, together with the DIP New Money Term Loans, the "**DIP Loans**") from the DIP Lenders issued in substitution and exchange for Prepetition Loans (as defined herein) of the DIP Lenders on a dollar-for-dollar basis pursuant to the terms and conditions of the DIP Credit Agreement;

by and among, SpeedCast International Limited, as parent, the Borrower, as borrower, the several banks and other financial institutions or entities from time to time party thereto as "Lenders" (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacity, together with its successors and permitted assigns, the "**DIP Agent**" and, collectively, with the DIP Lenders, the **"DIP Secured Parties"**);

(ii) authorizing the Debtors other than the Borrower (such Debtors, the "**Debtor DIP Guarantors**," and together with the Borrower, the "**Debtor DIP Loan Parties**") to jointly and severally guarantee the DIP Loans and the other DIP Obligations as set forth in that certain Guarantee Agreement among SpeedCast International Limited, certain subsidiaries thereof, and the DIP Agent (the "**DIP Guarantee Agreement**");

(iii) authorizing and directing the Debtors to use reasonable best efforts to cause the DIP Guarantors that are not Debtors (the "**Non-Debtor DIP Loan Parties**" and together with the Debtor DIP Guarantors, the "**DIP Guarantors**" and together with the Borrower and the Debtor DIP Guarantors, the "**DIP Loan Parties**") to jointly and severally guarantee on the basis set forth in the DIP Guarantee Agreement, the DIP Loans and the other DIP Obligations;

(iv) authorizing the Debtors, (i) subject to entry of the Interim Order, on the Syndication End Date, to substitute and exchange Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Initial Commitments in effect as of the Closing Date (such substitution and exchange, the "**Initial Roll-Up**") and (ii) upon entry of this Final Order, to substitute and exchange Prepetition Loans of the DIP Lenders on a dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the amount of the Delayed Draw Commitments in effect as of the Closing Date (such substitution and exchange, the "**Delayed Draw Roll-Up**" and, together with the Initial Roll-Up, the "**Roll-Up**");

(v) authorizing the Debtor DIP Loan Parties to, and authorizing and directing the Debtor DIP Loan Parties to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, execute, deliver and perform under the DIP Credit Agreement and all other loan documentation, including security agreements, pledge agreements, control agreements, mortgages, deeds, charges, guarantees, promissory notes, intercompany notes, certificates, instruments, intellectual property security agreements, notes, the DIP Intercreditor Agreement,[3] the Syndicated Facility Amendment,[4] the Fee Letter, and such other documents that may be reasonably requested by the DIP Agent and the DIP Lenders, in each case, as amended, restated, supplemented, waived or otherwise modified from time to time in accordance with the terms thereof and hereof (collectively, together with the DIP Credit Agreement, all Loan Documents, the Interim Order and this Final Order, the "**DIP Documents**");

(vi) authorizing the Debtor DIP Loan Parties to incur, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to incur, loans, advances, extensions of credit, financial accommodations, reimbursement obligations, fees (including, without limitation, commitment fees, administrative agency fees, exit fees, other fees and fees payable pursuant to the Fee Letter), costs, expenses and other liabilities, all other obligations (including indemnities and similar obligations, whether contingent or absolute) and all other Obligations due or payable under the DIP Documents (collectively, the "**DIP Obligations**"), and to perform such other and further acts as may be necessary, desirable or appropriate in connection therewith;

(vii) subject to the Carve Out (as defined herein), granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, allowed superpriority administrative expense claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations of the Debtor DIP Loan Parties;

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[3] That certain DIP Intercreditor Agreement, dated as of April 24, 2020, among SpeedCast International Limited, as Parent, the other grantors party thereto, the DIP Agent and the Prepetition Agent (as defined herein).

[4] That certain Syndicated Facility Amendment, dated as of April 24, 2020, by and among SpeedCast International Limited, as Parent Borrower, SpeedCast Americas Inc., the Borrower, and SpeedCast Limited, each of the other "Loan Parties" party thereto, and the lenders party thereto.

(viii) granting to the DIP Agent, for itself and for the benefit of the DIP Secured Parties, valid, enforceable, non-avoidable and automatically perfected liens pursuant to section 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 prepetition and postpetition property of the Debtor DIP Loan Parties' estates (other than certain excluded property as provided in the DIP Documents (the "**Excluded Assets**")) and all proceeds thereof, including, any Avoidance Proceeds (as defined herein), in each case subject to the Carve Out (as defined herein);

(ix) authorizing the DIP Agent, acting at the direction of the Requisite DIP Lenders (as defined below), and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders (as defined below), to take all commercially reasonable actions to implement and effectuate the terms of the Interim Order, this Final Order and the DIP Documents;

(x) subject to the Carve Out (as defined herein), authorizing the Debtors to waive (a) their right to surcharge the Prepetition Collateral and the DIP Collateral (as defined herein) (together, but excluding any Excluded Assets, the "**Collateral**") pursuant to section 506(c) of the Bankruptcy Code and (b) any "equities of the case" exception under section 552(b) of the Bankruptcy Code;

(xi) waiving the equitable doctrine of "marshaling" and other similar doctrines (a) with respect to the DIP Collateral for the benefit of any party other than the DIP Secured Parties and (b) with respect to any of the Prepetition Collateral (including the Cash Collateral) for the benefit of any party other than the Prepetition Secured Parties (as defined herein);

(xii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, use proceeds of the DIP Facility solely in accordance with the Interim Order, this Final Order and the DIP Documents;

(xiii) authorizing the Debtors to, and to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become earned, due and payable to the extent provided in, and in accordance with, the DIP Documents;

(xiv) subject to the restrictions set forth in the Interim Order, this Final Order and the DIP Documents, authorizing the Debtors to use the Prepetition Collateral (as defined herein), including Cash Collateral of the Prepetition Secured Parties under the Prepetition Loan Documents (as defined herein), and provide adequate protection to the Prepetition Secured Parties for any diminution in value of their respective interests in the Prepetition Collateral (including Cash Collateral) (as defined herein), resulting from the imposition of the automatic stay under section 362 of the Bankruptcy Code (the "**Automatic Stay**"), the Debtors' use, sale, or lease of the Prepetition Collateral (including Cash Collateral), and the priming of their respective interests in the Prepetition Collateral (including Cash Collateral);

(xv) vacating and modifying the Automatic Stay to the extent set forth herein to the extent necessary to permit the DIP Secured Parties and the Prepetition Secured Parties to implement and effectuate the terms and provisions of the Interim Order, this Final Order and the DIP Documents and to deliver any notices of termination described below and as further set forth herein; and

(xvi) waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Final Order.

The Court having considered the final relief requested in the DIP Motion, the exhibits attached thereto, the *Declaration of Adam Waldman in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [ECF No. 34] (the "**Waldman Declaration**"), and the *Declaration of Michael Healy in Support of the Debtors' Chapter 11 Petitions and First Day Relief* [ECF No. 16] (the "**Healy Declaration**"), the available DIP Documents, and the evidence submitted and arguments made at the interim hearing held on April 23, 2020 (the "**Interim Hearing**") and the final hearing held on May 20, 2020 (the "**Final Hearing**," and together with the Interim Hearing, the "**Hearings**"); and due and sufficient notice of the Final Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Bankruptcy Local Rules; and the Final Hearing having been held and concluded; and all objections, if any, to the final relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and otherwise is fair and reasonable and in the best interests of the Debtor DIP Loan Parties and their estates, and is essential for the continued operation of the Debtor DIP Loan Parties' businesses and the preservation of the value of the Debtor DIP Loan Parties' assets; and it appearing that the Debtor DIP Loan Parties' entry into the DIP

Documents is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor.

BASED UPON THE RECORD ESTABLISHED AT THE HEARINGS, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[5]

A. *Petition Date*. On April 23, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Court**"). On April 23, 2020, this Court entered an order approving the joint administration of the Chapter 11 Cases.

B. *Joint Administration*. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 18].

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

D. *Interim Order*. The Court entered the Interim Order on April 24, 2020 [ECF No. 77].

E. *Jurisdiction and Venue*. This Court has core jurisdiction over the Chapter 11 Cases, the DIP Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Consideration of the DIP

[5] 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. THESE WRITTEN FINDINGS ARE SUPPLEMENTED BY THE COURT'S ORAL FINDINGS MADE ON THE RECORD ON THIS DATE. IF THERE IS A CONFLICT, THE ORAL FINDINGS CONTROL.

Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 363(m), 364(c), 364(d)(1), 364(e), and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014, and Bankruptcy Local Rules 2002-1, 4001-1(b), 4002-1(i), and 9013-1.

F. *Committee Formation*. On May 6, 2020, the United States Trustee for the Southern District of Texas (the "**U.S. Trustee**") appointed an official committee of unsecured creditors (the "**Committee**") in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

G. *Notice*. The Final Hearing was scheduled and noticed pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Proper, timely, adequate and sufficient notice of the DIP Motion has been provided in accordance with the Interim Order, Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Local Rules, and no other or further notice of the DIP Motion or the entry of this Final Order shall be required.

H. The relief granted pursuant to the Interim Order was necessary to avoid immediate and irreparable harm to the Debtors and their estates.

I. *Cash Collateral*. As used herein, the term "**Cash Collateral**" shall mean all of the Debtors' cash except for cash that is an Excluded Asset, wherever located and held, including cash in deposit accounts, that constitutes or will constitute "cash collateral" of the Prepetition Secured Parties and DIP Secured Parties within the meaning of section 363(a) of the Bankruptcy Code.

J. *Debtors' Stipulations*. Subject to the limitations contained in paragraph 20 hereof, and after consultation with their attorneys and financial advisors, the Debtors admit, stipulate and agree that:

(i) *Prepetition Credit Facility*. Pursuant to that certain Syndicated Facility Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Credit Agreement**", and collectively with the other Loan Documents (as defined in the Prepetition Credit Agreement) and any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time, the "**Prepetition Loan Documents**"), among (a) SpeedCast International Limited, SpeedCast Americas, Inc., SpeedCast Communications, Inc. and SpeedCast Limited, as borrowers (in such capacity, the "**Prepetition Borrowers**"), (b) SpeedCast International Limited, as parent, (c) Credit Suisse AG, Cayman Islands Branch, as administrative agent, collateral agent and security trustee (in such capacities, the "**Prepetition Agent**"), (d) the Term Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Term Loan Lenders**"), (e) the Issuing Banks (as defined in the Prepetition Credit Agreement) party thereto (the "**Prepetition Issuers**"), and (f) the Revolving Credit Lenders (as defined in the Prepetition Credit Agreement) party thereto (collectively, the "**Prepetition Revolving Lenders**" and, together with the Prepetition Term Loan Lenders, the "**Prepetition Lenders**") (the Prepetition Lenders, collectively with the Prepetition Agent, the Prepetition Issuers and all other holders of Prepetition Credit Facility Debt (as defined herein), the "**Prepetition Secured Parties**"), (1)(x) the Prepetition Issuers issued and participated in letters of credit in support of the Prepetition Borrowers and (y) the Prepetition Revolving

Lenders provided revolving loans and other financial accommodations to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Revolving Credit Facility**") and (2) the Prepetition Term Loan Lenders provided term loans to the Prepetition Borrowers pursuant to the Prepetition Loan Documents (the "**Prepetition Term Loan Credit Facility**" and, together with the Prepetition Revolving Credit Facility, the "**Prepetition Credit Facilities**").

(ii) *Prepetition Guarantee*. Pursuant to that certain Guarantee Agreement, dated as of May 15, 2018 (as amended, restated, amended and restated, supplemented, waived, or otherwise modified from time to time), certain of the Debtors and their direct and indirect non-Debtor subsidiaries and affiliates party thereto (the "**Prepetition Guarantors**") guaranteed on a joint and several basis the obligations under the Prepetition Loan Documents.

