Docket #0017 Date Filed: 2/16/2026

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC.[1]	Case No. 26-60110 (WAK)
Debtor.	

MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION PURSUANT TO SECTIONS 105, 362, 363, 503, 507 AND 552 OF THE BANKRUPTCY CODE, BANKRUPTCY RULES 2002, 4001, 6004 AND 9014 AND LOCAL RULES 2002-1, 4001-2 AND 9013-1 FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO OBTAIN POSTPETITION FINANCING, (II) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING AND (V) GRANTING RELATED RELIEF

The above-captioned debtor and debtor in possession (the "Debtor"), pursuant to sections 105, 362, 363, 503, 507 and 552 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 4001-2 and 9013-1 of the Local Rules of Procedure of the United States Bankruptcy Court for the Northern District of New York (the "Local Rules"), hereby moves (the "Motion") for entry of interim and final orders: (a) authorizing the Debtor to obtain senior secured postpetition financing; (b) granting liens and providing superpriority claims with respect to such postpetition financing; (c) modifying the automatic stay to the extent necessary to effectuate the terms of the DIP Financing Orders (as defined below)[2]; (d) scheduling a final hearing to consider entry of the Final Order

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

[2] The proposed Interim Order (as defined herein) is attached hereto as Exhibit A.

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(as defined below); and (e) granting related relief in connection with the DIP Financing (as defined below). In support of the Motion, the Debtor respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. On the Petition Date,[3] the Debtor commenced a case under chapter 11 of the Bankruptcy Code (the "Chapter 11 Case"). The Debtor is authorized to continue to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtor is a global supplier of mineral products, operating mines and processing facilities in six different states. The Debtor mines bentonite clay, kaolin clay, pyrophyllite and wollastonite and processes and sells products used in industrial applications (e.g., construction coatings, ceramics and refractories) and life sciences (e.g., pharmaceuticals, personal care, animal care, agriculture and horticulture). Prior to 2008, a predecessor in interest to the Debtor mined and sold talc for use in industrial applications, which is the source of the litigation and judgments that have led to the commencement of the Chapter 11 Case.

4. Concurrently with the filing of the Motion, the Debtor has also filed the Bidding Procedures Motion by which the Debtor seeks to sell substantially all of its assets to one or more bidders through an in-court sale process.

[3] Capitalized terms otherwise undefined herein shall have the meanings ascribed to them in the First Day Declaration (as defined below).

5. Also concurrently with the filing of this Motion, the Debtor has filed the Settlement Motion, pursuant to which the Debtor seeks authority to enter into the Settlement Agreement with certain of its non-debtor affiliates.

6. A comprehensive description of the Debtor's business and operations, capital structure and the events leading to the commencement of the Chapter 11 Case can be found in the *Declaration of Dean Vomero, Chief Restructuring Officer of Vanderbilt Minerals, LLC, in Support of First Day Motions of Debtor and Debtor in Possession* (the "First Day Declaration"), which was filed contemporaneously herewith and is incorporated by reference.

7. In further support of the Motion, contemporaneously herewith, the Debtor has filed the *Declaration of Eric Mendelsohn in Support of the Bidding Procedures and DIP Financing Motions* (the "Mendelsohn Declaration") as well as the *Declaration of Dean Vomero in Support of the Bidding Procedures and DIP Financing Motions* (the "Vomero Sale and Financing Declaration").

8. The relief sought by this Motion is one of three intertwined elements to the successful resolution of the Chapter 11 Case. In order to maximize the value of the Debtor's assets for the benefit of its economic stakeholders, the Debtor must supplement its assets as of the Petition Date with certain assets currently owned by its non-debtor affiliates (the "Settlement Assets"). The Settlement Assets can only come into the Debtor's estate via the Settlement Agreement, which the Debtor has simultaneously sought approval of through the filing of the Settlement Motion. Further, it is a condition precedent to the Debtor's proposed postpetition lender's obligation to fund the full amount under the DIP Financing (as defined below) for such

lender to be given recourse to the Settlement Assets.[4] While the Debtor does not request that this Court approve the Settlement Agreement, the Bidding Procedures or the DIP Financing (on a final basis) on day one of the Chapter 11 Case, each of the three sets of relief will, ultimately, be necessary to maximize the value of the Debtor's estate for the benefit of all stakeholders.

Relief Requested

9. To operate its business, preserve value and successfully consummate the sale of the Debtor's assets through one or more asset sales, the Debtor requires access to the proposed DIP Financing. The DIP Financing will provide the Debtor with the necessary funding to (a) continue the day-to-day operations of its business, (b) preserve critical relationships with its employees, vendors and customers, (c) continue to market its assets in a manner designed to preserve value for the benefit of all stakeholders and (d) pay the costs and expenses associated with the Chapter 11 Case. In addition, the DIP Financing in particular signals to the Debtor's vendors, customers and employees that the Debtor will be able to continue to meet its commitments during the Chapter 11 Case. The DIP Financing provides the Debtor with its best available opportunity to maintain its current operations and implement a successful, orderly sale process for the benefit of its stakeholders.

10. The Debtor seeks authorization to obtain postpetition financing pursuant to the terms set forth in (a) this Motion; (b) that certain *Senior Secured Debtor-In-Possession Term Loan Agreement* (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "DIP Financing Agreement"), by and among the Debtor, as borrower, Commodore Material Funding, LLC, as agent on behalf of the DIP Lenders (in such

[4] For the avoidance of doubt, the entry of the Settlement Order is not a condition precedent to the Debtor's ability to access the Interim DIP Financing Commitment Amount (as defined below).

capacity, the "DIP Agent"), and the lenders party thereto from time to time (the "DIP Lenders," and together with the DIP Agent, the "DIP Secured Parties"), attached as Exhibit 2 to the Interim Order; (c) the order granting this Motion on an interim basis (the "Interim Order"); and (d) after a final hearing, the order granting the Motion on a final basis (the "Final Order" and together with the Interim Order, the "DIP Financing Orders"). The Debtor anticipates that it will access the DIP Financing immediately upon the entry of, and on the terms set forth in, the Interim Order.

11. Accordingly, by this Motion, the Debtor seeks entry of the DIP Financing Orders:

a. DIP Financing – authorizing the Debtor to obtain senior secured priming postpetition financing (the "DIP Financing") in a total amount up to $15,000,000, consisting of (a) on an interim basis up to an aggregate principal amount not to exceed $6,500,000 (the "Interim DIP Financing Commitment Amount"), and (b) subject to entry of a Final Order, on a final basis up to an aggregate principal amount not to exceed $8,500,000 (the "Final DIP Financing Commitment Amount" and together with the Interim DIP Financing Commitment Amount, the "DIP Financing Commitment Amount"), pursuant to the terms and conditions of the DIP Financing Orders and the DIP Financing Agreement;

b. DIP Financing Documents – approving the terms of and authorizing the Debtor to execute and deliver the DIP Financing Agreement and any other agreements, instruments, and documents related thereto (the "DIP Financing Documents"), which shall be on terms consistent with the terms set forth in the DIP Financing Agreement and otherwise in form and substance acceptable to the DIP Lenders (or as otherwise provided in the DIP Financing Documents) to perform such other acts as may be necessary or desirable in connection with the DIP Financing Documents;

c. Use of Proceeds – authorizing the Debtor to use the proceeds of loans made by the DIP Lenders as permitted in the DIP Financing Documents, in accordance with the Interim Order;

d. Grant of DIP Lender Superpriority Claims – authorizing the granting of superpriority claims under section 364(c)(1) of the Bankruptcy Code to the DIP Lenders payable from, and having recourse to, all prepetition and postpetition property of the Debtor's

estate and all proceeds thereof, subject to the Carve-Out (as defined below);

e. DIP Financing Charges – authorizing, on the terms set forth in the Interim Order, the Debtor to pay the fees, charges and other amounts payable under the DIP Financing Documents as such become earned, due and payable;

f. Automatic Stay – modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Financing Documents and the DIP Financing Orders and, subject to the limitations contained in the DIP Financing Agreement and DIP Financing Orders, to permit the DIP Lenders to exercise remedies in the event of an uncured Event of Default under the DIP Financing Documents;

g. Interim Hearing – pursuant to Bankruptcy Rule 4001, that an interim hearing (the "Interim Hearing") on the Motion be held before this Court to consider entry of the Interim Order granting the relief requested herein on an interim basis;

h. Final Hearing – scheduling a final hearing (the "Final Hearing") to consider entry of the Final Order granting the relief requested in this Motion on a final basis; and

i. Other Relief – granting the other relief set forth in the DIP Financing Orders.

Facts Relevant to This Motion

I. The Debtor's Immediate Need for Access to the DIP Financing

12. After determining that the commencement of the Chapter 11 Case was the only viable alternative to continue to operate its business and conduct an orderly sale of its assets in value maximizing transactions, the Debtor began to explore its options to obtain postpetition financing. See Mendelsohn Decl. ¶¶ 12–13; Vomero Sale and Financing Decl. ¶¶ 8–9. The Debtor, through its investment banker, Greenhill & Co., LLC ("Greenhill"), performed a comprehensive market search to obtain alternative financing. See Mendelsohn Decl. ¶¶ 14–17. No third party, however, was willing to provide unsecured financing to the Debtor. Id.

13. In parallel to the efforts to obtain third-party postpetition financing, the Debtor, with the assistance of Greenhill and its other advisors, also engaged in extensive arm's-length negotiations with the DIP Lenders regarding the terms of potential postpetition financing. Id. These extensive, arm's-length and good faith negotiations ultimately culminated in the terms embodied in the DIP Financing Agreement and the Interim Order. Id.

14. The DIP Financing consists of a senior secured superiority credit facility up to $15,000,000 provided by the DIP Lenders, who are also the proposed Stalking Horse Bidder for the Debtor's assets. Borrowings under the DIP Financing will be secured by a first priority lien on substantially all of the Debtor's assets, which are currently unencumbered by any secured funded debt, as well as the ability during an event of default to exercise a call right to the assets the Debtor is proposed to receive under the Settlement Agreement. The DIP Financing, coupled with cash flow from operations, will permit the Debtor to fund its business through a controlled and orderly sale process. See Mendelsohn Decl. ¶¶ 37–40; Vomero Sale and Financing Decl. ¶¶ 20–21. Without the funding provided by the DIP Financing, the Debtor would lack sufficient funds to maintain its operations, fund payroll, fund administrative expenses as they come due and continue to operate as a going concern. Vomero Sale and Financing Decl. ¶ 20. The DIP Financing will therefore provide the Debtor with the ability to continue the day-to-day operations of its business, adequately fund the Chapter 11 Case and conduct a robust sale process in a way that maximizes value for all stakeholders. Id.

15. The Debtor has reviewed and analyzed the Debtor's projected cash needs and has prepared a 13-week cash flow forecast showing projected weekly cash receipts and cash disbursements for the Debtor, commencing on February 16, 2026 (the "13-Week Budget") which outlines the Debtor's postpetition cash needs in the initial 13 weeks of the Chapter 11 Case.

The initial 13-Week Budget is attached as Exhibit 1 to the Proposed Interim Order (as such may be revised in accordance with the DIP Financing Documents, the "Approved Budget"). As set forth in the Approved Budget, the Debtor requires immediate funding pursuant to the DIP Financing in order to operate its business and pay its administrative and postpetition expenses, and the Debtor anticipates having to draw the entire Interim DIP Financing Commitment Amount. See Mendelsohn Decl. ¶ 37; Vomero Sale and Financing Decl. ¶¶ 20–21.

16. Thus, the Debtor seeks to borrow the Interim DIP Financing Commitment Amount on an interim basis and the Final DIP Financing Commitment Amount after entry of the Final Order. The Debtor will use these funds to (a) continue the day-to-day operations of its business, (b) complete a robust sale process designed to yield the highest and best bids for the Debtor's assets and (c) adequately fund the Chapter 11 Case. Without the relief requested in the Motion, the Debtor would suffer substantial, irreparable and ongoing harm. The Debtor's need for postpetition financing on the terms set forth in the DIP Financing Agreement and the DIP Financing Orders is immediate and urgent.

II. Principal Terms of the DIP Financing

17. The principal terms of the DIP Financing required to be highlighted or disclosed pursuant to relevant Bankruptcy Rule 4001 and Local Rule 4001-2, are as follows.[5]

REQUIRED DISCLOSURE	MATERIAL TERMS
Parties Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement at Pmbl. Interim Order at Pmbl.	Borrower: Vanderbilt Minerals, LLC DIP Agent: Commodore Material Funding, LLC DIP Lenders: Commodore Material Funding, LLC

[5] Capitalized terms used and not otherwise defined herein have the meanings given to them in the DIP Financing Agreement or the Interim Order, as applicable. This disclosure above is qualified in its entirety by reference to the applicable provisions of the DIP Financing Agreement or the Interim Order, as applicable. To the extent there exists any inconsistency between the disclosure above and the provisions of

REQUIRED DISCLOSURE	MATERIAL TERMS
Commitment Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement at § 1.01 ("Commitments") Interim Order at Pmbl.	On an interim basis, the Interim DIP Financing Commitment Amount (up to an aggregate principal amount not to exceed $6,500,000), and (b) subject to entry of a Final Order, on a final basis, the Final DIP Financing Commitment Amount (up to an aggregate principal amount not to exceed $15,000,000).
Maturity/Termination Date Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement at § 1.01 ("Maturity Date")	The earliest of (a) the Interim Facility Maturity Date, (b) June 16, 2026, (c) the filing of a motion by the Borrower seeking dismissal of the Case, the dismissal of the Case, or the filing of a motion by the Borrower seeking to convert the Case to a case under Chapter 7 of the Bankruptcy Code, (d) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code) of a Reorganization Plan, which for the purposes of this clause (d) shall be no later than the "effective date" of a Reorganization Plan of the Borrower, which has been confirmed by an order entered by the Bankruptcy Court in the Case, (e) the acceleration of the Obligations and the termination of all Commitments hereunder upon the occurrence of an Event of Default in accordance with the Loan Documents and the DIP Orders, (f) [reserved], (g) the consummation of an Alternative Transaction, and (h) the termination of the Stalking Horse APA for any reason other than as a result of a default by the Stalking Horse Bidder
Interest Rate and Premiums Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement § 2.08	The DIP Financing Documents provide that the Loans and the other Obligations shall bear interest on the outstanding principal amount thereof at a rate per annum equal to the Applicable Rate and accrue from the date any Loan is advanced or the Obligation is incurred or payable, until paid by the Borrower. If any amount payable under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Interest accrued on the Loans shall be due and payable in arrears, (i) on the first day of each month beginning with March 1, 2026; (ii) on any date of any voluntary or mandatory prepayment, with respect to the principal amount of the Loan being prepaid; and (iii) on the Maturity Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents. Notwithstanding the foregoing, interest accrued at the Default Rate shall be due and payable on demand, in accordance with the

the DIP Financing Agreement or the Interim Order, the provisions of the DIP Financing Agreement or the Interim Order, as applicable, shall control.