(iii) *Prepetition Credit Facility Debt*. As of the Petition Date, the Prepetition Borrowers were justly and lawfully indebted and liable to the Prepetition Secured Parties, without defense, counterclaim or offset of any kind, in the aggregate principal amount of not less than $689.7 million including (a) $87.7 million in outstanding principal amount of Revolving Loans (as defined in the Prepetition Credit Agreement), (b) $10.6 million of outstanding Letters of Credit (as defined in the Prepetition Credit Agreement) and (c) $591.4 million in outstanding principal amount of Term Loans (as defined in the Prepetition Credit Agreement) (collectively, together with accrued and unpaid interest, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including attorneys' fees, accountants' fees, auditor fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and

costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Borrowers' or the Prepetition Guarantors' obligations pursuant to, or secured by, the Prepetition Credit Agreement, including all Obligations (as defined in the Prepetition Credit Agreement, the "**Prepetition Obligations**"), and all interest, fees, prepayment premiums, early termination fees, costs and other charges, the "**Prepetition Credit Facility Debt**") which Prepetition Credit Facility Debt has been guaranteed on a joint and several basis by each of the Prepetition Guarantors.

(iv) *Prepetition Credit Facility Liens.* As more fully set forth in the Prepetition Loan Documents, prior to the Petition Date, the Prepetition Borrowers and the Prepetition Guarantors each granted to the Prepetition Agent, for the benefit of itself and the other Prepetition Secured Parties, a security interest in and continuing lien on (the "**Prepetition Liens**") substantially all of their assets and property, including Cash Collateral, subject to certain limited customary exclusions as set forth in the Prepetition Loan Documents (the "**Prepetition Collateral**").

(v) *Validity, Perfection and Priority of Prepetition Liens and Prepetition Debt.* The Debtors acknowledge and agree that as of the Petition Date (a) 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; (b) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law or otherwise permitted by the Prepetition Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date, the "**Prepetition Permitted Prior Liens**"); (c) the

Prepetition Credit Facility Debt constitutes legal, valid, binding, and non-avoidable obligations of the Prepetition Borrowers and Prepetition Guarantors enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Credit Facility Debt exist, and no portion of the Prepetition Liens or Prepetition Credit Facility Debt is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Credit Facilities; and (f) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Credit Facility Debt, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the Prepetition Liens securing the Prepetition Credit Facility Debt.

(vi) *No Control*. None of the Prepetition Secured Parties control the Debtors or their properties or operations, have authority to determine the manner in which any Debtors' operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Prepetition Loan Documents.

(vii) *No Claims or Causes of Action*. No claims or causes of action held by the Debtors or their estates exist against, or with respect to, the Prepetition Secured Parties (in their

capacity as such) under any agreements by and among the Debtors and any Prepetition Secured Party that is in existence as of the Petition Date.

(viii) *Release*. Effective as of the date of entry of the Interim Order, each of the Debtors and the Debtors' estates, on its own behalf, on behalf of (to the greatest extent permitted by law) the Non-Debtor DIP Loan Parties, and on behalf of its and their past, present and future predecessors, successors, subsidiaries, and assigns, hereby absolutely, unconditionally and irrevocably releases and forever discharges and acquits the Prepetition Secured Parties, the DIP Secured Parties, and each of their respective Representatives (as defined herein) (collectively, the "**Released Parties**"), from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, defenses, offsets, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date (collectively, the "**Released Claims**") of any kind, nature or description, whether matured or unmatured, known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, suspected or unsuspected, liquidated or unliquidated, pending or threatened, arising in law or equity, upon contract or tort or under any state or federal law or otherwise, arising out of or related to (as applicable) the Prepetition Loan Documents, the DIP Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of the Interim Order. For the avoidance of doubt, nothing in this release shall relieve the DIP Secured

Parties of their Obligations under the DIP Documents from and after the date of the Interim Order.

K. *Findings Regarding the DIP Financing and Use of Cash Collateral*.

(i) Good and sufficient cause has been shown for the entry of this Final Order and for authorization of the Debtor DIP Loan Parties to obtain financing pursuant to the DIP Credit Agreement.

(ii) The Debtor DIP Loan Parties have a critical need for the DIP Financing and to continue to use Prepetition Collateral (including Cash Collateral) in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, to satisfy other working capital and operational needs and to fund expenses of these Chapter 11 Cases. The access of the Debtor DIP Loan Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, the incurrence of new indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern values of the Debtor DIP Loan Parties and to a successful reorganization of the Debtor DIP Loan Parties.

(iii) The Debtor DIP Loan Parties are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtor DIP Loan Parties are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting to the DIP Secured Parties, the DIP Liens and the DIP Superpriority

Claims (as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case subject to the Carve Out, under the terms and conditions set forth in the Interim Order, this Final Order and in the DIP Documents.

(iv) The Debtor DIP Loan Parties continue to collect cash, rents, income, offspring, products, proceeds, and profits generated from the Prepetition Collateral and acquire equipment, inventory and other personal property, all of which constitute Prepetition Collateral under the Prepetition Loan Documents that are subject to the Prepetition Secured Parties' security interests as set forth in the Prepetition Loan Documents.

(v) The Debtor DIP Loan Parties desire to use a portion of the cash, rents, income, offspring, products, proceeds and profits described in the preceding paragraph in their business operations that constitute Cash Collateral of the Prepetition Secured Parties under section 363(a) of the Bankruptcy Code. Certain prepetition rents, income, offspring, products, proceeds, and profits, in existence as of the Petition Date, including balances of funds in the Debtor DIP Loan Parties' prepetition and postpetition operating bank accounts, also constitute Cash Collateral.

(vi) Based on the DIP Motion, the Healy Declaration, the Waldman Declaration and the record presented to the Court at the Hearings, the terms of the DIP Financing, the terms of the adequate protection granted to the Prepetition Secured Parties as provided in paragraph 15 of this Final Order (the "**Adequate Protection**"), and the terms on which the Debtor DIP Loan Parties may continue to use the Prepetition Collateral (including Cash Collateral) pursuant to this Final Order and the DIP Documents are fair and reasonable, reflect the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(vii) The DIP Financing (including the Roll-Up), the Adequate Protection and the use of the Prepetition Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtor DIP Loan Parties, the DIP Secured Parties, and the Prepetition Secured Parties, and all of the Debtor DIP Loan Parties' obligations and indebtedness arising under, in respect of, or in connection with, the DIP Financing and the DIP Documents, including, without limitation: all loans made to and guarantees issued by the Debtor DIP Loan Parties pursuant to the DIP Documents and any DIP Obligations shall be deemed to have been extended by the DIP Agent and the DIP Secured Parties and their respective affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Agent and the DIP Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is vacated, reversed or modified, on appeal or otherwise.

(viii) The Prepetition Agent and the Prepetition Secured Parties have acted in good faith regarding the DIP Financing and the Debtor DIP Loan Parties' continued use of the Prepetition Collateral (including Cash Collateral) to fund the administration of the Debtor DIP Loan Parties' estates and continued operation of their businesses (including entry into the Syndicated Facility Amendment and the incurrence and payment of the Adequate Protection Obligations and the granting of the Adequate Protection Liens (as defined herein)), in accordance with the terms hereof, and the Prepetition Agent and Prepetition Secured Parties (and the successors and assigns thereof) shall be entitled to the full protection of sections 363(m) of the

Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is vacated, reversed or modified, on appeal or otherwise.

(ix) The Prepetition Secured Parties are entitled to the Adequate Protection provided in the Interim Order and this Final Order as and to the extent set forth herein and therein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. Based on the DIP Motion and on the record presented to the Court, the terms of the proposed adequate protection arrangements and of the use of the Prepetition Collateral (including Cash Collateral) are fair and reasonable, reflect the Debtor DIP Loan Parties' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the use of the Prepetition Collateral, including the Cash Collateral, and the "Required Lenders" (as such term is defined in the Prepetition Credit Agreement, the "**Required Prepetition Lenders**"), have consented or are deemed hereby to have consented to the use of the Prepetition Collateral, including the Cash Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, and the Roll-Up; *provided* that nothing in the Interim Order, this Final Order or the DIP Documents shall (x) be construed as the affirmative consent by any of the Prepetition Secured Parties for the use of Cash Collateral other than on the terms set forth in this Final Order and in the context of the DIP Financing authorized by the Interim Order and this Final Order to the extent such consent has been or will be given, (y) be construed as a consent by any party to the terms of any other financing or any other lien encumbering the Prepetition Collateral (whether senior or junior) or (z) prejudice, limit or otherwise impair the rights of any of the Prepetition Secured Parties to seek new, different or additional adequate protection or assert the interests of any of the Prepetition Secured Parties, and the rights of any other party in interest, including the Debtor DIP Loan Parties, to object to such relief are hereby preserved.

(x) The exchange and substitution of Prepetition Loans with DIP Roll-Up Loans on a dollar-for-dollar basis in an amount of Prepetition Loans equal to 100% of the amount of the DIP Commitments (as of the Closing Date) reflects the Debtor DIP Loan Parties' exercise of prudent business judgment consistent with their fiduciary duties. The Prepetition Secured Parties would not otherwise consent to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined herein), and the DIP Secured Parties would not be willing to provide the DIP Facility or extend credit to the Debtor DIP Loan Parties thereunder without the Roll-Up. The Roll-Up will benefit the Debtors and their estates because it will enable the Debtors to obtain urgently needed financing critical to administering these Chapter 11 Cases and funding their operations, which financing would not otherwise be available.

(xi) The Debtors have prepared and delivered to the advisors to the DIP Secured Parties an initial budget (the "**Initial DIP Budget**"), attached as Schedule 1 to the Interim Order. The Initial DIP Budget reflects, among other things, the Parent's and its Subsidiaries' anticipated cash receipts and anticipated disbursements for each calendar week, in form and substance satisfactory to the Requisite DIP Lenders. The Initial DIP Budget may be modified, amended and updated from time to time in accordance with the DIP Credit Agreement, and once approved by the Requisite DIP Lenders,[6] shall supplement and replace the Initial DIP Budget (the Initial DIP Budget and each subsequent approved budget, shall constitute without duplication, an "**Approved Budget**"). The Debtors believe that the Initial DIP Budget is reasonable under the facts and circumstances. The DIP Secured Parties are relying, in part, upon the DIP Loan Parties' agreement to comply with the Approved Budget (subject to only permitted

[6] "**Requisite DIP Lenders**" means, as applicable, pursuant to the requirements of the DIP Credit Agreement, either or both of the "Required IC Lenders" and/or "Required Lenders" (each as defined in the DIP Credit Agreement).

variances), the other DIP Documents and this Final Order in determining to enter into the postpetition financing arrangements provided for in this Final Order.

(xii) Each of the Prepetition Secured Parties shall 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 with respect to any of the Prepetition Collateral.

L. *Relief Essential; Best Interest*. Sufficient cause exists for entry of this Final Order pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2) and Bankruptcy Local Rule 4001-1(b). Consummation of the DIP Financing and the use of Prepetition Collateral (including Cash Collateral), in accordance with this Final Order and the DIP Documents are therefore in the best interests of the Debtor DIP Loan Parties' estates and consistent with the Debtor DIP Loan Parties' exercise of their fiduciary duties. The DIP Motion, the Interim Order and this Final Order comply with the requirements of Bankruptcy Local Rule 4001-1(b).

M. *Permitted Prior Liens; Continuation of Prepetition Liens*. Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected, or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtor DIP Loan Parties, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties 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 DIP Liens (as defined herein). The Prepetition Liens, and the DIP Liens

that prime the Prepetition Liens, are continuing liens and the DIP Collateral is and will continue to be encumbered by such liens in light of the integrated nature of the DIP Facility, the DIP Documents and the Prepetition Loan Documents.

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

IT IS HEREBY ORDERED THAT:

1. *Motion Granted*. The relief sought in the DIP Motion is granted, the financing described herein is authorized and approved, and the use of Cash Collateral is authorized, in each case, on a final basis, subject to the terms and conditions set forth in the DIP Documents and this Final Order. All objections to this Final Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits.

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

(a) The Debtor DIP Loan Parties were, by the Interim Order, and hereby are authorized, and the Debtors were, by the Interim Order, and hereby are authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties, as applicable, to execute, deliver, enter into and, as applicable, perform all of their obligations under the DIP Documents (including without limitation the DIP Intercreditor Agreement and the Syndicated Facility Amendment) and such other and further acts as may be necessary, appropriate or desirable in connection therewith. The Borrower was, by the Interim Order, and hereby is authorized to borrow money pursuant to the DIP Credit Agreement, each Debtor DIP Guarantor was, by the Interim Order, and hereby is authorized to, and the Debtors were, by the Interim Order, and hereby are authorized and directed to use reasonable best efforts to cause the Non-

Debtor DIP Loan Parties to, provide a guaranty of payment in respect of the Borrower's obligations with respect to such borrowings, subject to any limitations on borrowing under the DIP Documents, which shall be used for all purposes permitted under the DIP Documents (and subject to and in accordance with the Approved Budget) (subject to any permitted variances); *provided*, that the permitted variance set forth in Section 6.15(v) of the DIP Credit Agreement for the line items in the Approved Budget under the heading "Professional Fees" shall be (x) 12.5% for each Cumulative Budget Test Period ending through July 17, 2020 and (y) 10% thereafter.

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor DIP Loan Party is authorized to, and authorized and directed to use reasonable best efforts to cause the Non-Debtor DIP Loan Parties to, perform all acts, to make, execute and deliver all instruments, certificates, agreements, charges, deeds and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages, financing statements and other similar documents), and to pay all fees, expenses and indemnities in connection with or that may be reasonably required, necessary, or desirable for the DIP Loan Parties' performance of their obligations under or related to the DIP Financing, including, without limitation:

(i) the execution and delivery of, and performance under, each of the DIP Documents;

(ii) the execution and delivery of, and performance under, one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case, in such form as the DIP Loan Parties and the DIP Agent (acting in accordance with the terms of the DIP Credit Agreement and at the direction of the Requisite DIP Lenders) may

agree, it being understood that no further approval of this Court shall be required for any authorizations, amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees and other expenses (including attorneys', accountants', appraisers' and financial advisors' fees), amounts, charges, costs, indemnities and other obligations paid in connection therewith) that do not shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder; *provided* that, for the avoidance of doubt, updates and supplements to the Approved Budget required to be delivered by the DIP Loan Parties under the DIP Documents shall not be considered amendments or modifications to the Approved Budget or the DIP Documents;

(iii) the non-refundable payment to the DIP Agent and the DIP Secured Parties, as the case may be, of all fees, whether paid pursuant to the Interim Order or this Final Order, including unused facility fees, amendment fees, prepayment premiums, early termination fees, servicing fees, audit fees, liquidator fees, structuring fees, administrative agent's, collateral agent's or security trustee's fees, upfront fees, closing fees, commitment fees, exit fees, closing date fees, backstop fees, original issue discount fees, prepayment fees or agency fees, indemnities and professional fees (which fees shall be irrevocable, and were, and were deemed to have been, approved upon entry of the Interim Order, whether or not the fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, and upon payment thereof, shall not be subject to any contest, attack, rejection, recoupment, reduction, defense, counterclaim, offset, subordination, recharacterization, avoidance or other claim, cause of action or other challenge of any nature under the Bankruptcy Code, applicable non-bankruptcy law or otherwise) and any amounts due (or that may become due) in respect of the indemnification and expense reimbursement obligations, in each case

referred to in the DIP Credit Agreement or DIP Documents (or in any separate letter agreements, including, without limitation, any fee letters between any or all DIP Loan Parties, on the one hand, and any of the DIP Agent and/or DIP Secured Parties, on the other, in connection with the DIP Financing) and the costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained by, or on behalf of, any of the DIP Agent or DIP Secured Parties (including without limitation those of Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, Skadden, Arps, Slate, Meagher & Flom LLP, King & Wood Mallesons, Rapp & Krock, P.C., Greenhill & Co., LLC, and any local legal counsel or other advisors in any foreign jurisdictions and any other advisors as are permitted under the DIP Documents), in each case, as provided for in the DIP Documents (collectively, the "**DIP Fees and Expenses**"), without the need to file retention motions or fee applications; and

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

3. *DIP Obligations*. Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute legal, valid, binding and non-avoidable obligations of the DIP Loan Parties, enforceable against each Debtor DIP Loan Party and their estates and each Non-Debtor DIP Loan Party in accordance with the terms of the DIP Documents and this Final Order, and any successors thereto, including 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 execution and delivery of the DIP Documents, the DIP Obligations

included 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 DIP Loan Parties to any of the DIP Agent or DIP Secured Parties, in each case, under, or secured by, the DIP Documents or this Final Order, including all principal, interest, costs, fees, expenses, indemnities and other amounts under the DIP Documents (including the Interim Order and this Final Order); *provided*, that notwithstanding anything to the contrary in the DIP Credit Agreement, no Exit Fee shall be payable on the DIP Roll-Up Loans (as defined herein). The DIP Loan Parties shall be jointly and severally liable for the DIP Obligations. Except as permitted hereby, no obligation, payment, transfer, or grant of security hereunder or under the DIP Documents to the DIP Agent and/or the DIP Secured Parties (including their Representatives) 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 subject to any defense, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), disallowance, impairment, claim, counterclaim, cross-claim, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

4. *Prepetition Credit Facility Debt Roll-Up*.

(a) The Debtors were, pursuant to paragraph 4(a) of the Interim Order, deemed to, and are hereby deemed to have, exchanged and substituted Prepetition Loans of the DIP Lenders on a cashless, dollar-for-dollar basis with the DIP Roll-Up Loans in an amount equal to the Initial Commitments in effect as of the Closing Date allocated pro rata

among the DIP Lenders in accordance with the respective principal amounts of their DIP Loans as of such date and subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that were so exchanged remained and shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder. The DIP Roll-Up Loans deemed substituted and exchanged pursuant to paragraph 4(a) of the Interim Order were thereby, and hereby are, deemed indefeasible and the applicable Prepetition Loans substituted thereby were by the Interim Order, and hereby are, deemed exchanged therefor. The cashless substitution and exchange dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(a) was, by the Interim Order, and hereby is authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein, in the Interim Order or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans and the Carve-Out in all respects.

(b) Effective upon entry of this Final Order, in accordance with the DIP Credit Agreement and the other DIP Documents, the Debtors shall be deemed to exchange and substitute Prepetition Loans of the DIP Lenders on a cashless dollar-for-dollar basis with DIP Roll-Up Loans in an amount equal to the Delayed-Draw Commitments in effect as of the Closing Date allocated pro rata among the DIP Lenders in accordance with the respective

principal amounts of their DIP Loans as of such date, subject to the terms and conditions set forth in the DIP Documents; *provided* that any interest, fees and other amounts, accrued or accruing on the Prepetition Loans as of the date of the Roll-Up that are so exchanged shall remain outstanding under the Prepetition Credit Agreement and constitute claims for Prepetition Credit Facility Debt thereunder; *provided, further*, that solely in the event that the Committee is granted standing to bring and actually brings a Challenge prior to the expiration of the Challenge Period (each as defined herein) and such Challenge results in a determination in a final, nonappealable order of the Bankruptcy Court that (i) some or all of the Prepetition Liens did not constitute valid or properly perfected liens on the Prepetition Collateral as of the Petition Date or (ii) some or all of the Prepetition Credit Facility Debt did not constitute valid and binding obligations of the Prepetition Borrower or Prepetition Guarantors as of the Petition Date, and the result of such defect is that the value of the Prepetition Credit Facility Debt that is secured by Prepetition Liens on the Prepetition Collateral as of the Petition Date was less than $90 million, the right of the Committee to argue that the DIP Roll-Up Loans approved pursuant to this paragraph 4(b) only (and not, for the avoidance of doubt, the DIP Roll-Up Loans approved pursuant to paragraph 4(a)) should be "rolled down" or disgorged solely in an amount equal to the negative difference between (x) the amount of the Prepetition Credit Facility Debt that is secured by valid and properly perfected Prepetition Liens on Prepetition Collateral as of the Petition Date and (y) $90 million (such loans in such amount, the "**Rolled Down Loans**"), is hereby preserved; *provided, further* that the rights of the Debtors and the Prepetition Secured Parties to object to the Committee's assertion that some or all of the DIP Roll-Up Loans should be rolled down or disgorged on any grounds are hereby expressly preserved; *provided, further* that such Rolled Down Loans shall (i) no longer be part of the DIP Facility and (ii) subject to

paragraph 20 hereof, shall be deemed to constitute Prepetition Loans held by the holders of the Rolled Down Loans immediately prior to such exchange and substitution for all purposes under the Prepetition Credit Agreement (and, for the avoidance of doubt, as Prepetition Loans shall not have the right to recover on a secured or priority basis from proceeds of Avoidance Actions successfully brought against the Prepetition Secured Parties), and the interest rate on the Rolled Down Loans will revert to the interest rate in effect on all amounts that were not "rolled-up" under the Prepetition Credit Agreement, as though the Roll-Up had never occurred with respect to such loans; *provided, further, however,* that in such an event the DIP Commitments for such Rolled Down Loans shall be deemed terminated. The DIP Roll-Up Loans deemed substituted and exchanged under this paragraph 4(b), except as provided above, shall be deemed indefeasible and the applicable Prepetition Loans substituted thereby shall be deemed exchanged therefor. The cashless substitution and exchange dollar-for-dollar of Prepetition Loans under the Prepetition Term Loan Credit Facility by "rolling-up" such amounts into DIP Obligations as described in this paragraph 4(b) shall be authorized as compensation for, in consideration for, as a necessary inducement for, and on account of the agreement of the DIP Lenders to fund the DIP New Money Term Loans and not as adequate protection for, or otherwise on account of, any Prepetition Credit Facility Debt. Notwithstanding anything to the contrary herein or in the DIP Documents, the claims and liens in respect of the DIP Roll-Up Loans shall be subject and subordinate to the claims and liens in respect of the DIP New Money Term Loans in all respects.

(c) The DIP Agent and Prepetition Agent, acting at the direction of, as applicable, the Requisite DIP Lenders or the Required Prepetition Lenders, was, by the Interim Order, and hereby is authorized to take any actions as may be necessary or advisable to

effectuate the terms of the Roll-Up, including entry into and performance under the DIP Intercreditor Agreement and in accordance with the terms thereof and of the other DIP Documents, and may conclusively rely on the provisions of the Interim Order and this Final Order, as applicable, in adjusting the Register and the Register (as defined in the Prepetition Credit Agreement) to reflect the Roll-Up.

5. *Professional Fee Account*.

(a) As soon as reasonably practicable following the entry of the Interim Order, the Debtors shall transfer an amount equal to the total budgeted (or actual, if available) weekly fees and expenses incurred or to be incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**" and, such fees and expenses of the Professional Persons, the "**Professional Fees**") for the weekly periods set forth in the Approved Budget through the weekly period that is two (2) weeks following such initial transfer into a segregated account not subject to the control, liens, security interests, or claims of the DIP Agent, any DIP Lender, or any Prepetition Secured Party, other than the reversionary interest of the DIP Agent and Prepetition Agent (for the benefit of the DIP Secured Parties and Prepetition Secured Parties, respectively), which interest shall be senior to any interest of the Debtors therein (the "**Professional Fees Account**"). Thereafter, on a weekly basis, the Debtors shall transfer into the Professional Fees Account cash proceeds from the DIP Facility or cash on hand in an amount equal to the aggregate unpaid amount of Estimated Fees and Expenses (as defined herein) included in all Weekly Statements (as defined herein) timely received by the Debtors, which shall be reported to the DIP Agent (or, in the event of a DIP

Repayment, the Prepetition Agent), or if an estimate is not provided, the total budgeted weekly fees of Professional Persons for the prior week set forth in the Approved Budget.