REQUIRED DISCLOSURE	MATERIAL TERMS
	terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law. Interest payable under the DIP Financing Documents shall automatically be paid in kind on each interest payment date specified in the foregoing subsections (a) through (c) by adding the accrued amount thereof to the outstanding principal amount of the Loans, and the amounts so added to principal shall thereafter bear interest in accordance with the DIP Financing Documents. "Applicable Rate" means 7.5% per annum. "Default Rate" means the Applicable Rate plus 2% per annum.
Fees & Expenses Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement §§ 2.09, 10.04(a) Interim Order § I.D	The Borrower shall pay (or cause to be paid) to the Agent, for the ratable benefit of the Lenders in accordance with their Commitments, a non-refundable commitment fee equal to one half percent (0.50%) of the Commitments under the DIP Facility, which shall be fully earned on the Closing Date in kind as set forth in Section 2.08(d) (the "Commitment Fee"). The Borrower shall also pay (or cause to be paid) to the Agent, for the ratable benefit of the Lenders in accordance with their Commitments, a non-refundable exit fee equal to one percent (1.00%) of the Commitments under the DIP Facility (the "Exit Fee"). The Commitment Fee and the Exit Fee shall each be due and payable on the Maturity Date. If the Agent or any Lender successfully "credit bids" all or any portion of the Obligations, or purchases all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles or on behalf of any Lender or designee thereof), such Commitment Fee and Exit Fee shall be applied to such credit bid. The Debtor shall be required to pay or reimburse the DIP Lender for all present and future costs and expenses, including, without limitation, all reasonable and documented professional fees, consultant fees, and legal fees and expenses, and all Credit Party Expenses paid or incurred by the DIP Lender in connection with the financing transactions, regardless of whether such amounts are in the Approved Budget, all of which shall be and are included as part of the principal amount of the Obligations under the DIP Financing Documents and secured by the Collateral. No attorney or advisor to the DIP Lender shall be required to file an application or any other materials in connection with compensation for services or reimbursement of expenses with the Court.

REQUIRED DISCLOSURE	MATERIAL TERMS
Use of Funds and Limitations on Use of Funds Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement § 6.11(a) Interim Order §§ I.C.4, IV.D	The Debtor must use the proceeds of the Loans (i) to pay certain costs, fees and expenses related to this Agreement and the Case, including, but not limited to, depositing estimated Professional Fees into the Professional Fee Escrow and (ii) for working capital and general corporate purposes of the Borrower, in each case in accordance with the Approved Budget, or in a manner constituting a Permitted Variance. Notwithstanding anything to the contrary in the Interim Order, neither the Carve-Out, nor the proceeds of any advances under the DIP Credit Agreement or Collateral shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional in connection with any of the following: (i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief: (a) challenging the legality, validity, priority, perfection, or enforceability of the Obligations or the DIP Lender's liens on and security interests in the Collateral, or the ability to of the DIP Lender to credit bid the Obligations under section 363(k) of the Bankruptcy Code, (b) seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Obligations or the DIP Lender's liens on and security interests in the Collateral, or (c) except for an action permitted by Section VI.B.2 of the Interim Order, preventing, hindering, or delaying the DIP Lender's assertion or enforcement of any lien, claim, right, or security interest or realization upon any Collateral in accordance with the terms and conditions of this Interim Order; (ii) a request for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or (d) of the Bankruptcy Code, other than from the DIP Lender, without the prior written consent of the DIP Lender, unless such other debtor-in-possession financing or financial accommodation is used, in part, to indefeasibly pay and satisfy in full in cash all Obligations owed to the DIP Lender; or (iii) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against the DIP Lender or the Stalking Horse Bidder, or any of their respective officers, directors, employees, agents, attorneys, affiliates, successors, or assigns, including, without limitation, any attempt to avoid any claim, lien, or interest of, or obtain any recovery from the DIP Lender under chapter 5 of the Bankruptcy Code.
Material Conditions to Borrowing – Interim Funding Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement § 4.01	(a) Loan Documents. Receipt by the Agent of executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the Borrower and, in the case of this Agreement, by each Lender.

REQUIRED DISCLOSURE	MATERIAL TERMS
	(b) Organization Documents, Resolutions, Etc. Receipt by the Agent of the following, in form and substance reasonably satisfactory to the Agent: (i) copies of the Organization Documents of the Borrower certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its organization, where applicable, and certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date; (ii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Borrower as the Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents; and (iii) such documents and certifications as the Agent may reasonably require to evidence that the Borrower is duly formed, and is validly existing, in good standing and qualified to engage in business in its state of formation. (c) Perfection and Priority of Liens. Receipt by the Agent of the following: (i) searches of Uniform Commercial Code filings in the jurisdiction of formation of the Borrower or where a filing would need to be made in order to perfect the Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens; (ii) UCC financing statements for each appropriate jurisdiction as is necessary, in the Agent's sole discretion, to perfect the Agent's security interest in the Collateral; (iii) all certificates evidencing any certificated Equity Interests (if any) pledged to the Agent pursuant to the Security Agreement, together with duly executed in blank and undated stock powers attached thereto; (iv) searches of ownership of, and Liens on, intellectual property of the Borrower in the appropriate governmental offices; and (v) duly executed notices of grant of security interest in the form required by the Security Agreement and as are

REQUIRED DISCLOSURE	MATERIAL TERMS
	necessary, in the Agent's reasonable discretion, to perfect the Agent's security interest in the intellectual property of the Borrower. (d) Closing Certificate. Receipt by the Agent of a certificate signed by a Responsible Officer of the Borrower certifying that the conditions specified in Sections 4.01(n) and (o) have been satisfied. (e) Fees. Receipt by the Agent and the Lenders of any fees required to be paid on or before the Closing Date, to the extent invoiced at least two (2) Business Days prior to the Closing Date. (f) Attorney Costs. The Borrower shall have paid all fees, charges and disbursements of counsel to the Agent to the extent invoiced at least two (2) Business Days prior to the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Agent). Such fees, charges and disbursements may be paid directly by the Agent from the proceeds of the Initial Term Loans. (g) Request for Credit Extension. Receipt by the Agent of a Committed Loan Notice in accordance with the requirements hereof with respect to the Initial Term Loans. (h) Insurance. Receipt by the Agent of evidence of insurance required to be maintained herein and otherwise under the other Loan Documents, naming the Agent and the Lenders, as additional insureds and/or lenders loss payees, as applicable. (i) Due Diligence; PATRIOT ACT. The Agent and the Lenders shall have received all documentation and other information required under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, at least three Business Days prior to the requested Borrowing. (j) Collateral Requirement. On or prior to the Closing Date, the Security Agreement and the Interim DIP Order (upon its entry in the Chapter 11 Case), shall be effective to create in favor of the Agent, for the benefit of the holders of the Obligations, a legal, valid and enforceable first priority perfected security interests in and Liens on the Collateral, subject to the Carve-Out. (k) Interim DIP Order. The Interim DIP Order shall have been entered by the Bankruptcy Court, which Interim DIP Order (i) shall have been entered upon an application or motion of the Debtor in form and substance satisfactory to the Agent and upon prior notice

REQUIRED DISCLOSURE	MATERIAL TERMS
	to such parties required to receive such notice and such other parties as may be reasonably requested by the Agent; (ii) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed; and (iii) shall otherwise satisfy the requirements of the definition of Interim DIP Order herein. The Debtor, the Agent, and the Lenders shall be entitled to rely in good faith upon the Interim DIP Order notwithstanding any such objection, appeal, or motion for reconsideration. (l) Budget. The Lenders shall have received and approved a detailed weekly budget (the "Approved Budget") of projected receipts and expenditures of the Borrower for the period commencing on the Petition Date and continuing through the period specified in the DIP Orders, delivered to the Agent on or prior to the Closing Date, which shall set forth forecasted (A) cash receipts, and (B) cash disbursements in a form consistent with Schedule 4.01(k). The Approved Budget will initially cover the first thirteen weeks after the Petition Date. By the close of business of the third Friday of each month, a revised budget will be submitted to the Agent for approval (each, a "Revised Budget"). Upon the Agent's approval of each Revised Budget, such Revised Budget shall be utilized for any subsequent Variance Report. (n) Chapter 11 Case. The Borrower shall have commenced the Case in the Bankruptcy Court and filed each of its first day motions, including the Intercompany Settlement Motion and the motion seeking entry of the Bidding Procedures Order and approval of the Stalking Horse APA, each in forms and substance satisfactory to the Agent, and no trustee or examiner shall have been appointed with respect to the Debtor, or any property of the Debtor's estate. (o) Outside Date. The Closing Date shall have occurred within one (1) Business Day after the Interim Order Entry Date. (p) Representations and Warranties. The representations and warranties of the Borrower contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects) on and as of the date of such Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date.

REQUIRED DISCLOSURE	MATERIAL TERMS
	(q) Default. No Default shall exist, or would result from such proposed Loan or from the application of the proceeds thereof. (r) Loan Notice. The Agent and shall have received a Committed Loan Notice in accordance with the requirements hereof. (s) No Bar. Subject to the entry of the DIP Orders and subject to the terms thereof, the Borrower, the Agent and the Lenders shall be permitted and required to perform their respective obligations in compliance with this Agreement and the other Loan Documents, and the making of such loan shall not violate any requirement of Law and shall not have been enjoined, whether temporarily, preliminarily or permanently. Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.
Material Conditions to Borrowing – All Borrowings Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement §§ 4.02	(a) Representations and Warranties. The representations and warranties of the Borrower contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects) on and as of the date of such Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date. (b) Default. No Default shall exist, or would result from such proposed Loan or from the application of the proceeds thereof. (c) Loan Notice. The Agent and shall have received a Committed Loan Notice in accordance with the requirements hereof. (d) DIP Orders. In the case of any Delayed Draw Term Loans, the Bankruptcy Court shall have entered the Final DIP Order which shall be in form and substance acceptable to each Lender in its sole discretion, shall be in full force and effect and shall not have been reversed, vacated, stayed, amended, supplemented or otherwise

REQUIRED DISCLOSURE	MATERIAL TERMS
	modified without the prior consent of each Lender in its sole discretion. (e) Other Orders. (i) In the case of the Delayed Draw Term Loans, the Bankruptcy Court shall have entered the Intercompany Settlement Order; (ii) all orders (if any) providing for payment of prepetition indebtedness of the Borrower or affecting in any way the Obligations or Collateral submitted for entry in the Cases (in each case, other than the DIP Orders) shall be reasonably satisfactory in form and substance to the Agent, as entered, and shall not deviate from the form thereof approved by the Agent in any material respect which is adverse to the interests of the Agent or the Lenders; and (iii) all motions, orders, and other documents to be filed by the Debtor with the Bankruptcy Court in connection with the DIP Facility or that could reasonably be expected to affect the DIP Facility, the Collateral or the rights or remedies of the Agent shall be in form and substance reasonably satisfactory to the Lenders. (f) No Bar. Subject to the entry of the DIP Orders and subject to the terms thereof, the Borrower, the Agent and the Lenders shall be permitted and required to perform their Loan respective obligations in compliance with this Agreement and the other Loan Documents, and the making of such loan shall not violate any requirement of Law and shall not have been enjoined, whether temporarily, preliminarily or permanently. (g) Intercompany Settlement. The Borrower shall be in compliance with the Intercompany Settlement. The Committed Loan Notice submitted by the Borrower in respect of the Delayed Draw Term Loans shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a), (b), (d) and (e) have been satisfied on and as of the Final Term Funding Date.
Budget and Variance Reporting Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement at §§ 4.01(m), 6.01(a), 7.16(b) Interim Order § I.C.6	Debtors have delivered to the DIP Agent and the DIP Lenders an initial 13-week budget, which budget shall constitute the "Approved Budget." The Debtor shall deliver to the Agent, in form and detail satisfactory to the Agent, commencing on the Thursday after the second full calendar week following the Petition Date and for each calendar week thereafter, by no later than 5:00 p.m. New York City time on the Thursday of such calendar week (each such Thursday, a "Variance Report Date" unless an extension is granted via email), a variance report substantially in the form of Exhibit F (each, a "Variance Report") for the applicable Testing Period setting forth, in reasonable detail, differences between the

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	aggregate cumulative actual cash receipts and cash disbursements for such Testing Period compared to the projected aggregate cumulative cash receipts and cash disbursements set forth in the Approved Budget for such Testing Period (consistent in form with Schedule 4.01(k)), together with a statement from the Borrower's Chief Restructuring Officer certifying the information contained in such Variance Report and compliance with Section 7.16. The Variance Report shall also provide a reasonably detailed explanation for material variances. The term "Testing Period" means (i) the two previous full weeks prior to the applicable Variance Report Date until the third calendar week after the Petition Date and (ii) the three previous full weeks prior to the applicable Variance Report Date until the fourth calendar week after the Petition Date, after which the Testing Period shall mean the four full weeks prior to the applicable Variance Report Date. Further, the Debtor will deliver to Agent Financial Statements no later than 5 p.m. New York City time on the last Monday or subsequent business day for the prior calendar month. The Debtor shall not permit as of any Variance Report Date the actual aggregate amount of all cash disbursements in the Approved Budget to exceed 115% of the projected aggregate cash disbursements in such Approved Budget during such Testing Period (other than actual and projected disbursements with respect to Chapter 11 expenses, professional fees and expenses and debt service). Any variances not exceeding the limitations set forth in this clause (b) are referred to in this Agreement as "Permitted Variances".
Events of Default Fed. R. Bankr. P. 4001(c)(1)(B) DIP Financing Agreement § 8.01 Interim Order § VI.A	Non-Payment. The Borrower fails to pay when and as required to be paid herein, (i) any amount of principal of any Loan, or (ii) any interest on any Loan, or any fee due hereunder within five (5) days of its due date, or (iii) any other amount payable hereunder or under any other Loan Document within five (5) days of its due date. Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement (i) contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.07, 6.10, 6.11, 6.13, 6.14, 6.18, 6.21 or 6.22 or Article VII or (ii) of the Security Agreement with respect to any portion of the Collateral (other than Collateral having only a *de minimis* value). Other Defaults. The Borrower fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for ten (10) days after the earlier of (i) the date the Borrower obtains knowledge of a breach

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	of any such covenant or agreement or (ii) the Borrower's receipt of notice from the Agent of any such breach. Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made. Cross-Default. Other than any defaults caused by the filing of the Case (i) the Borrower (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Material Indebtedness (after giving effect to the expiration of any applicable grace periods), or (B) fails to observe or perform any other agreement or condition relating to any such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs (after giving effect to the expiration of any applicable grace periods), the effect of which default or other event is to cause, or to permit the holder or holders of such Material Indebtedness or the beneficiary or beneficiaries of any Guarantee thereof (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower is the "defaulting party" (as defined in such Swap Contract) or (B) any Termination Event (as defined in such Swap Contract) under such Swap Contract as to which the Borrower is an Affected Party (as defined in such Swap Contract) and, in either event, the Swap Termination Value owed by the Borrower as a result thereof is greater than the Threshold Amount. Intercompany Services Agreements/Management Services Agreement. Following written notice to the Borrower and the applicable counterparty specifying in reasonable detail the alleged failure, any counterparty to an Intercompany Services Agreement or Management Services Agreement continues to fail or refuses to provide, in any material respect, the services and support required thereunder, and such failure or refusal persists after the Borrower has used its best efforts to cause such counterparty to perform (including the exercise of any available contractual rights and

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	remedies); provided that no Event of Default under this clause (f) shall arise from any immaterial, inadvertent, or promptly cured failure of such Intercompany Services Agreement or Management Services Agreement. Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or payment in full of all the Obligations, ceases to be in full force and effect (other than in accordance with its terms); or the Borrower or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or the Borrower denies that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of the discharge of the Borrower in accordance with the terms of the applicable Loan Document), or purports to revoke, terminate or rescind any provision of any Loan Document or seeks to avoid, limit or otherwise adversely affect any Lien purported to be created under any Security Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by the Borrower or any other Person not to be, a valid and perfected Lien on any Collateral (other than as a result of Agent's negligence with respect to failure to maintain the filing of a financing statement or loss of possessory Collateral), with the priority required by the applicable Security Document. Change of Control. There occurs any Change of Control. Loss of Collateral. There occurs any uninsured loss (in excess of any applicable insurance deductible) to Collateral with an aggregate value in excess of the Threshold Amount. Chapter 11 Case. Any of the following shall have occurred in the Case: (i) the bringing of a motion or application by the Debtor in the Case, or the entry of any order by the Bankruptcy Court in the Case: (A) to obtain additional post-petition financing under section 364(c) or (d) of the Bankruptcy Code that does not provide for the payment in full in cash of all Obligations in full immediately upon the consummation of such financing; (B) to grant any Lien, other than Liens expressly permitted under this Agreement or the DIP Orders upon or affecting any Collateral; or (C) except as provided in this Agreement or the DIP Orders, to use cash collateral of the Agent and the Lenders under section 363(c) of the Bankruptcy Code; or

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	(ii) the filing of any Reorganization Plan or disclosure statement attendant thereto, or any amendment, modification or supplement to such Reorganization Plan or disclosure statement, by the Debtor, unless such Reorganization Plan or disclosure statement contains provisions for the termination of the Lenders' commitment to make loans hereunder, the indefeasible payment in full in cash of the Obligations, the release of the Lenders in full from all claims that could be asserted by the Debtor or its estate, and is otherwise in form and substance acceptable to the Agent (an "Approved Plan"); or (iii) the termination or modification of the Debtor's exclusive right to file and solicit acceptances of a Reorganization Plan; or (iv) the entry of an order in the Case approving a disclosure statement in respect of a Reorganization Plan other than an Approved Plan, or the entry of an order confirming a Reorganization Plan other than an Approved Plan; or (v) entry of an order in the Case terminating exclusivity having been entered (or requested, unless actively contested by the Borrower); or (vi) the entry of an order in the Case amending, supplementing, staying, vacating or otherwise modifying any Loan Document, the Bidding Procedures Order, the Sale Order, or the Intercompany Settlement Order without the prior written consent of the Agent; or (vii) the payment of, or application by the Debtor for authority to pay, any prepetition claim (including, without limitation, related to any reclamation claims) other than amounts set forth in the Approved Budget; or (viii) the entry of an order by the Bankruptcy Court appointing, or the filing of a motion or application by the Debtor for an order seeking the appointment of an interim or permanent trustee in the Case or the appointment of a receiver or an examiner under section 1104 of the Bankruptcy Code in the Case, with expanded powers (beyond those set forth in sections 1106(a)(3) and 1106(a)(4) of the Bankruptcy Code) to operate or manage the financial affairs, the business, or reorganization of the Borrower or with the power to conduct an investigation of (or compel discovery); or

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	(ix) the sale of the Debtor's assets (other than pursuant to the Stalking Horse APA) either through a sale under section 363 of the Bankruptcy Code, through a Reorganization Plan confirmed by the Bankruptcy Court in the Case, or otherwise; or (x) the dismissal of the Case, or if the Debtor files a motion or other pleading seeking the dismissal of the Case; or (xi) the conversion of the Case from one under Chapter 11 of the Bankruptcy Code to one under Chapter 7 of the Bankruptcy Code, or if the Debtor files a motion or other pleading seeking the conversion of the Case under section 1112 of the Bankruptcy Code or otherwise; or (xii) without Agent's consent, the Debtor files a motion or application seeking, or the entry of an order by the Bankruptcy Court, as applicable, granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code to allow any creditor to execute upon or enforce a Lien on any Collateral not in accordance with the terms hereof; or (xiii) the Debtor files a motion or application seeking to challenge, subordinate, disgorge, avoid or require repayment of, or the entry of an order in the Case challenging, subordinating, disgorging, avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Agreement or the other Loan Documents; or (xiv) the failure of the Debtor to perform any of its obligations under the DIP Orders or any violation of any of the terms of the DIP Orders, subject to any applicable grace or cure periods set forth therein; or (xv) the DIP Orders shall cease to create a valid and perfected Lien on the Collateral or to be in full force and effect; or (xvi) the Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtor shall occur, or any material damage to or loss of material assets of the Debtor shall occur; or

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	(xvii) the challenge by the Debtor to the validity, extent, perfection or priority of any liens granted under or obligations arising under the Loan Documents; or (xviii) the remittance, use or application of proceeds of the Loans, cash collateral or other cash or funds of the Debtor other than in accordance with this Agreement and the DIP Orders; or (xix) an order of the Court shall be entered denying or terminating use of cash collateral by the Borrower; or (xx) the Debtor files a motion or application seeking, or the entry of an order in the Case granting any other superpriority administrative claim or Lien equal or superior to that granted to the Agent, on behalf of itself and the Lenders, without the prior written consent of the Required Lenders (other than any such superpriority administrative claim or lien that is expressly permitted to have such priority hereunder); or (xxi) the filing of a motion or application by the Debtor requesting, or the entry of any order granting, any super-priority claim which is senior or pari passu with the Agent's or the Lenders' claims under the Loan Documents not in accordance with the terms hereof; or (xxii) any (a) Debtor files a motion or application seeking, or the entry of an order precluding the Agent (or its designee) from having the right to or being permitted to "credit bid" any amount of the Obligations with respect to the assets of the Debtor or (b) the Bankruptcy Court enters an order prohibiting, restricting, precluding, or otherwise impairing the unqualified right of the Agent (or its designee) from having the right to or being permitted to "credit bit" any amount of the Obligations, with respect to the assets of the Debtor; or (xxiii) any attempt by the Debtor to reduce (other than a reduction in accordance with the terms of this Agreement), avoid, set off or subordinate the Obligations or the Liens securing the Obligations to any other debt; or (xxiv) the revocation, reversal, stay, vacation, supplementation or other modification of the DIP Orders or any provision thereof without the consent of the Required Lenders; or

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	(xxv) [reserved]; or (xxvi) the payment of any administrative expense claim of $50,000 or more, unless such claim is expressly set forth in the Approved Budget; or (xxvii) (A) the Debtor, any holder of an Equity Interest in the Debtor or any Affiliate of the Debtor commences, or the Debtor supports any Person, in any proceeding challenging or seeking to challenge the validity and priority of the DIP Liens against the Agent or the Lender or the Loan Documents, or the disallowance of the Obligations (or any of them), or (B) any material provision of the DIP Orders shall cease to be valid and binding unless, in any case under this clause (xxiii), the Lenders shall have consented to the same; or (xxviii) the Debtor shall be unable to pay its post-petition debts as they mature or shall fail to comply with any order of the Bankruptcy Court in any material respect; or (xxix) the Debtor shall make any payment or grant any form of adequate protection with respect to Indebtedness existing prior to the Petition Date (other than, in each case, as permitted under this Agreement, the DIP Orders or an Approved Plan or relief sought in any "first day" motions filed on the Petition Date); or (xxx) an application or motion for any of the orders described in this Section 8.01 shall be made by a Person other than the Agent or the Required Lenders and such application is not, to the extent requested by the Agent or the Required Lenders, contested by the Borrower in good faith and the relief requested is granted in an order that is not stayed pending appeal; or (xxxi) the cessation of Liens or superpriority claims granted with respect to this Agreement to be valid, perfected and enforceable in all respects; or the Bankruptcy Court shall cease to have exclusive jurisdiction with respect to all matters relating to the exercise of rights and remedies under the Loan Documents, the DIP Orders, the Liens granted under the Collateral Documents and the Collateral; or (xxxii) any Person shall be permitted to surcharge the Collateral under section 506(c) of the Bankruptcy Code, or

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	any costs or expenses whatsoever shall be imposed on the Collateral; or (xxxiii) the Agent shall be made subject to any equitable remedy of marshalling or any similar doctrine with respect to the Collateral; or (xxxiv) the entry by the Bankruptcy Court of an interim DIP order other than the Interim DIP Order, or a final DIP order other than the Final DIP Order.
Security and Priority Fed. R. Bankr. P. 4001(c)(1)(B)(i, vii) DIP Financing Agreement § 5.23(e) Interim Order §§ II.A-B, III	**DIP Lien Grant**. Subject to the entry of a Final Order, to secure the prompt payment and performance of any and all Obligations of the Debtor to the DIP Lender of whatever kind, nature, or description, absolute or contingent, now existing or hereafter arising, the DIP Lender shall have, and is hereby granted, effective as of the Petition Date, valid, binding, enforceable, continuing, non-avoidable, and perfected first (priming) liens (such security interests and liens collectively, the "DIP Liens") on all of the Collateral. The DIP Liens on the Collateral are only subject to the Carve-Out (as defined below). **Priority of DIP Liens**. Subject to the entry of a Final Order, the DIP Liens on the Collateral securing the Obligations, pursuant to section 364(d) of the Bankruptcy Code, shall be first and senior in priority to all other interests and liens of every kind, nature, and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or security interests granted in favor of third parties in conjunction with sections 363, 364, or any other section of the Bankruptcy Code or other applicable law; provided, however, that (i) the DIP Liens shall be subject to the Carve-Out (as defined below), and (ii) the DIP Liens on proceeds of any Avoidance Actions (as defined below) shall be subject to the entry of a Final Order. **Superpriority Administrative Expenses**. Subject to the Carve-Out (as defined below), all Obligations now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents, or otherwise, the DIP Lender is granted an allowed superpriority administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses (other than Carve-Out Expenses (as defined below) subject to the Carve-Out (as defined below)), any and all priority claims of the kind specified in, or ordered pursuant to, inter alia, sections 105, 326, 328, 330, 331, 364(c)(1), 503(b), 507(a), 507(b), 546(c), 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or

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	claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtor and all proceeds thereof (including, subject to the entry of the Final Order, proceeds of Avoidance Actions) (collectively, the "DIP Superpriority Claims").
Automatic Stay Fed. R. Bankr. P. 4001(c)(1)(B)(iv) Interim Order § VII.D	The automatic stay pursuant to section 362 of the Bankruptcy Code is modified, lifted and vacated to the extent necessary to permit the Debtor and the DIP Secured Parties to accomplish the transactions contemplated by the Interim Order.
Milestones Fed. R. Bankr. P. 4001(c)(1)(B)(vi)[6] DIP Financing Agreement § 6.13	The Debtor shall achieve each of the following milestones (as the same may be extended from time to time with the consent of the Agent; the "Milestones"): (a) On the Petition Date, the Debtor shall file a motion in form and substance satisfactory to the Agent seeking approval of the DIP Orders. (b) On the Petition Date, the Debtor shall file the Intercompany Settlement Motion. (c) On the Petition Date, the Debtor shall file a motion in form and substance satisfactory to the Agent seeking entry of the Bidding Procedures Order and approval of the 363 Sale Transaction. (d) Within three (3) calendar days of the first day hearing in the Case, the Bankruptcy Court shall have entered the Interim DIP Order. (e) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have approved the Bidding Procedures Order. (f) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have approved the Intercompany Settlement Order. (g) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order.