(b) Starting with the first full calendar week following the initial funding of the Professional Fee Account, each Professional Person shall have delivered and shall deliver to the Debtors a statement (each such statement, a "**Weekly Statement**") setting forth a good-faith estimate of the amount of unpaid fees and expenses incurred during the preceding week by such Professional Person (the "**Estimated Fees and Expenses**"). No later than one business day after the delivery of a Carve-Out Trigger Notice (as defined below) (the "**Carve-Out Statement Date**"), each Professional Person shall deliver one additional statement to the Debtors setting forth a good-faith estimate of the amount of Estimated Fees and Expenses incurred on and during the period prior to the Carve-Out Statement Date to the extent not otherwise paid or included in a previous Weekly Statement, and the Debtors shall transfer such amounts to the Professional Fees Account.

(c) The Debtors shall be authorized to use funds held in the Professional Fees Account to pay Professional Fees as they become allowed and payable pursuant to any interim or final order of the Bankruptcy Court or otherwise; *provided*, that when all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, any funds remaining in the Professional Fees Account shall revert to the Debtors for use solely in accordance with the Interim Order, this Final Order and the other DIP Documents and subject to the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims in the order of priority set forth herein; *provided, further*, that the Debtors' obligations to pay allowed Professional Fees shall in no way be limited or deemed limited to funds held in the Professional Fees Account.

(d) Notwithstanding anything herein to the contrary, (i) funds transferred to the Professional Fees Account shall be held in trust exclusively for the Professional Persons, including with respect to obligations arising out of the Carve-Out (as defined herein) and (ii) funds transferred to the Professional Fees Account shall not be subject to any liens or claims granted to the DIP Agent or DIP Lenders herein or any liens or claims granted to the Prepetition Agent or the Prepetition Secured Parties, and shall not constitute DIP Collateral, Prepetition Collateral, or Cash Collateral; *provided*, that the DIP Collateral and the Prepetition Collateral shall include a reversionary interest in funds held in the Professional Fees Account, if any, after all allowed Professional Fees have been paid in full (regardless of when such Professional Fees are allowed by the Bankruptcy Court) and the Carve-Out (as defined herein) is funded, which reversionary interest shall be senior to (i) any liens and claims against the Debtors other than the Carve-Out and (ii) any interest of the Debtors therein.

6. *Carve-Out.*

(a) As used in this Final Order, the term "**Carve-Out**" means the sum of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate (without regard to the notice set forth in clause (iv) below); (ii) fees and expenses up to $100,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iv) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all professional fees and expenses (excluding any transaction fees or success fees) of Professional Persons (collectively, the "**Allowed Professional Fees**") incurred at any time before or on the day of delivery by the DIP Agent of a Carve-Out Trigger Notice (as defined herein), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice (as defined herein) and

without regard to whether such fees and expenses are provided for in the Approved Budget; and (iv) Allowed Professional Fees incurred after the day following delivery by the DIP Agent of the Carve-Out Trigger Notice (as defined herein) in an aggregate amount not to exceed $7,000,000 (the amount set forth in this clause (iv) being the "**Post-Carve-Out Trigger Notice Cap**"); *provided*, *further*, that nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in this paragraph 6(a) on any grounds.

(b) 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 (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and lead counsel to the Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the obligations under the DIP Facility (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, any occurrence that would constitute an Event of Default hereunder) or the occurrence of the Stated Maturity Date (as defined in the DIP Credit Agreement), stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(c) On the day on which a Carve-Out Trigger Notice is received by the Debtors, the Carve-Out Trigger Notice shall constitute a demand to the Debtors to utilize all cash on hand to transfer to the Professional Fees Account cash in an amount equal to all obligations benefitting from the Carve-Out.

(d) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by the Debtors at any time before or on

the first business day after delivery by the DIP Agent or the Prepetition Agent, as applicable, of a Carve-Out Trigger Notice but have not yet been allowed by the Bankruptcy Court, such professional fees and expenses of the Professional Persons shall constitute Allowed Professional Fees benefiting from the Carve-Out upon their allowance by the Bankruptcy Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the Debtors shall fund the Professional Fees Account in the amount of such professional fees and expenses.

(e) Following delivery of a Carve-Out Trigger Notice, the Debtors shall deposit into the Professional Fees Account any cash swept or foreclosed upon (including cash received as a result of the sale or other disposition of any assets) until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Notwithstanding anything to the contrary in the DIP Documents, the Interim Order, or this Final Order, following delivery of a Carve-Out Trigger Notice, the DIP Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Professional Fees Account has been fully funded in an amount equal to all obligations benefiting from the Carve-Out. Further, notwithstanding anything to the contrary herein, (i) disbursements by the Debtors from the Professional Fees Account shall not constitute DIP Loans, (ii) the failure of the Professional Fees Account to satisfy in full the Professional Fees shall not affect the priority of the Carve-Out, and (iii) in no way shall the Carve-Out, Professional Fees Account, any Approved Budget, the Permitted Variance, Weekly Statements, Estimated Fees and Expenses, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors or that may be allowed by the Bankruptcy Court at any time (whether by interim order, final order, or otherwise).

7. *DIP Superpriority Claims*. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against the Debtor DIP Loan Parties on a joint and several basis (without the need to file any proof of claim) with priority over any and all claims against the Debtor DIP Loan Parties, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (including the Adequate Protection Obligations), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims (the "**DIP Superpriority Claims**") shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, and which DIP Superpriority Claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtor DIP Loan Parties and all proceeds thereof (excluding claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") but including any proceeds or property recovered, unencumbered or otherwise, from Avoidance Actions, whether by judgment, settlement or otherwise ("**Avoidance Proceeds**")) in accordance with the DIP Documents, the Interim Order and this Final Order, subject only to the liens on such property and the Carve Out, and all other property of the Non-Debtor DIP Loan Parties as set forth in this Final Order and the DIP Documents. The DIP Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim Order, this Final Order or any provision hereof or thereof is

vacated, reversed or modified, on appeal or otherwise. The DIP Superpriority Claims shall be *pari passu* in right of payment with one another and senior to the 507(b) Claims (as defined herein), and subordinated to the Carve Out.

8. *DIP Liens*. As security for the DIP Obligations, effective and automatically and properly perfected upon the date of the Interim Order and without the necessity of the execution, recordation or filing by the DIP Loan Parties or any of the DIP Secured Parties of mortgages, security agreements, control agreements, pledge agreements, financing statements, notation of certificates of title for titled goods or other similar documents, instruments, deeds, charges or certificates, or the possession or control by the DIP Agent of, or over, any Collateral, the following valid, binding, continuing, enforceable and non-avoidable security interests and liens (all security interests and liens granted to the DIP Agent, for its benefit and for the benefit of the DIP Secured Parties, pursuant to the Interim Order, this Final Order and the DIP Documents, the "**DIP Liens**") were, by the Interim Order, and hereby are granted to the DIP Agent for its own benefit and the benefit of the DIP Secured Parties (all property identified in clauses (a) through (c) below being collectively referred to as the "**DIP Collateral**"); *provided* that notwithstanding anything herein to the contrary, the DIP Liens shall be (a) subject and junior to the Carve Out in all respects, (b) senior in all respects to the Prepetition Liens and (c) senior in all respects to the Adequate Protection Liens:

(a) *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected first priority senior security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date, is not subject to (i) a valid, perfected and non-avoidable lien or (ii) a valid and non-

avoidable lien in existence as of the Petition Date that is perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, including, without limitation, any and all unencumbered cash of the Debtor DIP Loan Parties (whether maintained with any of the DIP Secured Parties or otherwise) and any investment of cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, goodwill, commercial tort claims and claims that may constitute commercial tort claims (known and unknown), chattel paper, interests in leaseholds, real properties, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, wherever located, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing (the "**Unencumbered Property**"), in each case other than the Avoidance Actions (but, for the avoidance of doubt, "Unencumbered Property" shall include Avoidance Proceeds); *provided that*, the DIP Collateral shall not include any proceeds of Avoidance Actions that are successfully prosecuted against the Prepetition Secured Parties (for the avoidance of doubt for purposes of this proviso, solely in their capacity as Prepetition Secured Parties).

(b) *Liens Priming Certain Prepetition Secured Parties' Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all prepetition and postpetition property of the Debtor DIP Loan Parties subject to the Prepetition Liens, regardless of where located, regardless whether or not any liens on such assets are voided, avoided, invalidated, lapsed or unperfected (the "**Priming Liens**"), which Priming Liens shall prime in all

respects the interests of the Prepetition Secured Parties arising from the current and future liens of the Prepetition Secured Parties (including, without limitation, the Adequate Protection Liens granted to the Prepetition Secured Parties) (the "**Primed Liens**").

(c) *Liens Junior to Certain Other Liens.* Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully perfected security interest in and lien upon all tangible and intangible prepetition and postpetition property of each Debtor DIP Loan Party that is subject to either (i) valid, perfected and non-avoidable senior liens in existence immediately prior to the Petition Date (other than the Primed Liens) or (ii) any valid and non-avoidable senior liens (other than the Primed Liens) in existence immediately prior to the Petition Date that are perfected subsequent to such commencement as permitted by section 546(b) of the Bankruptcy Code, which shall be (x) junior and subordinate to any valid, perfected and non-avoidable liens (other than the Primed Liens) in existence immediately prior to the Petition Date, and (y) any such valid and non-avoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code; *provided* that nothing in the foregoing clauses (i) and (ii) shall limit the rights of the DIP Secured Parties under the DIP Documents to the extent such liens are not permitted thereunder; and

(d) *Liens Senior to Certain Other Liens.* The DIP Liens shall not be (i) subject or subordinate to or made *pari passu* with (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors or their estates under section 551 of the Bankruptcy Code, (B) unless otherwise provided for in the DIP Documents or in this Final Order, any liens or security interests arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental

unit (including any regulatory body), commission, board or court for any liability of the Debtor DIP Loan Parties, or (C) any intercompany or affiliate liens of the Debtor DIP Loan Parties or security interests of the Debtor DIP Loan Parties; or (ii) subordinated to or made *pari passu* with any other lien or security interest under section 363 or 364 of the Bankruptcy Code granted after the date hereof.

9. *Protection of DIP Lenders' Rights.*

(a) So long as there are any DIP Obligations outstanding or the DIP Lenders have any outstanding Commitments (the "**DIP Commitments**") under the DIP Documents, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Loan Documents, the Interim Order or this Final Order, or otherwise seek to exercise or enforce any rights or remedies against the DIP Collateral, including in connection with the Adequate Protection Liens; (ii) be deemed to have consented to any transfer, disposition or sale of, or release of liens on, the DIP Collateral (but not any proceeds of such transfer, disposition or sale to the extent remaining after payment in cash in full of the DIP Obligations and termination of the DIP Commitments), to the extent the transfer, disposition, sale or release is authorized under the DIP Documents; (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral other than as necessary to give effect to this Final Order other than, (x) solely as to this clause (iii), the DIP Agent filing financing statements or other documents to perfect the liens granted pursuant to the Interim Order and this Final Order, or (y) as may be required by applicable state law or foreign law to complete a previously commenced process of perfection or to continue the perfection of valid and non-

avoidable liens or security interests existing as of the Petition Date; and (iv) deliver or cause to be delivered, at the DIP Loan Parties' cost and expense, any termination statements, releases and/or assignments in favor of the DIP Agent or the DIP Secured Parties or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of liens on any portion of the DIP Collateral subject to any sale or court-approved disposition.