[6] Bankruptcy Rule 4001(c)(1)(B)(vi) applies only to the milestones related to establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order. See Fed. R. Bankr. 4001(c)(1)(B)(vi).

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	(h) On or before the date that is forty-five (45) calendar days after the Petition Date, the Auction (as defined in the Bidding Procedures Order) shall have been held, unless the Debtor determines not to hold an Auction in accordance with the procedures approved in the Bidding Procedures Order; (i) One (1) day after the Auction (as defined in the Bidding Procedures Order), if held, the Debtor shall file with the Bankruptcy Court a notice of the Auction results in accordance with the Bidding Procedures Order. (j) On or before the date that is fifty (50) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Sale Order; and (k) On or before the date that is sixty (60) calendar days after the Petition Date, the Debtor shall have consummated the 363 Sale Transaction. Each of the foregoing motions and orders shall be in form and substance reasonably acceptable to the Agent and Lenders (unless a different standard is specified above).
Lien Perfection Fed. R. Bankr. P. 4001(c)(1)(B)(vii) DIP Financing Agreement § 9.13 Interim Order § II.C	Subject to the entry of a Final Order, the Interim Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the DIP Liens and security interests granted herein, effective as of the Petition Date, without any further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the Collateral, or other act to validate or perfect such security interest or lien (a "Perfection Act"). Notwithstanding the foregoing, if the DIP Lender shall, in its sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, the DIP Lender is authorized to perform such act, and the Debtor is authorized to perform such acts to the extent necessary or required by the DIP Lender which act or acts shall be deemed to have been accomplished as of the Petition Date notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is shall accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Lender may choose to file, record, or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office shall accept, file, or record such certified copy of the Interim Order in accordance with applicable law. Should the DIP Lender so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection

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	of the DIP Liens granted herein by virtue of the entry of the Interim Order.
Indemnity Fed. R. Bankr. P. 4001(c)(1)(B)(ix) DIP Financing Agreement § 10.04(b) Interim Order § I.D	The Borrower shall indemnify the Agent (and any sub-agent thereof), each other Credit Party, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless (on an after tax basis) from, any and all losses, claims, causes of action, damages, liabilities, settlement payments, costs, and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agents thereof) and their Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any release of Hazardous Materials in violation of Environmental Law on or from any property owned or operated by the Borrower, or any Environmental Liability related in any way to the Borrower, (iv) any claims of, or amounts paid by any Credit Party to, a Person which has entered into a control agreement with any Credit Party hereunder, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of the Borrower's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) 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 Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, as determined by a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

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Sections 506(c) and 552(b)Waiver Fed. R. Bankr. P. 4001(c)(1)(B)(x) Interim Order § VII.A	Effective upon the entry of a Final Order approving the Motion, no costs or expenses of administration which have been or may be incurred in this chapter 11 case or successor case at any time shall be charged against the DIP Lender or its claims in this chapter 11 case, pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender). Effective upon the entry of a Final Order, the DIP Lender 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 DIP Lender with respect to proceeds, products, offspring, or profits of any of the Collateral.
Marshalling Waiver Fed. R. Bankr. P. 4001(c)(1)(B) Interim Order § VIII.F	Subject to the entry of a Final Order, in no event shall the DIP Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Collateral.
Liens on Avoidance Actions Fed. R. Bankr. P. 4001(c)(1)(B)(xi) Interim Order § II.B	The Collateral shall not include any Avoidance Claims and any proceeds thereof; provided, however, that upon entry of the Final Order, the Collateral shall include the proceeds of the Avoidance Claims.

Argument

I. Entry into the DIP Financing Is an Exercise of the Debtor's Sound Business Judgment

18. As described above, the Debtor's determination to enter into the DIP Financing represents a reasonable exercise of its business judgment. See Vomero Sale and Financing Decl. ¶¶ 12–15 (describing how the DIP Financing is appropriate, provides the most cost-effective and beneficial financing available to the Debtor and is in the best interests of the Debtor's estate). Bankruptcy courts routinely defer to a debtor's business judgment on certain business decisions, including the decision to borrow money, unless such decision is arbitrary and capricious. See U.S. Bank Tr. N.A. v. Am. Airlines, Inc. (In re AMR Corp.), 485 B.R. 279, 287 (Bankr. S.D.N.Y. 2013) ("In determining whether to approve a debtor's request [for postpetition financing] under Section 364, a Court must examine whether the relief requested is an appropriate exercise of the debtor's business judgment.") (citation omitted); Trans World

Airlines, Inc. v. Travellers Int'l AG (In re Trans World Airlines, Inc.), 163 B.R. 964, 974 (Bankr. D. Del. 1994) (noting that the interim loan, receivables facility and asset-based facility were approved because they "reflect[ed] sound and prudent business judgment on the part of TWA . . . [were] reasonable under the circumstances and in the best interests of TWA and its creditors"); cf. In re Filene's Basement, LLC, 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) ("Transactions under § 363 must be based upon the sound business judgment of the debtor or trustee."). In fact, "[m]ore exacting scrutiny would slow the administration of the debtor's estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially." Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1311 (5th Cir. 1985).

19. The Debtor's determination to enter into the DIP Financing represents a reasonable exercise of its business judgment and should be approved. The funding contemplated by the DIP Financing will provide the Debtor with the ability to continue the operations of its business, adequately fund the Chapter 11 Case and conduct a robust sale process in a way that maximizes value for all stakeholders. See Mendelsohn Decl. ¶¶ 41–42; see also Vomero Sale and Financing Decl. ¶ 20.

20. The Debtor worked closely with its advisors to determine its cash needs for the chapter 11 process. See Vomero Sale and Financing Decl. ¶¶ 8–9; see also Mendelsohn Decl. ¶ 12. The Debtor then negotiated the various components of the DIP Financing with the DIP Lenders at arms'-length and in good faith. Mendelsohn Decl. ¶ 28. The Debtor determined that the terms of the resulting DIP Financing were reasonable and the most viable option. Id. As such, and as further described in the Mendelsohn Declaration and the Vomero Sale and Financing Declaration, the Debtor's decision to enter into the DIP Financing was a reasonable exercise of

its business judgment. See Mendelsohn Decl. ¶¶ 35–37 (describing how the DIP Financing is appropriate, provides the most cost-effective and beneficial financing available to the Debtor and is in the best interests of the Debtor's estate); Vomero Sale and Financing Decl. ¶¶ 20–21 (describing how the proceeds of the DIP Financing allow the Debtor to meet its postpetition obligations).

II. The Debtor Should Be Authorized To Obtain Postpetition Financing Under Section 364(c) of the Bankruptcy Code

21. As described above, it is essential that the Debtor obtains access to sufficient postpetition financing to avoid immediate and irreparable harm. The preservation of estate assets, the Debtor's continuing viability and its ability to preserve value for stakeholders depend heavily upon the expeditious approval of the relief requested herein.

22. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit out of the ordinary course of business, and (c) obtaining credit with specialized priority or with security. See 11 U.S.C. § 364. If a debtor in possession cannot obtain postpetition credit on an unsecured basis, pursuant to section 364(b) of the Bankruptcy Code, a court may authorize a debtor to obtain credit or incur debt, the repayment of which is (a) entitled to superpriority administrative expense status, (b) secured by a senior lien on unencumbered property, (c) secured by a junior lien on encumbered property or (d) a combination of the foregoing. See 11 U.S.C. § 364(c).

23. The statutory requirement for obtaining postpetition credit under section 364(c) of the Bankruptcy Code is a finding, made after notice and hearing, that the debtor in possession is "unable to obtain unsecured credit allowable under [section 503(b)(l) of the Bankruptcy Code] as an administrative expense." 11 U.S.C. § 364(c); see In re Republic Airways Holdings Inc., 2016 WL 2616717, at *10 (Bankr. S.D.N.Y. May 4, 2016) ("The debtor

is not required to seek credit from every possible source but rather must demonstrate that it has made a reasonable effort to seek other sources of credit available under section 364(a) and (b).") (citing In re Ames Dep't Stores, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990)) (quotation marks omitted); In re Satcon Tech. Corp., 2012 WL 6091160, at *5 (Bankr. D. Del. Dec. 7, 2012) ("Section 364(c) of the Bankruptcy Code provides, among other things, that if a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, the Bankruptcy Court may authorize the debtor to obtain credit or incur debt.").

24. Courts have articulated a three-part test to determine whether a debtor may obtain financing under section 364(c) of the Bankruptcy Code:

(a) the debtor is unable to obtain unsecured credit under section 364(b) (i.e., by granting a lender administrative expense priority);

(b) the credit transaction is necessary to preserve the assets of the estate; and

(c) the terms of the transaction are fair, reasonable and adequate, given the circumstances of the debtor-borrower and the proposed lender.

See, e.g., In re LATAM Airlines Group S.A., 620 B.R. 722, 767 (Bankr. S.D.N.Y. 2020) (applying these factors).

A. Necessary Postpetition Financing Is Not Available on an Unsecured Basis

25. The Debtor could not obtain postpetition financing on an unsecured or junior basis. See Mendelsohn Decl. ¶ 29. To show that the credit required is not obtainable on an unsecured basis, a debtor need only demonstrate "by a good faith effort that credit was not available without" the protections of sections 364(c) of the Bankruptcy Code. Bray v. Shenandoah Fed. Sav. & Loan Ass'n (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986). Thus, "[t]he statute imposes no duty to seek credit from every possible lender before concluding

that such credit is unavailable." Id. Where few lenders are likely to be able and willing to extend the necessary credit to the debtor, "it would be unrealistic and unnecessary to require [the] Debtor to conduct such an exhaustive search for financing." In re Sky Valley, Inc., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), aff'd, 99 B.R. 117 (N.D. Ga. 1989).

26. Following good faith efforts to obtain funding prior to the Petition Date, the Debtor reasonably concluded that postpetition financing was not available on an unsecured basis. As explained above and in the Mendelsohn Declaration, based on the Debtor's efforts to obtain financing prior to the Petition Date, the Debtor has a clear understanding of the current availability of postpetition financing. See Mendelsohn Decl. ¶¶ 15–17. Despite a broad effort to obtain postpetition financing, no third party submitted a proposal contemplating an unsecured facility. Id. ¶ 15. The Debtor's efforts to seek the necessary postpetition financing from the Prepetition Lenders and from third parties were reasonable and sufficient to confirm that postpetition financing is not available on an unsecured basis and satisfy the statutory requirements of section 364(c) of the Bankruptcy Code.

B. The DIP Financing Is Necessary to Preserve and Protect the Assets of the Debtor's Estate

27. It is essential that the Debtor immediately obtains the financing contemplated by the DIP Financing to preserve and protect the value of its estate. See Vomero Sale and Financing Decl. ¶¶ 20–21. The funding contemplated by the DIP Financing will provide the Debtor with the necessary working capital to maintain its operations, pay its employees and other critical obligations, together with funding the costs of conducting the sales and the Chapter 11 Case. See id. Accordingly, the DIP Financing is necessary to ensure that the Debtor is able to maximize the value of its estate. See, e.g., In re Smart World Techs. LLC, 423 F.3d 166, 175 (2d Cir. 2005) ("As fiduciary, the debtor bears the burden of 'maximiz[ing] the

value of the estate.'") (quoting Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343, 352 (1985)).

C. The Terms of the DIP Financing are Fair, Reasonable and Adequate Under the Circumstances

28. In considering whether the terms of postpetition financing are fair and reasonable, courts consider the terms in light of the relative circumstances and disparate bargaining power of both the debtor and the potential lender. See In re Farmland Indus., Inc., 294 B.R. 855, 885-86 (Bankr. W.D. Mo. 2003); see also In re Clouter Creek Reserve LLC, 669 B.R. 764, 789 (Bankr. D.S.C. 2025) (observing that courts should allow debtors to exercise their reasonable judgment to enter into postpetition financing "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") (quoting In re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990)).

29. The terms of the DIP Financing and the proposed Interim Order were negotiated in good faith and at arm's-length between the Debtor and the DIP Lenders. See Mendelsohn Decl. ¶ 37. As a result, the Debtor believes that the terms of the DIP Financing are within the range of reasonableness and consistent with market expectations for facilities of this type. Specifically, the Debtor believes that the terms of the DIP Financing are acceptable because: (a) the economic terms, including the interest rate and fees, are consistent with market rates for other similar postpetition financing facilities; and (b) the DIP Lenders would not have agreed to provide the DIP Financing without the sale milestones contained therein.

D. The Debtor Should Be Authorized To Pay the Fees Required by the DIP Financing

30. The Debtor believes that the fees required to be paid by the DIP Financing are reasonable under the circumstances of the Chapter 11 Case. The fees that the Debtor agreed

to pay to the DIP Secured Parties – which consist of: (a) a Commitment Fee of $75,000 (which is 0.5% of the DIP Financing Commitment Amount) payable to the DIP Lenders on the Maturity Date and fully earned when all conditions to the Interim DIP Financing Commitment Amount are satisfied (see DIP Financing Agreement § 2.09); (b) an Exit Fee of $150,000 (which is 1% of the DIP Financing Commitment Amount) earned and payable to the DIP Agent on the Maturity Date (see id.); and (c) all out-of-pocket costs and expenses of the DIP Secured Parties relating to the DIP Financing and the Chapter 11 Case (including, without limitation, prepetition and postpetition fees and disbursements of counsel and advisors) (see id. at § 10.4(a)) – are reasonable. These fees were the subject of arm's-length, and good-faith negotiations between the Debtor and the DIP Lenders, are integral components of the overall terms of the DIP Financing, and were required by the DIP Lenders as consideration for the extension of postpetition financing. See Mendelsohn Decl. ¶ 39. These fees were considered by the Debtor in determining, in its business judgment, that the DIP Financing constituted the best terms on which it could obtain postpetition financing.

31. Courts routinely authorize postpetition lenders to impose fees beyond the explicit liens and rights specified in section 364 of the Bankruptcy Code. Moreover, such charges often are permitted where the associated financing is, in the debtor's business judgment, beneficial to the debtor's estate. See, e.g., In re College of Saint Rose, Case No. 24-11131, Docket No. 103 (Bankr. N.D.N.Y. Nov. 5, 2024) (approving postpetition financing that included a 2.25% origination fee and a 1.5% exit fee).

E. The Scope of the Carve-Out Is Appropriate

32. The proposed DIP Financing subjects the DIP Liens, the DIP Superpriority Claims, and any other liens or claims granted by this Interim Order or the Final Order to the Carve-Out. See Interim Order § IV.A. Carve-outs for professional fees have been found to be

reasonable and necessary to ensure that a debtor's estate and any statutory committee can retain assistance from counsel. See Ames Dep't Stores, 115 B.R. at 40. The DIP Financing does not directly or indirectly restrict the services for which professionals may be paid in the Chapter 11 Case beyond that which is standard in DIP facilities, and thus does not deprive the Debtor's estate or other parties in interest of possible rights and powers. See id. at 8 (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 course of the Chapter 11 Case by ensuring that assets remain for the payment of professional fees of the Debtor and any official committees, notwithstanding the grant of superpriority and administrative liens and claims under the DIP Financing Orders.

33. Given the likelihood that the Debtor's professionals would be necessary to effect any winddown following an event that triggers a Carve-Out Triger Notice, the Carve-Out provides Allowed Professional Fees in an aggregate amount not to exceed $1,000,000, incurred after the first business day following delivery by the DIP Agent of the Carve-Out Trigger Notice, to the extent allowed at any time, shall be included in the Carve-Out. In addition, the Carve-Out includes the fees to be paid to this Court and the U.S. Trustee and does not impair the ability of any party to object to such fees, expenses, reimbursement or compensation. Accordingly, the Debtor submits that the proposed Carve Out is appropriate in these circumstances.

III. Request for Modification of the Automatic Stay

34. Section 362 of the Bankruptcy Code provides for an automatic stay upon the filing of a bankruptcy petition. 11 U.S.C. § 362. The proposed Interim Order contemplates the modification of the automatic stay to permit the DIP Secured Parties, upon the occurrence and during the continuance of an Event of Default under the DIP Financing Agreement, to:

(a) accelerate and declare all obligations under the DIP Financing Documents immediately due and payable and (b) exercise and enforce any and all rights and remedies available to DIP Agent and DIP Lenders pursuant to the DIP Financing Documents, including the Interim Order. See Interim Order § VI.B. Courts routinely grant this type of relief in connection with DIP financings. See, e.g., In re College of Saint Rose, Case No. 24-11131, Docket No. 103 (Bankr. N.D.N.Y. Nov. 5, 2024); In re Good Samaritan Lutheran Health Care Center, Inc., Case No. 19-12215, Docket No. 120 (Bankr. N.D.N.Y. Feb. 3, 2020).

IV. Request for a Finding of Good Faith

35. The terms and conditions of the DIP Financing were negotiated by the parties in good faith and at arm's-length. See Mendelsohn Decl. ¶ 37. The Debtor submits that the terms and conditions of the DIP Financing Documents are reasonable and appropriate under the circumstances, and the proceeds of the DIP Financing will be used only for purposes that are permissible under the Bankruptcy Code. Therefore, the DIP Lenders should be accorded the benefits of section 364(e) of the Bankruptcy Code to the extent any or all of the provisions of the DIP Financing, or any interim or final order of this Court pertaining thereto, are hereafter modified, vacated, stayed or terminated by subsequent order of this or any other court.

V. Request for Interim Hearing and Authority to Make Interim Borrowings Under the DIP Financing

36. Pursuant to Bankruptcy Rule 4001, the Debtor requests that this Court conduct a hearing on the Debtor's request for interim relief, including for access to the Interim DIP Financing Commitment Amount and for the other relief contemplated by the Interim Order. Bankruptcy Rule 4001(c)(2) provides that a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Fed. R. Bankr. P. 4001(c)(2). Upon request, however, the Court is empowered

to conduct a preliminary expedited hearing on the motion and authorize the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate. In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions. See, e.g., In re Simasko Prod. Co., 47 B.R. 444, 449 (Bankr. D. Colo. 1985); see also Ames Dep't Stores, 115 B.R. at 38. After the 14-day period prescribed by Bankruptcy Rule 4001(c), the request for financing is not limited to those amounts necessary to prevent disruption of the debtor's business, and the debtor is entitled to borrow those amounts that it believes prudent in the operation of its business. See, e.g., Simasko Prod. Co., 47 B.R. at 449; Ames Dep't Stores, 115 B.R. at 36.

37. Pursuant to Bankruptcy Rule 4001(c), the Debtor respectfully requests that the Court conduct a preliminary hearing on the Motion and authorize the Debtor from the entry of the Interim Order until the Final Hearing to obtain access to the Interim DIP Financing Commitment Amount under the terms set forth in the DIP Financing Documents and the Interim Order, and to utilize Cash Collateral to avoid immediate and irreparable harm to the Debtor's estate.

VI. Request to Establish Notice Procedures and Schedule Final Hearing

38. The Debtor respectfully requests that the Court schedule the Final Hearing and authorize the Debtor to serve the signed Interim Order, which fixes the time, date and manner for the filing of objections, on the notice parties listed below. The Debtor further requests that the Court consider such notice of the Final Hearing to be sufficient notice under Bankruptcy Rule 4001(c)(3).

Reservation of Rights

39. Unless specifically articulated herein or in the DIP Financing Orders, nothing herein is intended to be or should be construed as (a) an admission as to the validity or

priority of any claim against the Debtor; (b) a waiver of the Debtor's rights to dispute any claim, including the amount or priority thereof, on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined hereunder; or (e) the assumption of an executory contract or unexpired lease.

Notice

40. Notice of this Motion shall be provided to (a) the Office of the United States Trustee for the Northern District of New York; (b) the Top Talc Counsel List; (c) counsel to the proposed DIP Lenders; (d) counsel to the proposed DIP Agent; and (e) any other party entitled to notice pursuant to Bankruptcy Rule 4001. Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtor respectfully submits that no further notice of this Motion is required.

No Prior Request

41. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court (a) enter the proposed Interim Order, substantially in the form attached as Exhibit A, granting the relief requested herein on an interim basis; (b) enter a Final Order granting the relief requested herein on a final basis; and (c) grant such other and further relief to the Debtor as the Court may deem proper.

[*Remainder of page intentionally left blank.*]

Dated: February 16, 2026
Syracuse, New York

Respectfully submitted,

/s/ Charles J. Sullivan

Charles J. Sullivan, Esq., Bar Roll No. 507717
Stephen A. Donato, Esq., Bar Roll No. 101522
Grayson T. Walter, Esq., Bar Roll No. 518237
BOND, SCHOENECK & KING, PLLC
One Lincoln Center
Syracuse, NY 13202-1355
Telephone: (315) 218-8000
Emails: csullivan@bsk.com
sdonato@bsk.com
gwalter@bsk.com

- and -

Heather Lennox, Esq. (*pro hac vice* pending)
Benjamin Rosenblum, Esq. (*pro hac vice* pending)
JONES DAY
250 Vesey Street
New York, NY 10281
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
Email: hlennox@jonesday.com
brosenblum@jonesday.com

- and -

T. Daniel Reynolds, Esq. (*pro hac vice* pending)
Nicholas Buchta, Esq. (*pro hac vice* pending)
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
Email: tdreynolds@jonesday.com
nbuchta@jonesday.com

Proposed Counsel for the Debtor and Debtor in Possession

Exhibit A

Proposed Interim Order

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
Vanderbilt Minerals, LLC,	)	Case No. 26-60110 (WAK)
Debtor.[1]	)	

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING AND (B) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO THE DIP LENDER; (II) MODIFYING THE AUTOMATIC STAY; AND (III) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of Vanderbilt Minerals, LLC ("Borrower" or "Debtor") in the above-captioned chapter 11 case, pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), and 507(b) of title 11 of the United States Code (the "Bankruptcy

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

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

Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Bankruptcy Rules (the "Local Rules") of the United States Bankruptcy Court for the Northern District of New York (this "Court"), seeking entry of an interim order (this "Interim Order") and a final order (the "Final Order", and together with the Interim Order, the "DIP Orders") granting the following relief to be provided on an interim basis until the date that a Final Order has been entered (such interim period being the "Interim Period"):

a. authorization and approval for the Debtor to obtain up to $15,000,000.00 in postpetition financing (the "DIP Facility"), up to $6,500,000.00 of which to be available during the Interim Period, pursuant to and in accordance with the terms and conditions of that certain *Senior Secured Debtor-in-Possession Term Loan Agreement* dated February 15, 2026 (as it may be amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Credit Agreement"), substantially as filed with the Court and attached hereto as **Exhibit 2**, by and among the Borrower, Commodore Material Funding, LLC, as the agent, and the lender parties thereto (collectively, the "DIP Lender"), which may, *inter alia*, be used for the following purposes:

   i. for paying certain costs, fees, and expenses related to the DIP Credit Agreement and this chapter 11 case; and

   ii. for working capital and general corporate purposes of the Debtor, in each case in accordance with the Approved Budget (as defined below), or in a manner constituting a Permitted Variance;

b. approval of and authorization and direction for the Debtor to (i) enter into, execute and perform under (a) the DIP Credit Agreement and (b) all security agreements, pledge agreements, notes, mortgages, certificates, reports, and other agreements, documents, and instruments either or both executed and/or delivered with or to the DIP Lender in connection with or related thereto (collectively, as amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Financing Documents") and (ii) take and perform all other acts and steps as may be required or contemplated by or in connection with the DIP Financing Documents or this Interim Order;

c. granting to the DIP Lender a first priority perfected security interests in the Liens and on the Collateral, subject to the Carve-Out (as defined below);

d. granting to the DIP Lender allowed superpriority administrative expense claims on account of the Obligations, pursuant to sections 364(c)(1) and 507(b) of the

Bankruptcy Code, subject to the terms of the Carve-Out (defined below) and DIP Orders;

e. subject to the entry of a Final Order, the waiver by the Debtor of (i) any right to surcharge the Collateral pursuant to section 506(c) of the Bankruptcy Code, (ii) any rights under the "equities of the case" exception in section 552(b) of the Bankruptcy Code, and (iii) the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral;

f. modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent hereinafter set forth and waiving the fourteen (14) day stay provisions of Bankruptcy Rule 4001(a)(3);

g. waiving the 21-day provision of Bankruptcy Rule 6003(b) and the notice requirements of Bankruptcy Rule 6004(a), waiving any applicable stay (including under Bankruptcy Rule 6004), and providing for immediate effectiveness of this Interim Order; and

h. scheduling a final hearing on the Motion (the "Final Hearing") for entry of a Final Order authorizing the postpetition financing contemplated hereby on a final basis and granting such other relief as is requested in the Motion and approving the form of notice with respect to the Final Hearing.

Notice of the Motion, the relief requested therein, and the Interim Hearing (as defined below) ("Notice") having been served by the Debtor in accordance with Bankruptcy Rule 4001(c) on: (i) the United States Trustee for the Northern District of New York (the "U.S. Trustee"); (ii) the 'Top Talc Counsel List; (iii) the Internal Revenue Service; (iv) other governmental agencies having a regulatory or statutory interest this chapter 11 case; (v) any party that has requested notice pursuant to Bankruptcy Rule 2002; (vi) all parties known to the Debtor who hold any liens or security interests in the Debtor's assets, or who have asserted any liens on any of the Debtor's assets; (vii) all creditors known to the Debtor to be holding a claim under section 503(b)(9) of the Bankruptcy Code; and (viii) all other parties entitled to receive notice pursuant to the Bankruptcy Rules and the Local Rules (collectively, the "Noticed Parties").