(b) To the extent any Prepetition Secured Party has possession of any Prepetition Collateral or DIP Collateral or has control with respect to any Prepetition Collateral or DIP Collateral, or has been noted as secured party on any certificate of title for a titled good constituting Prepetition Collateral or DIP Collateral, then such Prepetition Secured Party shall be deemed to maintain such possession or notation or exercise such control as a gratuitous bailee and/or gratuitous agent for perfection for the benefit of the DIP Agent and the DIP Secured Parties, and such Prepetition Secured Party and the Prepetition Agent shall comply with the instructions of the DIP Agent, acting at the direction of the Requisite DIP Lenders, with respect to the exercise of such control.

(c) Any proceeds of Prepetition Collateral subject to the Primed Liens received by any Prepetition Secured Party, whether in connection with the exercise of any right or remedy (including setoff) relating to the Prepetition Collateral or otherwise received by the Prepetition Agent, shall be segregated and held in trust for the benefit of and forthwith paid over to the DIP Agent for the benefit of the DIP Secured Parties in the same form as received, with any necessary endorsements. The DIP Agent is hereby authorized to make any such endorsements as agent for the Prepetition Agent or any such Prepetition Secured Parties. This authorization is coupled with an interest and is irrevocable.

(d) The Automatic Stay is hereby modified to the extent necessary to permit the DIP Agent (acting at the direction of the Requisite DIP Lenders) (and in the case of the following clause (i), after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent, acting at the direction of the Required Prepetition Lenders) to take any or all of the following actions, at the same or different time, in each case without further order or application of the Court and immediately upon the occurrence of an Event of Default: (i) deliver a notice of an Event of Default to the Debtors; (ii) declare the termination, reduction or restriction of any further DIP Commitment to the extent any such DIP Commitment remains outstanding; (iii) declare the termination of the DIP Documents as to any future liability or obligation of the DIP Agent and the DIP Secured Parties (but, for the avoidance of doubt, without affecting any of the DIP Liens or the DIP Obligations); and (iv) declare all applicable DIP Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are expressly waived by the Debtors (or, in the case of the Prepetition Agent, rescind consent to the use of Prepetition Collateral (including Cash Collateral)). Following the delivery of such notice, the DIP Agent (or, after the DIP Obligations have been indefeasibly paid in full and the DIP Commitments terminated, the Prepetition Agent) may file a motion (the "**Stay Relief Motion**") seeking emergency relief from the Automatic Stay on at least five (5) business days' notice to request a further order of the Court permitting the DIP Agent (or Prepetition Agent, if applicable), whether or not the maturity of any of the DIP Obligations shall have been accelerated, to proceed to protect, enforce and exercise all other rights and remedies provided for in the DIP Documents and under applicable law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in any such DIP

Document or any instrument pursuant to which such DIP Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of any of such DIP Secured Parties. The Debtors shall not object to the fact that the Stay Relief Motion is being heard on such shortened notice. Until such time that the Stay Relief Motion has been adjudicated by the Court the Debtor DIP Loan Parties may use the proceeds of the DIP Facility (to the extent drawn prior to the occurrence of Event of Default) or Cash Collateral to fund operations in accordance with the DIP Credit Agreement and the Approved Budget (subject to permitted variances).

(e) No rights, protections or remedies of the DIP Agent or the DIP Secured Parties granted by the provisions of the Interim Order, this Final Order or the DIP Documents shall be limited, modified or impaired in any way by: (i) any actual or purported withdrawal of the consent of any party to the Debtors' authority to continue to use Cash Collateral; (ii) any actual or purported termination of the Debtors' authority to continue to use Cash Collateral; or (iii) the terms of any other order or stipulation related to the Debtors' continued use of Cash Collateral or the provision of adequate protection to any party.

10. *Limitation on Charging Expenses Against Collateral*. No costs or expenses of administration of the Chapter 11 Cases or any Successor Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral (including Cash Collateral) or Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the DIP Agent or the Prepetition Agent, as applicable, and no consent shall be implied from any other action, inaction or acquiescence by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition

Secured Parties, and nothing contained in the Interim Order or this Final Order shall be deemed to be a consent by the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties to any charge, lien, assessment or claims against the Collateral under section 506(c) of the Bankruptcy Code or otherwise.

11. *No Marshaling*. In no event shall the DIP Agent, the DIP Secured Parties, the Prepetition Agent or the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral, the DIP Obligations, the Prepetition Credit Facility Debt, or the Prepetition Collateral; *provided* that prior to seeking payment of any DIP Claims, DIP Liens, 507(b) Claims or Adequate Protection Liens from Avoidance Proceeds, the DIP Secured Parties and Prepetition Secured Parties shall use reasonable best efforts to first satisfy such claims or liens from all other DIP Collateral. Further, in no event shall the "equities of the case" exception in section 552(b) of the Bankruptcy Code apply to the Prepetition Agent or the Prepetition Secured Parties with respect to proceeds, products, offspring or profits of any Prepetition Collateral.

12. *Payments Free and Clear*. Any and all payments or proceeds remitted to the DIP Agent by, through or on behalf of the DIP Secured Parties pursuant to the provisions of the Interim Order, this Final Order, the DIP Documents or any subsequent order of the Court shall be irrevocable, received free and clear of any claim, charge, assessment or other liability, including without limitation, any claim or charge arising out of or based on, directly or indirectly, sections 506(c) or 552(b) of the Bankruptcy Code, whether asserted or assessed by through or on behalf of the Debtors.

13. *Use of Cash Collateral*. The Debtors are hereby authorized, subject to the terms and conditions of this Final Order, to use all Cash Collateral; *provided* that (a) the Prepetition

Secured Parties are granted the Adequate Protection as hereinafter set forth and (b) except on the terms and conditions of this Final Order, the Debtors shall be enjoined and prohibited from at any times using the Cash Collateral absent further order of the Court.

14. *Disposition of DIP Collateral*. The Debtor DIP Loan Parties shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as otherwise provided for in the DIP Documents or otherwise permitted by an order of the Court.

15. *Adequate Protection of Prepetition Secured Parties*. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1) and 507 of the Bankruptcy Code, to adequate protection of their interests in all Prepetition Collateral (including Cash Collateral) in an amount equal to the aggregate diminution in the value of the Prepetition Secured Parties' interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any diminution resulting from the sale, lease or use by the Debtors of the Prepetition Collateral, the priming of the Prepetition Liens by the DIP Liens pursuant to the DIP Documents, the Interim Order and this Final Order, the payment of any amounts under the Carve Out or pursuant to the Interim Order, this Final Order or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic Stay (the "**Adequate Protection Claims**"); *provided*, that the priming of the Prepetition Liens by the liens securing the DIP Roll-Up Loans (but not, for the avoidance of doubt, the DIP New Money Term Loans) shall not, in and of itself, constitute diminution in value for purposes of determining the amount of the Prepetition Secured Parties' Adequate Protection Claims;. In consideration of the foregoing, the Prepetition Agent, for the benefit of the Prepetition Secured Parties, was, by the Interim Order, and hereby is granted the following as Adequate Protection

for, and to secure repayment of an amount equal to such Adequate Protection Claims, and as an inducement to the Prepetition Secured Parties to consent to the priming of the Prepetition Liens and use of the Prepetition Collateral (including Cash Collateral) (collectively, the "**Adequate Protection Obligations**"):

(a) *Prepetition Adequate Protection Liens*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, was, pursuant to the Interim Order, and hereby is granted (effective and perfected upon the date of the Interim Order and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements or other agreements) in the amount of the Prepetition Secured Parties' Adequate Protection Claims, a valid, perfected replacement security interest in and lien upon all of the DIP Collateral (the "**Adequate Protection Liens**"), in each case subject and subordinate only to (A) the DIP Liens and (B) the Carve Out.

(b) *Section 507(b) Claims*. The Prepetition Agent, for itself and for the benefit of the other Prepetition Secured Parties, is hereby granted, subject to the Carve Out and effective as of the date of the Interim Order, an allowed superpriority administrative expense claim as provided for in section 507(b) of the Bankruptcy Code in the amount of the Prepetition Secured Parties' Adequate Protection Claims, with priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the "**507(b) Claims**") which 507(b) Claims shall have recourse to and be payable from all prepetition and postpetition property of the Debtors and all proceeds thereof (excluding Avoidance Actions, but including Avoidance Proceeds). The 507(b) Claims shall be subject and subordinate only to the Carve Out and the DIP Superpriority Claims; *provided, further* that the 507(b) Claims shall not recover on a priority basis from proceeds of Avoidance

Actions that are successfully prosecuted against the Prepetition Secured Parties (for the avoidance of doubt for purposes of this proviso, solely in their capacity as Prepetition Secured Parties). Except to the extent expressly set forth in this Final Order or the DIP Documents, the Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the 507(b) Claims unless and until the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) have indefeasibly been paid in cash in full and all DIP Commitments have been terminated.

(c) *Prepetition Secured Parties Fees and Expenses*. The Debtor DIP Loan Parties shall provide the Prepetition Agent, for the benefit of the Prepetition Secured Parties, without duplication of fees paid for the benefit of the DIP Secured Parties, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of primary, special and local counsel (in each applicable jurisdiction) and financial advisors to the Prepetition Agent and ad hoc group of Prepetition Lenders, including without limitation (i) Davis Polk & Wardwell LLP, Stroock & Stroock & Lavan LLP, King & Wood Mallesons, Greenhill & Co., LLC, Rapp & Krock, P.C., and any other advisors retained by or on behalf of the ad hoc group of Prepetition Lenders and (ii) Skadden, Arps, Slate, Meagher & Flom LLP as counsel to the Prepetition Agent (the "**Adequate Protection Fees and Expenses**") (and such counsel and advisors, the "**Prepetition Secured Parties Advisors**"), subject to the review procedures set forth in paragraph 19 of this Final Order.

(d) *Adequate Protection Payments.* Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to application of all mandatory prepayments as described in Section 2.13 of the

DIP Credit Agreement to repayment of the Prepetition Secured Obligations in accordance with the priorities set forth in the Prepetition Loan Documents (the "**Adequate Protection Payments**") and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification with respect to such Adequate Protection Payments; *provided* that the application of such mandatory prepayments shall only be permitted upon notice and hearing before the Court, and the rights of the Committee, the Debtors and other parties in interest to argue that such amounts should not be so applied are hereby expressly preserved; *provided further* that any amounts subject to application pursuant to this paragraph 15(d) shall, upon receipt by any DIP Loan Party, be held in a segregated escrow account by the Debtors until the time that such motion regarding the application thereof is resolved, at which time the proceeds shall be applied in accordance with such resolution.

(e) *Milestones*. Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties are hereby entitled to performance of those certain case milestones set forth in Section 5.16 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Milestones**"), and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification of such Adequate Protection Milestones.

(f) *Budget and Financial Covenants.* Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Approved Budget shall continue to be updated in accordance with the terms and conditions of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Budget Requirement**"), (ii) the Prepetition Secured Parties are hereby entitled to performance of those certain financial and other covenants

set forth in Section 6.15 of the DIP Credit Agreement (for such purposes, the "**Adequate Protection Covenants**") and (iii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Budget Requirement or Adequate Protection Covenants.