An interim hearing on the Motion having been held by this Court and concluded (the "Interim Hearing"); this Court having considered the relief requested in the Motion, the

Declaration of Dean Vomero, the Chief Restructuring Officer of Debtor Vanderbilt Minerals, LLC in Support of First Day Motions of Debtor and Debtor in Possession (the "First Day Declaration"), the *Declaration of Dean Vomero in Support of the Bidding Procedures and DIP Financing Motions* (the "Vomero Sale and Financing Declaration") and the *Declaration of Dean Vomero in Support of the Bidding Procedures and DIP Financing Motions* (the "Mendelsohn Declaration" and, together with the First Day Declaration and the Vomero Sale and Financing Declaration, the "Supporting Declarations"), with all objections and reservations of rights, if any, to the entry of the Interim Order having been withdrawn, resolved, or overruled, and after due deliberation and consideration, and good and sufficient cause appearing therefor, and the arguments of counsel made at the Interim Hearing; it appearing that approval of the relief requested in the Motion is fair and reasonable and in the best interests of the Debtor and its estate, and is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending the Final Hearing; it appearing that the Debtor's entry into and performance under the DIP Financing Documents and the other transactions contemplated by this Interim Order is a sound and prudent exercise of the Debtor's business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[3]

A. **Petition**. On February 16, 2026 (the "Petition Date"), the Debtor commenced this chapter 11 case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to

[3] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed and no official committee of unsecured creditors, or any other statutory committee has been appointed in this chapter 11 case.

B. **Jurisdiction and Venue**. The Court has jurisdiction over this chapter 11 case, the Motion, this Interim Order, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. The Motion is a "core" proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), and (M). Venue of this chapter 11 case and the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice**. Upon the record presented to this Court at the Interim Hearing, and under the exigent circumstances set forth therein, and in the Motion and the First Day Declaration, notice of the Motion, the relief requested thereby and granted in this Interim Order has been provided in accordance with Bankruptcy Rules 2002, 4001(b) and 4001(c)(1), which notice was appropriate under the circumstances and sufficient for entry of this Interim Order. No other or further notice of the Motion is required for entry of this Interim Order. The relief granted herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending a Final Hearing.

D. **Final Hearing**. At the Final Hearing, the Debtor will seek approval of the Final Order, which shall be subject to the terms and conditions of the DIP Loan Documents. Notice of the Final Hearing and Final Order will be provided in accordance with this Interim Order.

E. **No Control**. The DIP Lender does not now control (nor has DIP Lender in the past controlled) the Debtor, its properties or operations. The DIP Lender does not have authority to determine the manner in which the Debtor's operations are conducted or is not a control person or insider of the Debtor by virtue of any of the actions taken with respect to, in connection with, related to or arising from the DIP Loan Documents or otherwise.

F. **Findings Regarding the Postpetition Financing**.

(1) Request for Postpetition Financing. Subject to the entry of a Final Order, Debtor has requested from the DIP Lender, and the DIP Lender is willing to extend, certain loans, advances, and other financial accommodations, as more particularly described, and subject to the terms and conditions set forth, in this Interim Order and the DIP Financing Documents.

(2) Need for Postpetition Financing. The Debtor does not have sufficient available sources of working capital to pay necessary expenses and fund ongoing operations while it pursues a sale of the Debtor's business without the DIP Facility as described in this Interim Order. The Debtor's ability to pay expenses is essential to preserve and maximize the value of its estate for the benefit of all stakeholders. The ability of the Debtor to obtain sufficient working capital and liquidity through the proposed DIP Facility on the terms set forth in the DIP Financing Documents and this Interim Order is vital to the preservation and maximization of the value of the Debtor's estate and facilitates an orderly sale. Accordingly, the Debtor has an immediate need to obtain funds from the DIP Facility for the limited purposes set forth herein in order to, among other things, manage and preserve the assets of the Debtor's bankruptcy estate in order to maximize the recoveries to the Debtor's creditors.

(3) No Credit Available on More Favorable Terms. Subject to the entry of a Final Order, consistent with the Supporting Declarations, the Debtor is unable to procure financing in the form of unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code, as an administrative expense under section 364(a) or (b) of the Bankruptcy Code, or in exchange for the grant of an administrative expense priority pursuant to section 364(c)(1) of the Bankruptcy Code, without the grant of the priming lien described herein and in the DIP Credit Agreement. The Debtor has been unable to procure the necessary financing on terms more favorable than the

financing offered by the DIP Lender pursuant to the DIP Financing Documents and this Interim Order.

(4) Budget. Based upon the record presented to the Court by the Debtor, (i) the Debtor has prepared and delivered the budget annexed hereto as **Exhibit 1** (as such may be revised in accordance with the DIP Financing Documents, the "Approved Budget"), (ii) the Approved Budget has been thoroughly reviewed by the Debtor and its management and advisors, and (iii) the Approved Budget sets forth, among other things, the projected cash receipts and expenditures for the periods covered thereby. The Debtor believes in good faith that the Approved Budget is achievable and will allow the Debtor to operate in chapter 11 without the accrual of unpaid administrative expenses during the term of the Approved Budget. The Approved Budget is subject to such variances as permitted in the DIP Credit Agreement.

(5) Business Judgment and Good Faith Pursuant to Section 364(e) and Section 363(m). (i) the Debtor and the DIP Lender have negotiated at arms' length and in good faith regarding the terms of the DIP Financing Documents, the DIP Facility and this Interim Order, respectively, all subject to the terms of this Interim Order and (ii) the terms of the DIP Credit Agreement, the other DIP Financing Documents, the DIP Facility and this Interim Order are fair and reasonable, reflect the Debtor's exercise of prudent business judgment, and constitute reasonably equivalent value and fair consideration. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in "good faith" (as that term is used in sections 364(e) and 363(m) of the Bankruptcy Code) by the DIP Lender.

(6) Good Cause. The relief requested in the Motion is necessary, essential, and appropriate and is in the best interest of and will benefit the Debtor and its estate, as its implementation will, among other things, provide the Debtor with the necessary liquidity to

(i) minimize disruption to the Debtor's efforts for the orderly sale of its business, (ii) preserve and maximize the value of the Debtor's estate, and (iii) avoid immediate and irreparable harm to the Debtor, its business, employees, and assets.

(7) Corporate Authority. Each Debtor has the requisite corporate power and authority to execute and deliver the DIP Financing Documents to which it is a party and to perform its obligations thereunder.

(8) Immediate Entry. Good and sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in this chapter 11 case has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been resolved or withdrawn) are hereby overruled.

Based upon the foregoing, and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED THAT:

I. Authorization and Terms of DIP Financing.

A. **Motion Granted**. Subject to the entry of a Final Order, the Motion to obtain postpetition financing is granted in accordance with Bankruptcy Rule 4001(c)(2) under the terms and conditions provided in this Interim Order.

B. **Authorization to Borrow**. The Debtor is hereby authorized and empowered to immediately borrow and obtain advances under the DIP Credit Agreement, and the Debtor is hereby authorized and empowered to incur indebtedness and obligations owing to the DIP Lender on the terms and subject to the conditions (including, without limitation, sublimits and availability restrictions) set forth in the DIP Financing Documents and this Interim Order, during the Interim

Period up to the maximum amount of $6,500,000.00, subject to the Approved Budget (with any variances permitted thereto under the terms and conditions of the DIP Credit Agreement).

C. **Financing Documents**.

(1) Authorization. Subject to the entry of a Final Order, the Debtor is hereby authorized and empowered to (a) enter into, execute, deliver, perform, and comply with all of the terms, conditions, and covenants of the DIP Financing Documents, including, without limitation, the DIP Credit Agreement, (b) execute and deliver all certificates, reports, statements, and other agreements and documents required or contemplated by the DIP Financing Documents (including, without limitation, documents required for the Debtor's performance of its obligations under the DIP Financing Documents and creation and perfection of liens granted or contemplated therein), and (c) pay all obligations incurred under or described in (whether principal, interest, fees, costs, expenses, indemnities, or otherwise) and perform all other undertakings and acts required or contemplated by the DIP Financing Documents or this Interim Order.

(2) Approval of Financing Documents. Subject to the entry of a Final Order, the DIP Financing Documents (and all certificates, reports, statements, and other agreements and documents), except to the extent such documents are inconsistent with this Interim Order, are approved to the extent necessary to implement the terms and provisions of this Interim Order.

(3) Amendment of DIP Financing Documents. Subject to the entry of a Final Order, the Debtor and the DIP Lender are hereby authorized to approve and implement, in accordance with the terms of the DIP Financing Documents, any non-material modification of the DIP Financing Documents*; provided, however*, that any material modification or amendment to the DIP Financing Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the U.S. Trustee, each of whom shall have five

(5) business days from the date of such notice within which to object in writing to such material modification or amendment unless a Committee and/or the U.S. Trustee agrees in writing to a shorter period. If a timely objection is interposed, the Court shall resolve such objection prior to such material modification or amendment becoming effective.

(4) Application of DIP Facility Proceeds. Subject to the entry of a Final Order, the advances under the DIP Facility shall be used in each case in a manner consistent with the terms and conditions of the DIP Financing Documents, and in accordance with and as may be limited by the Approved Budget (subject to any variances thereto permitted under the terms and conditions of the DIP Credit Agreement), solely as follows:

(a) to pay fees, costs, and expenses as provided in the DIP Financing Documents, including amounts incurred in connection with the preparation, negotiation, execution and delivery of the DIP Credit Agreement and the other DIP Financing Documents;

(b) for general operating and working capital purposes, for the payment of fees, expenses, and costs incurred in connection with this chapter 11 case and other proper corporate purposes of the Debtor not otherwise prohibited by the terms hereof for working capital, and other lawful corporate purposes of the Debtor;

(c) for making other payments as provided in this Interim Order; and

(d) to fund the Carve-Out Reserve Accounts (as defined below).

(5) Conditions Precedent. Subject to the entry of a Final Order, the DIP Lender shall have no obligation to make any loan or advance under the DIP Credit Agreement unless the conditions precedent to make such loan or extension of credit under the DIP Credit Agreement have been satisfied in full or waived in accordance with the DIP Credit Agreement.

(6) Budget Maintenance. By the close of business on the third Friday of each month, a revised budget will be submitted to the DIP Lender for approval (each a "Revised Budget"). Upon the Agent's approval of each Revised Budget, such Revised Budget shall become the Approved Budget and shall be utilized for any subsequent Variance Report.

D. **Payments and Application of Payments**. Subject to the entry of a Final Order, the Debtor is authorized to make all payments and transfers of property of the Debtor's estate to the DIP Lender as provided, permitted, or required under the DIP Financing Documents or this Interim Order, which payments and transfers shall not be avoidable or recoverable from the DIP Lender under sections 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code, or any other section thereof, or be subject to any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law, or otherwise. Without limiting the generality of the foregoing, the Debtor is authorized and directed, without further order of this Court, to (i) pay all principal, interest, fees, and indemnities, when due, under the DIP Financing Documents or this Interim Order and (ii) pay or reimburse the DIP Lender for all present and future costs and expenses, including, without limitation, all reasonable and documented professional fees, consultant fees, and legal fees and expenses, and all Credit Party Expenses paid or incurred by the DIP Lender in connection with the financing transactions, regardless of whether such amounts are in the Approved Budget, all of which shall be and are included as part of the principal amount of the Obligations under the DIP Financing Documents and secured by the Collateral. No attorney or advisor to the DIP Lender shall be required to file an application or any other materials in connection with compensation for services or reimbursement of expenses with the Court.

E. **Interest and Fees**. Subject to the entry of a Final Order, the rate(s) of interest to be charged for any advances under the DIP Facility pursuant to the DIP Credit Agreement shall be

the rates set forth in the DIP Credit Agreement and shall be calculated in the manner and payable at the times set forth in the DIP Credit Agreement. The fees charged under the DIP Facility shall be those set forth in the DIP Credit Agreement and shall be unconditionally payable in the amounts and at the times set forth in the DIP Credit Agreement, which are absolutely and unconditionally earned upon execution of the DIP Credit Agreement and shall be non-refundable.

II. Collateralization for DIP Loan.

A. **DIP Lien Grant**. Subject to the entry of a Final Order, to secure the prompt payment and performance of any and all Obligations of the Debtor to the DIP Lender of whatever kind, nature, or description, absolute or contingent, now existing or hereafter arising, the DIP Lender shall have, and is hereby granted, effective as of the Petition Date, valid, binding, enforceable, continuing, non-avoidable, and perfected first (priming) liens (such security interests and liens collectively, the "DIP Liens") on all of the Collateral. The DIP Liens on the Collateral are only subject to the Carve-Out (as defined below).

B. **Priority of DIP Liens**. Subject to the entry of a Final Order, the DIP Liens on the Collateral securing the Obligations, pursuant to section 364(d) of the Bankruptcy Code, shall be first and senior in priority to all other interests and liens of every kind, nature, and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or security interests granted in favor of third parties in conjunction with sections 363, 364, or any other section of the Bankruptcy Code or other applicable law; *provided, however*, that (i) the DIP Liens shall be subject to the Carve-Out (as defined below), and (ii) the DIP Liens on proceeds of any Avoidance Actions (as defined below) shall be subject to the entry of a Final Order.

C. **Postpetition Lien Perfection**. Subject to the entry of a Final Order, this Interim Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the DIP Liens and security interests granted herein, effective as of the Petition Date, without any

further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the Collateral, or other act to validate or perfect such security interest or lien (a "Perfection Act"). Notwithstanding the foregoing, if the DIP Lender shall, in its sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, the DIP Lender is authorized to perform such act, and the Debtor is authorized to perform such acts to the extent necessary or required by the DIP Lender which act or acts shall be deemed to have been accomplished as of the Petition Date notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is shall accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Lender may choose to file, record, or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office shall accept, file, or record such certified copy of this Interim Order in accordance with applicable law. Should the DIP Lender so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the DIP Liens granted herein by virtue of the entry of this Interim Order.

III. Superpriority Administrative Expenses. Subject to the Carve-Out (as defined below), all Obligations now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents, or otherwise, the DIP Lender is granted an allowed superpriority administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses (other than Carve-Out Expenses (as defined below) subject to the Carve-Out (as defined below)),

any and all priority claims of the kind specified in, or ordered pursuant to, *inter alia*, sections 105, 326, 328, 330, 331, 364(c)(1), 503(b), 507(a), 507(b), 546(c), 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtor and all proceeds thereof (including, subject to the entry of the Final Order, proceeds of Avoidance Actions) (collectively, the "DIP Superpriority Claims").

IV. Carve-Out.

A. Carve-Out.

(1) The DIP Liens, the DIP Superpriority Claims, and any other liens or claims granted by this Interim Order or the Final Order shall be subject and subordinate to the right of payment and priority (the "Carve-Out") for Carve-Out Expenses (as defined below). The Carve-Out shall be senior to all claims and liens over all assets of the Debtor, including the Collateral. As used in this Interim Order, the "Carve-Out Expenses" means the sum of the following: (i) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) with respect to the Debtor, including any interest payable thereon under 31 U.S.C. § 3717 (if any), and any fees payable to the Clerk of the Court (collectively, the "UST Carve-Out"); (ii) to the extent allowed at any time, and solely to the extent such fees are not in excess of the Approved Budget amounts (as such Approved Budget may be revised in accordance with the DIP Financing Documents), all unpaid fees and expenses (the "Allowed Professional Fees") actually incurred by persons or firms retained by the Debtor pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") (in each case, including any unpaid amounts that may be payable to Greenhill & Co. LLC ("Greenhill") as an M&A Fee as defined in its engagement letter effective as of August 18, 2025 (and as amended and restated as of January 24, 2026) between Greenhill and the Debtor,

in an amount no greater than $2,750,000) or any Committee pursuant to sections 328 or 1103 of the Bankruptcy Code (the "Committee Professionals," and together with the Debtor Professionals, the "Professional Persons"), and in the case of Committee Professionals in an amount not excess of $50,000 (the "Committee Carve-Out"), that are incurred or earned at any time extending through and including the date of delivery by the DIP Lender of a Carve-Out Trigger Notice (as defined below), whether allowed prior to or after delivery of a Carve-Out Trigger Notice (the "Professional Fee Carve-Out"); and (iii) Allowed Professional Fees of Professional Persons in the aggregate amount not to exceed $1,000,000.00, in each case incurred after the first Business Day following delivery by the DIP Lender of the Carve-Out Trigger Notice (as defined below), to the extent allowed at any time (the "Post-Trigger Carve-Out," and together with the UST Carve-Out and the Professional Fee Carve-Out, the "Carve-Out").

(2) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by Debtors or a Committee (if appointed) at any time commencing on the Petition Date and extending through and including the date of delivery by DIP Lender of a Carve-Out Trigger Notice but have not yet been allowed by the 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 Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the Carve-Out Reserve Account (defined below) shall include such professional fees and expenses, provided that in all events, with regard to this Section IV.A.(2) and any Allowed Professional Fee paid thereunder, are subject to the Approved Budget (as such Approved Budget may be revised in accordance with the DIP Financing Documents) and shall not be in excess thereof.

B. **Carve-Out Trigger Notice**. "Carve-Out Trigger Notice" shall mean a written notice delivered by the DIP Lender to lead restructuring counsel to the Debtor, the U.S. Trustee and counsel to any Committee, stating that (i) the Post-Trigger Carve-Out has been invoked, which notice may be delivered following the occurrence and during the continuation of an Event of Default under the DIP Credit Agreement; (ii) the DIP Loans have been accelerated; and (iii) the DIP Lender does not intend to fund further advances under the DIP Loans. Thereafter, if the DIP Lender funds further advances under the DIP Loans (other than amounts required to be funded in accordance with this Interim Order), the Carve-Out Trigger Notice shall be deemed automatically revoked. If a Carve-Out Trigger Notice is revoked, the Carve-Out will operate as if the Carve-Out Trigger Notice was never delivered.

C. **Carve-Out Accounts**.

(1) Prior to delivery of a Carve-Out Trigger Notice by the DIP Lender, and upon entry of this Interim Order, $2,250,000.00 shall be paid into one or more segregated accounts, exclusively for the benefit Allowed Professional Fees and not subject to the control of the DIP Lender (the "Carve-Out Reserve Account"). Thereafter, on a weekly basis, solely to the extent such Professional Fees are not in excess of the Approved Budget amounts (as such Approved Budget may be revised in accordance with the DIP Financing Documents), the amount of actually incurred but unpaid fees of the Debtor's Professionals shall be paid into the Carve-Out Reserve Account, but solely to the extent the amount in the Carve-Out Reserve Account are less than the actually incurred and unpaid fees of the Debtor's Professionals. Upon delivery of the Carve-Out Trigger Notice and termination of the DIP Credit Agreement, an additional amount shall be paid into the Carve-Out Reserve Account by the Debtor (or, to the extent that the Debtor has insufficient cash on hand to make such payment, by the DIP Lenders, provided that there exists sufficient

availability under the DIP Credit Agreement to make such payment) so that the amount in the Carve-Out Reserve Account equals the actually incurred but unpaid fees of the Debtor's Professionals not in excess of the Approved Budget (as such Approved Budget may be revised in accordance with the DIP Financing Documents), plus the UST Carve-Out, plus the Committee Carve-Out, plus $1,000,000.00 (the "Carve-Out Reserve Amount").

(2) On the date the Carve-Out Trigger Notice is given by the DIP Lender, the Debtor is hereby authorized and directed to utilize all cash on hand as of such date, and any available cash thereafter held by the Debtor, to fund the Carve-Out Reserve Account in an amount equal to the amount required to be funded. The Debtor shall deposit and hold such amounts in one or more segregated accounts exclusively to pay such Allowed Professional Fees benefiting from the Carve-Out.

(3) Following the end of the second Business Day after delivery of a Carve-Out Trigger Notice, the DIP Lender shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtor until the Carve-Out Reserve Account has been fully funded.

(4) The Carve-Out shall be effective upon entry of this Interim Order and shall not be rendered ineffective as a result of the occurrence, or non-occurrence, of any event or circumstance thereafter.

(5) Upon the consummation of a sale of all or substantially all of Debtor's assets consented to by the DIP Lender, the Debtor shall be authorized and directed (without the requirement to have received a Carve-Out Trigger Notice) to transfer from the proceeds of such sale(s) funds equal to the Carve-Out Reserve Amount to the Carve-Out Reserve. For the avoidance

of doubt, funds held in the Carve-Out Reserve Account shall at all times remain solely available to fund payment of Allowed Professional Fees.

D. **Excluded Professional Fees**. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out, nor the proceeds of any advances under the DIP Credit Agreement or Collateral shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional in connection with any of the following: (i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief: (a) challenging the legality, validity, priority, perfection, or enforceability of the Obligations or the DIP Lender's liens on and security interests in the Collateral, or the ability to of the DIP Lender to credit bid the Obligations under section 363(k) of the Bankruptcy Code, (b) seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Obligations or the DIP Lender's liens on and security interests in the Collateral, or (c) except for an action permitted by Section VI.B.2 of this Interim Order, preventing, hindering, or delaying the DIP Lender's assertion or enforcement of any lien, claim, right, or security interest or realization upon any Collateral in accordance with the terms and conditions of this Interim Order; (ii) a request for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or (d) of the Bankruptcy Code, other than from the DIP Lender, without the prior written consent of the DIP Lender, unless such other debtor-in-possession financing or financial accommodation is used, in part, to indefeasibly pay and satisfy in full in cash all Obligations owed to the DIP Lender; or (iii) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against the DIP Lender or the Stalking Horse Bidder, or any of their respective officers, directors, employees, agents, attorneys, affiliates, successors, or assigns, including, without

limitation, any attempt to avoid any claim, lien, or interest of, or obtain any recovery from the DIP Lender under chapter 5 of the Bankruptcy Code.

V. Right to Credit Bid. Subject to the entry of a Final Order, the DIP Lender shall have the right to credit bid (either directly or through one or more acquisition vehicles) in accordance with section 363(k) of the Bankruptcy Code, up to the full amount of the DIP Lender's claims, in any sale of all or any portion of the Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan.

VI. Default; Rights and Remedies; Relief from Stay.

A. **Events of Default**. The following shall constitute an "Event of Default" under this Interim Order:

(1) The occurrence of any Event of Default under the DIP Credit Agreement;

(2) The failure of Debtor to meet the Milestones set forth in Section 6.13 of the DIP Credit Agreement, unless the DIP Lender agrees in writing to an extension of any Milestone;

(3) Consummation of an Alternative Transaction;

(4) The Debtor sells, transfers, leases, encumbers, or otherwise disposes of any portion of the Collateral without an order of this Court and the written consent of the DIP Lender, except for sales of the Debtor's inventory in the ordinary course of its business or as otherwise permitted under the DIP Credit Agreement;

(5) The Debtor, without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Lender), (a) enter into any agreement to return any inventory or other property to any of its creditors for application against any prepetition indebtedness under any applicable provision of section 546 of the Bankruptcy Code, or (b) consent to any creditor exercising any setoff against any of its

prepetition indebtedness based upon any such return pursuant to section 553(b)(l) of the Bankruptcy Code or otherwise; and

(6) The failure of the Debtor to obtain entry of a Final Order or the Intercompany Settlement Order on or before twenty-one (21) calendar days from the Petition Date, unless otherwise agreed in writing by the DIP Lender.

(7) The entry of an order by the Court appointing, or the filing of a motion or application by the Debtor for an order seeking the appointment of an interim or permanent trustee in this chapter 11 case or the appointment of a receiver or an examiner under section 1104 of the Bankruptcy Code in this chapter 11 case, with expanded powers (beyond those set forth in sections 1106(a)(3) and 1106(a)(4) of the Bankruptcy Code) to operate or manage the financial affairs, the business, or reorganization of the Debtor or with the power to conduct an investigation of (or compel discovery).

B. **Rights and Remedies Upon Event of Default**.

(1) Upon the occurrence of and during the continuance of an Event of Default, the DIP Lender, without the necessity of seeking relief from the automatic stay or any further order of the Court, and after providing not less than three (3) business days' advance written notice thereof (the "Notice Period"), which notice may be by electronic mail (the "Enforcement Notice"), to counsel to the Debtor, the U.S. Trustee, and counsel to any Committee, shall be entitled, subject to the Carve-Out, to take any action and exercise all rights and remedies provided to the DIP Lender by this Interim Order, the DIP Financing Documents, or applicable law, as the DIP Lender may deem appropriate in its sole discretion, including, without limiting the DIP Lender's rights: (i) the DIP Lender shall no longer have any obligation to make any advances (or otherwise extend credit) under the DIP Facility; (ii) all amounts outstanding under the DIP Financing Documents

shall, at the option of the DIP Lender, be accelerated and become immediately due and payable; (iii) the Debtor shall be bound by all post-default restrictions, prohibitions, and other terms as provided in this Interim Order, the DIP Credit Agreement, and the other DIP Financing Documents; (iv) the DIP Lender shall be entitled to charge the default rate of interest under the DIP Credit Agreement and seek recovery of all Obligations; and (v) the DIP Lender shall be entitled to take any other act or exercise any other right or remedy as provided in this Interim Order, the DIP Financing Documents, or applicable law, including, without limitation, setting off any Obligations with Collateral or proceeds in the possession of the DIP Lender, and enforcing any and all rights and remedies with respect to the Collateral.

(2) During the Notice Period, the Debtor may only seek relief from the Court relating to whether an Event of Default has actually occurred or is continuing, and may not seek to limit the DIP Lender's exercise of rights or remedies hereunder.

(3) Upon the occurrence and during the continuance of an Event of Default, and after the Notice Period, the DIP Lender shall be entitled to take any action and exercise all rights and remedies provided to the DIP Lender by this Interim Order, or the DIP Financing Documents, or applicable law, unless otherwise ordered by this Court, as the DIP Lender may deem appropriate in its sole discretion to, among other things, proceed against and realize upon the Collateral or any other assets or properties of the Debtor's estate upon which the DIP Lender has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Obligations. Notwithstanding the foregoing or anything in Section VI.(B).(1) above, the DIP Lender may continue to apply proceeds received into the lockbox or collection accounts to reduce the Obligations in any order at the sole discretion of the DIP Lender.

(4) Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by the DIP Lender of its rights and remedies under this Interim Order or the DIP Financing Documents, the Debtor shall cooperate with the DIP Lender in the exercise of rights and remedies and assist the DIP Lender in effecting any sale or other disposition of the Collateral required by the DIP Lender, including any sale of Collateral pursuant to section 363 of the Bankruptcy Code or assumption and assignment of Collateral consisting of contracts and leases pursuant to section 365 of the Bankruptcy Code, in each case, upon such terms that are acceptable to the DIP Lender.

(5) Upon the occurrence and during the continuance of an Event of Default and after the Notice Period, in connection with a liquidation of any of the Collateral, the DIP Lender (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtor, to: (i) enter upon, occupy, and use any real property owned by the Debtor, any real property leased by the Debtor where Collateral is located, or any third party warehouse or other facility where Collateral is located, and use or remove such Collateral; (ii) withdraw all moneys, instruments, securities and other property in any bank, financial securities, deposit or other account of the Debtor constituting Collateral for application to the Obligations, and all depository banks or other financial institutions with control over any such bank, financial, securities, deposit or other account shall comply with the DIP Lender's withdrawal requests and payment instructions; and (iii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment, or any other similar assets of the Debtor, or assets which are owned by or subject to a lien of any third party and which are used by the Debtor in its business, subject to applicable non-bankruptcy law.

(6) The rights and remedies of the DIP Lender specified herein are cumulative and not exclusive of any rights or remedies that the DIP Lender may have under the DIP Financing Documents or otherwise and may be exercised in whole or in part in any order. The fourteen-day stay provisions of Bankruptcy Rules 6004(h) and 4001(a)(3) are hereby waived.