(g) *Prepetition Secured Parties' Information Rights*. The DIP Loan Parties shall promptly provide the Prepetition Agent, for distribution to the Prepetition Secured Parties (and subject to applicable confidentiality restrictions governing the Prepetition Credit Agreement, including with respect to any "private" side lender database), and the Committee or its professionals (pursuant to a confidentiality agreement or information sharing protocol in form and substance reasonably satisfactory to the Debtors) with all required written financial reporting and other periodic reporting that is required to be provided to the DIP Agent or the DIP Secured Parties under the DIP Documents, including without limitation the reporting required under Sections 5.04, 5.05, 5.06 and 5.07 of the DIP Credit Agreement (the "**Adequate Protection Reporting Requirement**"). Upon indefeasible payment in full of all DIP Obligations and termination of all DIP Commitments, (i) the Prepetition Secured Parties and the Committee shall continue to be entitled hereby to satisfaction of the Adequate Protection Reporting Requirement and (ii) the Required Prepetition Lenders shall constitute the Requisite DIP Lenders for purposes of any amendment, extension, waiver or other modification relating to the Adequate Protection Reporting Requirement.

(h) *Maintenance of Collateral*. The DIP Loan Parties shall continue to maintain and insure the Prepetition Collateral and DIP Collateral in amounts and for the risks, and by the entities, as required under the Prepetition Credit Facilities and the DIP Documents.

(i) *Prepetition Secured Parties' Additional Adequate Protection*. In the event the Debtors file, support, make a written proposal or counterproposal to any party relating to, or take any other similar action in furtherance of (any of the foregoing, a "**Non-Permitted Action**"), a chapter 11 plan, sale process or other restructuring transaction that does not (i) provide for the indefeasible payment on the effective date thereof of all claims on account of the Prepetition Credit Facility Debt in full in cash or (ii) constitute an Approved Restructuring (as defined in the DIP Credit Agreement) (in each case, a "**Non-Permitted Restructuring**"), the Debtors shall provide notice to counsel to the ad hoc group of Prepetition Lenders not less than seven (7) business days before taking such Non-Permitted Action (the "**Non-Permitted Restructuring Notice**"). Upon receipt of a Non-Permitted Restructuring Notice, each of the Prepetition Secured Parties shall have the right to immediately file a Stay Relief Motion on five Business Days' notice seeking to terminate the Debtor DIP Loan Parties' right to use Cash Collateral pursuant to this Final Order (consistent with the procedures set forth in paragraph 9 of this Final Order), and seek authority thereby to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or applicable law.

16. *Reservation of Rights of Prepetition Secured Parties*. Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties and any other parties' holding interests that are secured by Primed Liens; *provided* that the Prepetition Agent, acting on its own behalf or at the direction of the requisite Prepetition Secured Parties, may request further or different adequate protection and the Debtor DIP Loan Parties or any other party in interest may contest any such request.

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

(a) Without in any way limiting the automatically effective perfection of the DIP Liens granted pursuant to paragraph 8 hereof and the Adequate Protection Liens granted pursuant to paragraph 15 hereof, the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties are hereby authorized, but not required, to file or record (and to execute in the name of the DIP Loan Parties and the Prepetition Secured parties (as applicable), as their true and lawful attorneys, with full power of substitution, to the maximum extent permitted by law) financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, including as may be reasonably required or deemed appropriate by the DIP Agent, acting at the direction of the Requisite DIP Lenders, and the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, under applicable local laws, or take possession of or control over cash or securities, or to amend or modify security documents, or enter into, amend or modify intercreditor agreements, or to subordinate existing liens and any other similar action or action in connection therewith or take any other action in order to document, validate and perfect the liens and security interests granted to them hereunder the ("**Perfection Actions**"). Whether or not the DIP Agent, on behalf of the DIP Secured Parties and acting at the direction of the Required DIP Lenders, or the Prepetition Agent, on behalf of the Prepetition Secured Parties and acting at the direction of the Required Prepetition Lenders, shall take such Perfection Actions, the liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of the Interim Order. Upon the request of the DIP Agent, acting at the direction of the Required DIP Lenders, or the Prepetition Agent, acting at the direction of the Required Prepetition Lenders, each of the

Prepetition Secured Parties and the Debtor DIP Loan Parties, without any further consent of any party, and at the sole cost of the Debtors as set forth herein, is authorized (in the case of the Debtor DIP Loan Parties), authorized and directed to use reasonable best efforts to cause (in the case of the Debtors with respect to the Non-Debtor DIP Loan Parties) and directed (in the case of the Prepetition Secured Parties), and such direction is hereby deemed to constitute required direction under the applicable DIP Documents or Prepetition Loan Documents, to take, execute, deliver and file such actions, instruments and agreements (in each case, without representation or warranty of any kind) to enable the DIP Agent to further validate, perfect, preserve and enforce the DIP Liens in all jurisdictions required under the DIP Credit Agreement, including all local law documentation therefor determined to be reasonably necessary by the DIP Agent, acting at the direction of the Required DIP Lenders; *provided*, *however*, that no action need be taken in a foreign jurisdiction that would jeopardize the validity and enforceability of the Prepetition Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. To the extent necessary to effectuate the terms of the Interim Order, this Final Order and the DIP Documents, each of the DIP Agent and the Prepetition Agent hereby is deemed to appoint the other (and deemed to have accepted such appointment) to act as its agent with respect to the Shared Collateral (as defined in the DIP Documents) and under the Common Security Documents (as defined in the DIP Documents) to which they are a party in such capacity, with such powers as are expressly delegated thereto under the DIP Documents and Prepetition Loan Documents (and even if it involves self-contracting and multiple representation to the extent legally possible), together with such other powers as are reasonably incidental thereto.

(b) A certified copy of the Interim Order and/or this final Order may, in the discretion of the DIP Agent, acting at the direction of the Required DIP Lenders, and the

Prepetition Agent, acting at the direction of the Required Prepetition Lenders, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized and directed to accept a certified copy of the Interim Order and/or this Final Order for filing and/or recording, as applicable. The Automatic Stay shall be modified to the extent necessary to permit the DIP Agent and the Prepetition Agent to take all actions, as applicable, referenced in this subparagraph (b) and the immediately preceding subparagraph (a).

18. *Preservation of Rights Granted Under this Final Order.*

(a) Other than the Carve Out and other claims and liens expressly granted by this Final Order, no claim or lien having a priority superior to or *pari passu* with those granted by this Final Order to the DIP Agent and the DIP Secured Parties or the Prepetition Agent and the Prepetition Secured Parties shall be permitted while any of the DIP Obligations or the Adequate Protection Obligations remain outstanding, and, except as otherwise expressly provided in this Final Order, the DIP Liens and the Adequate Protection Liens shall not be: (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code; (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise; (iii) subordinated to or made *pari passu* with any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other domestic or foreign governmental unit (including any regulatory body), commission, board or court for any liability of the DIP Loan Parties; or (iv) subject or junior to any intercompany or affiliate liens or security interests of the DIP Loan Parties.

(b) The occurrence of (i) any Event of Default or (ii) any violation of any of the terms of this Final Order, shall, after notice by the DIP Agent (acting in accordance with the terms of this Final Order) in writing to the Borrower (and, in the case of violation of any terms of this Final Order, and after indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments, notice by the Prepetition Agent acting at the direction of the Required Prepetition Lenders), constitute an event of default under this Final Order (each an "**Event of Default**") and, upon any such Event of Default, interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Credit Agreement. Notwithstanding any order that may be entered dismissing any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code: (A) the DIP Superpriority Claims, the 507(b) Claims, the DIP Liens, and the Adequate Protection Liens, and any claims related to the foregoing, shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all DIP Obligations and Adequate Protection Obligations shall have been paid in full (and that such DIP Superpriority Claims, 507(b) Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest); (B) the other rights granted by this Final Order, including with respect to the Carve Out, shall not be affected; and (C) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this paragraph and otherwise in this Final Order.

(c) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect: (i) the validity, priority or enforceability of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent,

as applicable, of the effective date of such reversal, modification, vacatur or stay; or (ii) the validity, priority or enforceability of the DIP Liens or the Adequate Protection Liens or the Carve Out. Notwithstanding any reversal, modification, vacatur or stay of any use of Cash Collateral, any DIP Obligations, DIP Liens, Adequate Protection Obligations or Adequate Protection Liens incurred by the Debtor DIP Loan Parties to the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties, as the case may be, prior to the actual receipt of written notice by the DIP Agent or the Prepetition Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Final Order, and the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in sections 364(e) and 363(m) of the Bankruptcy Code, this Final Order and the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Obligations, the 507(b) Claims and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Final Order and the DIP Documents and the Carve Out shall survive, and shall not be modified, impaired or discharged by: (i) the entry of an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Chapter 11 Cases or terminating the joint administration of these Chapter 11 Cases or by any other act or omission; (ii) the entry of an order approving the sale of any DIP Collateral pursuant to section 363(b) of the Bankruptcy Code (except to the extent permitted by the DIP Documents);

(iii) the entry of an order confirming a chapter 11 plan in any of the Chapter 11 Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the DIP Loan Parties have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Final Order and the DIP Documents shall continue in these Chapter 11 Cases, in any Successor Cases if these Chapter 11 Cases cease to be jointly administered and in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens and the Adequate Protection Obligations and all other rights and remedies of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties granted by the provisions of this Final Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full in cash, as set forth herein and in the DIP Documents, and the DIP Commitments have been terminated (and in the case of rights and remedies of the Prepetition Agent and Prepetition Secured Parties, shall remain in full force and effect thereafter, subject to the terms of this Final Order), and the Carve Out shall continue in full force and effect.

19. *Payment of Fees and Expenses*. The Fee Letter is hereby approved, and the Debtor DIP Loan Parties are authorized to and shall pay the DIP Fees and Expenses. Subject to the review procedures set forth in this paragraph 19, payment of all DIP Fees and Expenses and Adequate Protection Fees and Expenses shall not be subject to allowance or review by the Court. Professionals for the DIP Secured Parties and the Prepetition Secured Parties shall not be required to comply with the U.S. Trustee fee guidelines, however any time that such professionals seek payment of fees and expenses from the Debtor DIP Loan Parties prior to confirmation of a chapter 11 plan, each professional shall provide summary copies of its invoices (which shall not be required to contain time entries and which may be redacted or modified to

the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of their invoices shall not constitute any waiver of the attorney client privilege or of any benefits of the attorney work product doctrine) to the Debtor DIP Loan Parties, the U.S. Trustee, and counsel to the Committee (together, the "**Review Parties**"). Any objections raised by any Review Party with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) calendar days after the receipt by the Review Parties (the "**Review Period**"). If no written objection is received by 12:00 p.m., prevailing Eastern Time, on the end date of the Review Period, the Debtor DIP Loan Parties shall pay such invoices within three (3) calendar days. If an objection to a professional's invoice is received within the Review Period, the Debtor DIP Loan Parties shall promptly pay the undisputed amount of the invoice and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually. Notwithstanding the foregoing, the Debtor DIP Loan Parties are authorized and directed to pay on the Closing Date the DIP Fees and Expenses and Adequate Protection Fees and Expenses incurred on or prior to such date without the need for any professional engaged by, or on behalf of, the DIP Secured Parties or the Prepetition Secured Parties to first deliver a copy of its invoice or other supporting documentation to the Review Parties (other than the Debtor DIP Loan Parties). No attorney or advisor to the DIP Secured Parties or any Prepetition Secured Party shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Secured Parties in connection with or with respect to the DIP Facility and (ii) Prepetition Secured Parties in

connection or with respect to these matters, are hereby approved in full and shall not be subject to recharacterization, avoidance, subordination, disgorgement or any similar form of recovery by the Debtor DIP Loan Parties or any other person.

20. *Effect of Stipulations on Third Parties.* The Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) in all circumstances and for all purposes. The Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding upon all parties in interest, including, without limitation, any Committee or other statutory or non-statutory committees appointed or formed in the Chapter 11 Cases and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors, in all circumstances and for all purposes unless: (a) such committee or any other party in interest with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so) has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in this paragraph) by no later than (i) the earlier of (x) an order confirming a chapter 11 plan, and (y) July 6, 2020; (ii) any such later date agreed to in writing by the DIP Agent (acting with the direction of the Requisite DIP Lenders) and Prepetition Agent (acting with the direction of the Required Prepetition Lenders); and (iii) any such later date as has been ordered by the Court for cause upon a motion filed and served within any applicable period (the time period established by the foregoing clauses (i)-(iii), the "**Challenge Period**"), (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Credit Facility Debt or the

Prepetition Liens, or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "**Challenges**") against the Prepetition Secured Parties or their respective subsidiaries, affiliates, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (each, a "**Representative**" and, collectively, the "**Representatives**") in connection with matters related to the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral (*provided* that in the event that the Committee files a motion seeking standing to pursue a Challenge prior to the end of the Challenge Period, the Challenge Period shall be extended, solely with respect to the Challenges for which the Committee seeks standing as set forth in a reasonably detailed complaint attached to such motion, to two business days after entry of a final, non-appealable order granting or denying such motion, and solely with respect to the Challenges that the Committee is granted standing to pursue by such order); and (b) there is a final non-appealable order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter; *provided*, *however*, that any pleadings filed in connection with any Challenge shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Challenge Period shall be deemed forever, waived, released and barred. If no such Challenge is timely and properly filed during the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding then: (1) the Debtors' stipulations, admissions, agreements and releases contained in this Final Order shall be binding on all parties in interest, including, without

limitation, the Committee; (2) the obligations of the Debtor DIP Loan Parties under the Prepetition Loan Documents, including the Prepetition Credit Facility Debt, shall constitute allowed claims not subject to defense, claim, counterclaim, recharacterization, subordination, recoupment, offset or avoidance, for all purposes in the Chapter 11 Cases, and any subsequent chapter 7 case(s); (3) the Prepetition Liens on the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, security interests and liens, not subject to recharacterization, subordination, avoidance or other defense; and (4) the Prepetition Credit Facility Debt and the Prepetition Liens on the Prepetition Collateral shall not be subject to any other or further claim or challenge by the Committee or any other statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party in interest acting or seeking to act on behalf of the Debtor DIP Loan Parties' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors) and any defenses, claims, causes of action, counterclaims and offsets by any statutory or non-statutory committees appointed or formed in the Chapter 11 Cases or any other party acting or seeking to act on behalf of the Debtors' estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 trustee or chapter 11 trustee or examiner appointed or elected for any of the Debtors), whether arising under the Bankruptcy Code or otherwise, against any of the Prepetition Secured Parties and their Representatives arising out of or relating to any of the Prepetition Loan Documents, the Prepetition Credit Facility Debt, the Prepetition Liens and the Prepetition Collateral shall be deemed forever waived, released and barred. If any such Challenge is timely filed during the Challenge Period, the stipulations, admissions, agreements and releases contained in this Final Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this

paragraph) on the Committee or any other statutory or non-statutory committee appointed or formed in the Chapter 11 Cases and on any other person or entity, except to the extent that such stipulations, admissions, agreements and releases were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction. Nothing in the Interim Order or this Final Order vests or confers on any Person (as defined in the Bankruptcy Code), including the Committee or any other statutory or non-statutory committees appointed or formed in these Chapter 11 Cases, standing or authority to pursue any claim or cause of action belonging to the Debtors or their estates, including, without limitation, Challenges with respect to the Prepetition Loan Documents, the Prepetition Credit Facility Debt or the Prepetition Liens, and any ruling on standing, if appealed, shall not stay or otherwise delay the Chapter 11 Cases or confirmation of any plan of reorganization.

21. *Limitation on Use of DIP Financing Proceeds and Collateral*. Notwithstanding any other provision of the Interim Order, this Final Order or any other order entered by the Court, no DIP Loans, DIP Collateral, Prepetition Collateral (including Cash Collateral) or any portion of the Carve Out, may be used directly or indirectly, (a) in connection with the investigation, threatened initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation (i) against any of the DIP Secured Parties, or the Prepetition Secured Parties, or their respective predecessors-in-interest, agents, affiliates, representatives, attorneys, or advisors, in each case in their respective capacity as such, or any action purporting to do the foregoing in respect of the DIP Obligations, DIP Liens, DIP Superpriority Claims, Prepetition Credit Facility Debt, and/or the Adequate Protection Obligations and Adequate Protection Liens granted to the Prepetition Secured Parties, as applicable, or (ii) challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset with respect to the

DIP Obligations, the Prepetition Credit Facility Debt and/or the liens, claims, rights, or security interests securing or supporting the DIP Obligations granted under the Interim Order, this Final Order, the DIP Documents or the Prepetition Loan Documents in respect of the Prepetition Credit Facility Debt, including, in the case of each (i) and (ii), without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise (*provided* that, notwithstanding anything to the contrary herein, the proceeds of the DIP Loans and/or DIP Collateral (including Cash Collateral) may be used by any Committee to investigate but not to prosecute (A) the claims and liens of the Prepetition Secured Parties and (B) potential claims, counterclaims, causes of action or defenses against the Prepetition Secured Parties (together, the "**Investigation**"), up to an aggregate cap of no more than $250,000 (the "**Investigation Budget**"), (b) to prevent, hinder, or otherwise delay or interfere with the Prepetition Agent's, the Prepetition Secured Parties', the DIP Agent's, or the DIP Secured Parties', as applicable, enforcement or realization on the Prepetition Credit Facility Debt, Prepetition Collateral, DIP Obligations, DIP Collateral, and the liens, claims and rights granted to such parties under the Interim Order or this Final Order, as applicable, each in accordance with the DIP Documents, the Prepetition Loan Documents or this Final Order; (c) to seek to modify any of the rights and remedies granted to the Prepetition Agent, the Prepetition Secured Parties, the DIP Agent, or the DIP Secured Parties under this Final Order, the Prepetition Secured Debt Documents or the DIP Documents, as applicable; (d) to apply to the Court for authority to approve superpriority claims or grant liens (other than the liens permitted pursuant to the DIP Documents) or security interests in the DIP Collateral or any portion thereof that are senior to, or on parity with, the DIP Liens, DIP Superpriority Claims, Adequate Protection Liens and 507(b) Claims granted to the Prepetition Secured Parties; or (e) to pay or to

seek to pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved or authorized by the Court, agreed to in writing by the DIP Lenders, expressly permitted under this Final Order or permitted under the DIP Documents (including the Approved Budget, subject to permitted variances), in each case unless all DIP Obligations, Prepetition Credit Facility Debt, Adequate Protection Obligations, and claims granted to the DIP Agent, DIP Secured Parties, Prepetition Agent and Prepetition Secured Parties under this Final Order, have been refinanced or paid in full in cash (including the cash collateralization of any letters of credit) or otherwise agreed to in writing by the DIP Secured Parties. For the avoidance of doubt, this paragraph 21 shall not limit the Debtors' right to use DIP Collateral to contest that an Event of Default has occurred hereunder pursuant to and consistent with paragraph 9(d) of this Final Order.

22. *Final Order Governs*. In the event of any inconsistency between the provisions of the Interim Order, this Final Order and the DIP Documents (including, but not limited to, with respect to the Adequate Protection Obligations) or any other order entered by this Court, the provisions of this Final Order shall govern. Notwithstanding anything to the contrary in any other order entered by this Court, any payment made pursuant to any authorization contained in any other order entered by this Court shall be consistent with and subject to the requirements set forth in this Final Order and the DIP Documents, including, without limitation, the Approved Budget (subject to permitted variances).

23. *Binding Effect; Successors and Assigns*. The DIP Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties, the Committee or any other statutory or

non-statutory committees appointed or formed in these Chapter 11 Cases, the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, the Prepetition Secured Parties and the Debtors and their respective successors and assigns; *provided* that the DIP Agent, the DIP Secured Parties, the Prepetition Agent and the Prepetition Secured Parties shall have no obligation to permit the use of the Prepetition Collateral (including Cash Collateral) by, or to extend any financing to, any chapter 7 trustee, chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

24. *Exculpation*. Nothing in the Interim Order, this Final Order, the DIP Documents, the Prepetition Loan Documents or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Secured Party or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the Debtors in the operation of their businesses, or in connection with their restructuring efforts. The DIP Secured Parties and Prepetition Secured Parties shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the DIP Collateral or Prepetition Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person and (b) all risk of loss, damage or destruction of the DIP Collateral or Prepetition Collateral shall be borne by the Debtors.

25. *Limitation of Liability*. In determining to make any loan or other extension of credit under the DIP Documents, to permit the use of the DIP Collateral or Prepetition Collateral (including Cash Collateral) or in exercising any rights or remedies as and when permitted pursuant to this Final Order or the DIP Documents or Prepetition Loan Documents, none of the DIP Secured Parties or Prepetition Secured Parties shall (a) have any liability to any third party or be deemed to be in "control" of the operations of the Debtors; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; or (c) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" or "managing agent" with respect to the operation or management of any of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, as amended, or any other federal or state statute, including the Internal Revenue Code). Furthermore, nothing in this Final Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Agent, DIP Secured Parties, Prepetition Agent or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

26. *Master Proof of Claim*. The Prepetition Agent, and/or any other Prepetition Secured Parties shall not be required to file proofs of claim in the Chapter 11 Cases or any Successor Case in order to assert claims on behalf of themselves or the Prepetition Secured Parties for payment of the Prepetition Credit Facility Debt arising under the Prepetition Loan Documents, including, without limitation, any principal, unpaid interest, fees, expenses and other amounts under the Prepetition Loan Documents. The statements of claim in respect of such indebtedness set forth in this Final Order, together with any evidence accompanying the

DIP Motion and presented at the Hearings, are deemed sufficient to and do constitute proofs of claim in respect of such debt and such secured status. However, in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, the Prepetition Agent is authorized, but not directed or required, to file in the Debtors' lead chapter 11 case *In re Speedcast International Limited*, Case No. 20-32243 (MI), a master proof of claim on behalf of its respective Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Loan Documents and hereunder (each, a "**Master Proof of Claim**") against each of the Debtors. Upon the filing of a Master Proof of Claim by the Prepetition Agent, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Loan Documents, and the claim of each applicable Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if it had filed a separate proof of claim in each of these Chapter 11 Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among the holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 26 and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Chapter 11 Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition

Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the Prepetition Agent. The DIP Agent and the DIP Secured Parties shall similarly not be required to file proofs of claim with respect to their DIP Obligations under the DIP Documents, and the evidence presented with the DIP Motion and the record established at the Hearings are deemed sufficient to, and do, constitute proofs of claim with respect to their obligations, secured status, and priority.

27. *Forbearance of the Prepetition Secured Parties*. Except as expressly permitted pursuant to the terms of this Final Order, the Prepetition Secured Parties shall not (i) exercise any rights or remedies with respect to any Prepetition Liens or Prepetition Collateral, (ii) enforce or pursue an event of default or other breach under any Prepetition Loan Document, or (iii) assert any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any Prepetition Obligations; *provided* that, following (x) payment in full of the DIP Obligations and termination of the DIP Commitments, (y) the occurrence of any Event of Default or other violation of the terms of this Final Order and (z) five (5) business days' notice delivered to the Debtors and the Committee or counsel thereto (which may be delivered via email) the (i) the forbearance set forth in this paragraph 27 shall be of no further force or effect, and (ii) the Prepetition Secured Parties shall be permitted to rescind any consent given under the Interim Order or this Final Order regarding the use of Prepetition Collateral (including Cash Collateral) and file a Stay Relief Motion (consistent with the procedures set forth in paragraph 9 of this Final Order and which Stay Relief Motion may, for the avoidance of doubt, be filed immediately upon the occurrence of the conditions set forth in clauses (x) and (y) of this paragraph 27) seeking authority to proceed to protect, enforce and exercise all other rights and remedies provided under the Prepetition Loan Documents or

applicable law; *provided* that (i) for the avoidance of doubt, no Stay Relief Motion shall be required to be filed with respect to any non-Debtor and (ii) with respect to any Government Business Subsidiary (as defined in the DIP Credit Agreement), the condition set forth in clause (z) of this paragraph 27 shall not apply, or to the extent commenced shall immediately terminate without notice or otherwise, as a result of (I) any Default or Event of Default under the Prepetition Credit Agreement (including as a result of an Event of Default under Sections 7.01(g), (h) or (i)), that occurs as a result of any act or omission by any Government Business Subsidiary or (II) the seeking of any legal action or request for relief in connection with the Prepetition Obligations by any Government Business Subsidiary from any Governmental Authority (as defined in the Prepetition Credit Agreement) other than the Bankruptcy Court); *provided* that the each of the Debtors and the Prepetition Agent shall provide counsel to the Committee with notice (which shall include email) of the existence of any event or condition described in clauses (I) or (II) of this paragraph as soon as reasonably practicable after having or receiving actual knowledge thereof.

28. *ING ISDA.* Prior to the Petition Date, SpeedCast International Limited entered into that certain ISDA 2002 Master Agreement, dated as of May 15, 2018 (as amended, supplemented, or otherwise modified as of the Petition Date, together with any schedules thereto and confirmations thereunder (the "**ISDA Master Agreement**"), and together with all security, pledge, and guaranty agreements and all other documentation executed in connection with any of the foregoing, the "**ING Swap Documents**"), pursuant to which SpeedCast International Limited owes to ING Bank N.V. ("**ING**") certain secured swap obligations (together with accrued and unpaid interest thereon and unpaid fees, expenses, disbursements, indemnifications, obligations, and charges or claims of whatever nature (including attorneys' fees), in each case, whether or not

contingent, whenever arising, due or owing pursuant to the terms of the ING Swap Documents or applicable law under each Transaction (as such term is defined in the ING Swap Documents) (collectively, the "**ING Swap Obligations**")). To resolve any and all objections that may be raised by ING to the DIP Motion or the DIP Facility, upon entry of this Final Order, and subject to the conditions set forth in this paragraph 28, the ING Swap Documents will be terminated (including a designation by ING of an Early Termination Date thereunder as of May 21, 2020) with the consent of each of the Debtors and ING; provided, that notwithstanding anything in this Final Order to the contrary, nothing in this Final Order shall prevent, hinder or otherwise limit ING's ability to (i) submit a calculation or similar statement to the Debtors setting forth ING's determination of the Early Termination Amount (calculated in accordance with Section 6(e)(i) of the ISDA Master Agreement, and which such Early Termination Amount shall, solely for the purposes of Section 6(d)(ii) of the ISDA Master Agreement, be payable on the day on which the calculation or similar statement is submitted by ING to the Debtors) and the amount of the ING Swap Obligations owed (or payable, as appropriate) under the ING Swap Documents in connection with such Early Termination Date (including, without limitation, interest payable on the Early Termination Amount in accordance with Section 9(h)(ii)(2) of the ISDA Master Agreement and any other amounts due and payable in accordance with the terms and conditions of the ING Swap Documents), and/or (ii) file a proof of claim (any such proof of claim, an "**ING Proof of Claim**") in the Chapter 11 Cases for any amount of the ING Swap Obligations owed under the ING Swap Documents in connection with such Early Termination Date (including, without limitation, interest payable on the Early Termination Amount in accordance with Section 9(h)(ii)(2) of the ISDA Master Agreement and any other amounts due and payable in accordance with the terms and conditions of the ING Swap Documents); provided, further, that the rights of

the Debtors and any other party in interest to object to any ING Proof of Claim on any grounds are hereby expressly preserved; provided, further that except as provided in this paragraph, the forbearance provisions set forth in this Final Order and the Automatic Stay (as and to the extent set forth in, as applicable, this Final Order, including paragraph 27 hereof, and the Bankruptcy Code, but, for avoidance of doubt, subject to the applicable terms and conditions of such forbearance provisions set forth in this Final Order) shall be of full force and effect against ING, and ING shall not be permitted to exercise any rights or remedies other than those described in clauses (i) and (ii) of this paragraph, whether pursuant to this Final Order and the terms and conditions of the ING Swap Documents or otherwise permitted under the Prepetition Loan Documents, including (x) taking action to setoff, foreclose upon, or recover in connection with, the liens granted pursuant to or in connection with the ING Swap Documents, or otherwise seek to exercise or enforce any netting, setoff or other rights or remedies under the ING Swap Documents (other than those set forth in Section 6 of the ISDA Master Agreement for purposes of determining the Early Termination Amount) or against any Prepetition Collateral, DIP Collateral or other property of the DIP Loan Parties, Prepetition Borrowers or Prepetition Guarantors, (y) enforcing or pursuing an event of default, termination event or other breach under the ING Swap Documents, or (z) asserting any demand for payment of any kind whatsoever, in each case with respect to any Debtor or Non-Debtor DIP Loan Party on account of any obligations under the ING Swap Documents; provided, further that nothing in this Final Order shall affect or otherwise limit ING's right to vote on, object to, or otherwise respond in any way to any plan filed in these Cases in connection with the ING Swap Obligations; provided, further that, notwithstanding the foregoing, in determining the Early Termination Amount (as defined under the ISDA Master Agreement), no effect shall be given to any rights of setoff with

respect to any agreements or arrangements other than Transactions under and as defined in the ISDA Master Agreement.

29. *Texas Tax Liens*. Notwithstanding any provisions of the Motion, the Interim Order, this Final Order, or the other DIP Documents, any valid, binding, perfected, enforceable, and non-avoidable liens currently held by the Texas Taxing Authorities[7] for state or local taxes on any DIP Collateral that under applicable non-bankruptcy law are granted priority over a prior perfected security interest or lien (the "**Texas Tax Liens**") shall neither be primed by nor subordinated to any DIP Liens or Adequate Protection Liens granted under the Interim Order or this Final Order, and the Texas Tax Liens shall attach to any proceeds of any sale of DIP Collateral subject to the Texas Tax Liens in accordance with such priority. All parties' rights (a) to object to the priority, validity, amount, and extent of the claims and liens, including any Texas Tax Liens, asserted by the Texas Taxing Authorities and (b) with respect to any rights of the Texas Taxing Authorities to request an ad valorem tax reserve from the proceeds of the sale of any DIP Collateral that is secured by the Texas Tax Liens are fully preserved.

30. *Intercompany Transfers*. The Debtors shall provide not less than two (2) business days' notice to counsel to the Creditors' Committee prior to (i) any DIP Loan Party making any investment in any Subsidiary that is not a DIP Loan Party (including any Guarantees by any DIP Loan Party of any Indebtedness or other obligations of any Subsidiary that is not a DIP Loan Party and any loans and advances made by any DIP Loan Party to any Subsidiary that is not a DIP Loan Party) (each, as defined in the DIP Credit Agreement) to the extent that the aggregate

[7] For purposes of this Final Order, the term "Texas Taxing Authorities" shall refer to Bexar County, Cleveland ISD, Culberson Co – Allamoore ISD, Culberson County, Dallas County, Harris County, Hidalgo Country Hood CAD, Jasper County, Jim Wells CAD, City of McAllen, Nueces County, Parker CAD, Rio Grande City CISD, Smith County, Starr Country, Tarrant Country, Victoria County, Midland County, Cooke County, Alvarado Independent School District, Johnson County, Zavalla Independent School District, Tyler Independent School District, and Brazoria County Tax Office.

of all such investments outstanding would exceed $500,000; (ii) entering into any agreement with respect to Section 6.04(c)(ii) of the DIP Credit Agreement to increase, waive or otherwise modify the $500,000 investment threshold set forth therein; or (iii) the addition or removal of any entity as a Non-Debtor DIP Loan Party.

31. *Insurance*. To the extent that the Prepetition Agent is listed as loss payee under the Borrower's or DIP Guarantors' insurance policies, the DIP Agent is also deemed to be the loss payee under the insurance policies and shall act in that capacity and distribute any proceeds recovered or received in respect of the insurance policies, to the indefeasible payment in full of the DIP Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and termination of the DIP Commitments, and to the payment of the applicable Prepetition Credit Facility Debt.

32. *Credit Bidding*. (a) The DIP Agent shall have the right to credit bid, in accordance with the DIP Documents, up to the full amount of the DIP Obligations in any sale of the DIP Collateral and (b) the Prepetition Agent shall have the right, consistent with the provisions of the Prepetition Loan Documents (and providing for the DIP Obligations to be indefeasibly repaid in full in cash and the termination of the DIP Commitments), to credit bid up to the full amount of the Prepetition Credit Agreement Debt, in each case as and to the extent provided for in section 363(k) of the Bankruptcy Code, without the need for further Court order authorizing the same and whether any such sale is effectuated through section 363(k) or 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or otherwise, in each case unless the Court for cause orders otherwise.

33. *Effectiveness*. This Final Order shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052 and shall take effect and be fully enforceable

nunc pro tunc to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any Local Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

34. *Modification of DIP Documents and Approved Budget*. The Debtors are hereby authorized, without further order of this Court, to enter into agreements with the DIP Secured Parties (or the Prepetition Secured Parties after the indefeasible payment in full of the DIP Obligations and termination of the DIP Commitments) providing for any consensual non-material modifications to the Approved Budget or the DIP Documents, or of any other modifications to the DIP Documents necessary to conform the terms of the DIP Documents to this Final Order, in each case consistent with the amendment provisions of the DIP Documents; *provided*, *however*, that notice of any material modification or amendment to the DIP Documents shall be provided to the U.S. Trustee, the Committee and any other statutory committee which shall have five (5) days from the date of such notice within which to object, in writing, to the modification or amendment. If the U.S. Trustee, the Committee or any other statutory committee timely objects to any material modification or amendment to the DIP Documents, the modification or amendment shall only be permitted pursuant to an order of the Court. The foregoing shall be without prejudice to the Debtors' right to seek approval from the Court of a material modification on an expedited basis.

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

36. *Payments Held in Trust*. Except as expressly permitted in this Final Order or the DIP Documents and except with respect to the DIP Loan Parties, in the event that any person or entity receives any payment on account of a security interest in DIP Collateral, receives any DIP Collateral or any proceeds of DIP Collateral or receives any other payment with respect thereto from any other source prior to indefeasible payment in full in cash of all DIP Obligations and termination of all DIP Commitments, such person or entity shall be deemed to have received, and shall hold, any such payment or proceeds of DIP Collateral in trust for the benefit of the DIP Agent and the DIP Secured Parties and shall immediately turn over the proceeds to the DIP Agent, or as otherwise instructed by this Court, for application in accordance with the DIP Documents and this Final Order.

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

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

39. *Necessary Action*. The Debtors, the DIP Secured Parties and the Prepetition Secured Parties are authorized to take all actions as are necessary or appropriate to implement the terms of this Final Order. In addition, the Automatic Stay is modified to permit affiliates of the Debtors who are not debtors in these Chapter 11 cases to take all actions as are necessary or appropriate to implement the terms of this Final Order.

40. *Interim Order*. Except as specifically amended or otherwise modified hereby, all of the provisions of the Interim Order and any actions taken by the Debtors, the DIP Secured Parties or the Prepetition Secured Parties (including, without limitation, the DIP Agent and the

Prepetition Agent) in accordance therewith shall remain in effect and are hereby ratified by this Final Order.

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

42. The Debtors shall serve this order in accordance with all applicable rules and orders and shall file a certificate of service evidencing compliance therewith.

Signed: May 20, 2020

Marvin Isgur
United States Bankruptcy Judge

CERTIFICATE OF SERVICE

In accordance with the Federal Rules of Civil Procedure, I hereby certify that a true and correct copy of the Appendix was served on the following counsel of record via electronically and mail on the 2nd day of July, 2020:

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