VII. Debtor's Waivers and Releases.

A. **Section 506(c) Claims and 552(b) Equities**. Effective upon the entry of a Final Order approving the Motion, no costs or expenses of administration which have been or may be incurred in this chapter 11 case or successor case at any time shall be charged against the DIP Lender or its claims in this chapter 11 case, pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender). Effective upon the entry of a Final Order, the DIP Lender 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 DIP Lender with respect to proceeds, products, offspring, or profits of any of the Collateral.

B. **Release.**

(1) Upon entry of the Final Order, and in consideration of and as a condition to the DIP Lender providing a substantial contribution to the Debtor's estate by providing critical postpetition funding under the DIP Credit Agreement, the DIP Lender's affiliate committing to act as the Stalking Horse bidder under the APA, and the DIP Lender providing other credit and financial accommodations to the Debtor pursuant to the provisions of this Interim Order and the DIP Financing Documents, the Debtor, on behalf of itself, its successors and assigns, and the Debtor's estate (collectively, "Releasors"), hereby absolutely releases and forever discharges and acquits the DIP Lender and its successors, participants, and assigns, and their present and former

shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, and other representatives (all such parties being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever of every kind, name, nature, and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this Interim Order. In addition, upon entry of the Final Order and the indefeasible payment and satisfaction in full of all Obligations owed to the DIP Lender by the Debtor and termination of the rights and obligations arising under this Interim Order and the DIP Financing Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Lender), the DIP Lender shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims, and causes of action arising or occurring in connection with or related to the DIP Financing Documents or this Interim Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated).

(2) Upon the entry of the Final Order, each Releasor hereby absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding, or otherwise) any Releasee on the basis of any claim

released and discharged by each Releasor pursuant to Section VII.(B).(1) above. If any Releasor violates the forgoing covenant, the Debtor agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

VIII. Other Rights and Obligations.

A. **No Modification or Stay of this Interim Order**. Based upon the record presented to the Court by the Debtor, notwithstanding (i) any stay, modification, amendment, supplement, vacating, revocation, or reversal of this Interim Order, the DIP Financing Documents, or any term hereunder or thereunder, (ii) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (iii) the dismissal or conversion of chapter 11 case, the DIP Lender shall retain and be entitled to all of the rights, remedies, privileges, and benefits in favor of the DIP Lender pursuant to sections 363(m) and 364(e) of the Bankruptcy Code, this Interim Order, and the DIP Financing Documents.

B. **Power to Waive Rights; Duties to Third Parties**. The DIP Lender shall have the right, in its sole discretion, to waive any of the terms, rights, and remedies provided or acknowledged in this Interim Order ("Lender Rights"), and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any Lender Right(s). Any waiver by any of the DIP Lender of any Lender Rights must be in writing and shall apply solely to such party and to the Lender Right so waived and shall not be or constitute a continuing waiver. Any delay in or failure to exercise or enforce any Lender Right shall neither constitute a waiver of such Lender Right, nor cause or enable any other party to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtor to the DIP Lender.

C. **Reservation of Rights**. The terms, conditions, and provisions of this Interim Order are in addition to and without prejudice to the rights of the DIP Lender to pursue any and all rights

and remedies under the Bankruptcy Code, the DIP Financing Documents, or any other applicable agreement or law, including, without limitation, rights to seek either or both adequate protection and additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose the granting of any interest in the Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for either or both allowance and payment of compensation of Professionals or other parties seeking compensation or reimbursement from the estate.

D. **Modification of the Automatic Stay**. The automatic stay under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order and the DIP Financing Documents, including, without limitation, the authorization to make payments, granting of liens, and perfection of liens.

E. **Binding Effect**.

(1) The provisions of this Interim Order, the DIP Financing Documents, the DIP Superpriority Claims, the DIP Liens, and any and all rights, remedies, privileges, and benefits in favor of the DIP Lender, provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order pursuant to Bankruptcy Rules 6004(g) and 7062, shall continue in full force and effect, and shall survive entry of any such other order, including, without limitation, any order which may be entered confirming any plan of reorganization, converting this chapter 11 case to any other chapter under the Bankruptcy Code, or dismissing the chapter 11 case.

(2) Any order dismissing this chapter 11 case under Bankruptcy Code section 1112 or otherwise shall be deemed to provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the DIP Lender's liens on and security interests in the Collateral shall

continue in full force and effect notwithstanding such dismissal until the obligations owed to the DIP Lender are indefeasibly paid and satisfied in full, and (ii) this Court shall retain jurisdiction, to the extent permissible under applicable law, notwithstanding such dismissal, for the purposes of enforcing the rights granted herein.

(3) In the event this Court modifies any of the provisions of this Interim Order or the DIP Financing Documents following a Final Hearing, this Interim Order shall remain in full force and effect except as expressly amended or modified at such Final Hearing.

(4) This Interim Order shall be binding upon the Debtor, its estate, all parties in interest in this chapter 11 case, and their respective successors and assigns, including any trustee or other fiduciary appointed in this chapter 11 case or any successor case of the Debtor and shall inure to the benefit of the DIP Lender, the Debtor, and their respective successors and assigns.

F. **Marshalling**. Subject to the entry of a Final Order, in no event shall the DIP Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Collateral.

G. **Proofs of Claim**. Notwithstanding the entry of an order establishing a bar date in this chapter 11 case, or the conversion of this chapter 11 case to a case under chapter 7 of the Bankruptcy Code, the DIP Lender shall not be required to file proofs of claim in this chapter 11 case or successor case with respect to any of the amounts set forth in the Obligations, the DIP Superpriority Claims, DIP Liens, or any other claims or liens granted hereunder or created hereby. The DIP Lender is hereby authorized and entitled, in its sole and absolute discretion, to file (and amend and/or supplement, as it sees fit) proofs of claim in this chapter 11 case if it so chooses.

H. **Waiver of Bankruptcy Rule 6003(b), 6004(a), and 6004(h)**. The 21-day provision of Bankruptcy Rule 6003(b), the notice requirements of Bankruptcy Rule 6004(a), and

the 14-day stay of 6004(h) are hereby waived.

I. **Order Controls**. Unless this Interim Order specifically provides otherwise, in the event of a conflict between (a) the terms and provisions of the DIP Financing Documents, and (b) the terms and provisions of this Interim Order, then in each case the terms and provisions of this Interim Order shall govern.

J. **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.

K. **Objections Overruled**. All objections to the entry of this Interim Order are, to the extent not resolved or withdrawn, hereby overruled.

L. **Intercompany Settlement**. Prior to entry of the Intercompany Settlement Order, and in the event any party alleges a breach or seeks to terminate under the Intercompany Settlement (pursuant to Section 7.13 or otherwise under Intercompany Settlement), the DIP Lender shall have standing to seek relief from the Court only as to whether any alleged breach actually occurred or is continuing or any such termination was proper.

IX. Final Hearing and Response Dates. The Final Hearing on the Motion shall be held on **[●], 2026, at [●]:[●] a.m./p.m. (Eastern Time)**. The Debtor shall promptly transmit copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the Noticed Parties, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have filed a request for notice. Any party in interest objecting to the relief sought at the Final Hearing shall file and serve written objections, which objections shall be served upon (a) the Debtor, 33 Winfield Street, Norwalk, CT 06855 (Attn: Jeffrey Brohel, Esq.); (b) (i) proposed counsel for the Debtor,

Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Heather Lennox, Esq. and T. Daniel Reynolds, Esq.) and (ii) proposed co-counsel for the Debtor, Bond, Schoeneck & King PLLC, One Lincoln Center, 110 West Fayette Street, Syracuse, NY 13202 (Attn: Stephen A. Donato, Esq., Charles J. Sullivan, Esq. and Grayson T. Walter, Esq.); (c) counsel for the DIP Lender, McDonald Hopkins LLC, 300 N LaSalle, Suite 1400, Chicago, IL 60654 (Attn: David Agay, Esq. and Joshua Gadharf, Esq.); (d) co-counsel for the DIP Lender, Barclay Damon LLP, 125 East Jefferson Street, Syracuse, NY 13202 (Attn: Jeffrey A. Dove, Esp.); (e) counsel to any Committee; and (f) the U.S. Trustee; and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of New York, in each case to allow actual receipt by the foregoing by no later than **[●], 2026 at 5:00 p.m. (Eastern Time)**.

Exhibit 1

Approved Budget

DIP Budget

DIP Budget	Filing			Final DIP Order					Sale Closing				
Week Ending Date----->	02/20/26	02/27/26	03/06/26	03/13/26	03/20/26	03/27/26	04/03/26	04/10/26	04/17/26	04/24/26	05/01/26	05/08/26	05/15/26
Total Operating Receipts	**$562**	**$1,281**	**$585**	**$1,002**	**$1,032**	**$1,032**	**$1,032**	**$991**	**$991**				
Cash Disbursements													
Resale Products	($200)	($163)	($162)	($162)	($162)	($162)	($180)	($180)	($180)				
Packaging, Pallets and Shipping	(250)	(109)	(109)	(109)	(109)	(109)	(109)	(109)	(109)				
Payroll and Related	(125)	(300)	(126)	(300)	(126)	(300)	(126)	(300)	(126)				
Operating and Maintenance	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(141)				
Administrative and Other	(20)	(20)	(20)	(20)	(20)	(20)	(20)	(20)	(20)				
Restructuring Expense	(1,175)	(512)	(512)	(562)	(512)	(512)	(675)	(512)	(512)	(512)	(512)	(512)	(512)
Capital Expenditures	0	0	0	(350)	0	0	0	(350)	0				
Net Cash Flow	**($1,348)**	**$37**	**($484)**	**($641)**	**($37)**	**($211)**	**($218)**	**($620)**	**($96)**	**($512)**	**($512)**	**($512)**	**($512)**
Affiliate Payments													
Vanderbilt Chemicals (Goods)	(100)	(100)	(160)	(170)	(160)	(163)	(290)	(290)	(290)				
Vanderbilt Global Services (Serivces)	0	0	(389)	0	0	0	(389)	0	0				
RTVH (Expenses)	0	0	0	(479)	0	0	0	0	(439)				
AMT (Lease)	0	0	0	0	(25)	0	0	0	0				
Net Weekly Cash Flow	**($1,448)**	**($63)**	**($1,033)**	**($1,290)**	**($222)**	**($374)**	**($897)**	**($910)**	**($825)**	**($512)**	**($512)**	**($512)**	**($512)**
Beginning Book Cash Balance	$2,390	$942	$879	($154)	($1,445)	($1,667)	($2,041)	($2,938)	($3,848)	($4,673)	($5,185)	($5,696)	($6,208)
Ending Book Cash Balance	$942	$879	($154)	($1,445)	($1,667)	($2,041)	($2,938)	($3,848)	($4,673)	($5,185)	($5,696)	($6,208)	($6,720)
Restricted Cash	($1,125)	($1,125)	($1,125)	($1,125)	($1,125)	($1,125)	($1,125)	($1,125)					
Ending Available Cash b/f DIP Draw	**($184)**	**($246)**	**($1,280)**	**($2,570)**	**($2,792)**	**($3,166)**	**($4,064)**	**($4,973)**	**($4,673)**	**($5,185)**	**($5,696)**	**($6,208)**	**($6,720)**
Beginning Book Cash Balance	**$1,265**	**$6,316**	**$6,254**	**$5,199**	**$12,408**	**$12,186**	**$11,812**	**$10,814**	**$9,904**	**$9,079**	**$8,567**	**$8,056**	**$7,544**
Net Weekly Cash Flow	**($1,448)**	($63)	($1,033)	($1,290)	($222)	($374)	($897)	($910)	($825)	($512)	($512)	($512)	($512)
DIP Interest	0.0	0.0	(21.7)	0.0	0.0	0.0	(100.8)	0.0					
DIP Draw	6,500			8,500									
Ending Cash (exluding sale proceeds)	**$6,316**	**$6,254**	**$5,199**	**$12,408**	**$12,186**	**$11,812**	**$10,814**	**$9,904**	**$9,079**	**$8,567**	**$8,056**	**$7,544**	**$7,032**
Current Gross Purchased Price less DIP Draw									**$ 35,000**	**$35,000**	**$35,000**	**$35,000**	**$35,000**
Preliinary Estimated Cash on Hand									**$44,079**	**$43,567**	**$43,056**	**$42,544**	**$42,032**

Post-Sale Closing cash flow is presented for illustrative purposes, and excludes potential upside from the auction, nominal accrued DIP Interest, certain professional fees, expenses and other reductions in the purchase price. The Debtors will develop a post-Sale Closing budget when appropriate.

Exhibit 2

DIP Credit Agreement

Execution Version

SENIOR SECURED DEBTOR-IN-POSSESSION TERM LOAN AGREEMENT

Dated as of February 15, 2026

among

VANDERBILT MINERALS, LLC,
as the Borrower,

COMMODORE MATERIAL FUNDING, LLC,
as the Agent,

and

The Lenders Party Hereto

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Exhibit F	Form of Variance Report

SENIOR SECURED DEBTOR-IN-POSSESSION TERM LOAN AGREEMENT

This **SENIOR SECURED DEBTOR-IN-POSSESSION TERM LOAN AGREEMENT** (this "Agreement") is entered into as of February 15, 2026, among **VANDERBILT MINERALS, LLC**, a Delaware limited liability company and a Debtor and Debtor-in-Possession under Chapter 11 of the Bankruptcy Code (the "Borrower"), each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender") and **COMMODORE MATERIAL FUNDING, LLC**, a Delaware limited liability company, as administrative and collateral agent (in such capacities, the "Agent").

WHEREAS, capitalized terms used in these Recitals shall have the respective meanings set forth for such terms in Section 1.01 hereof;

WHEREAS, on February 16, 2026 (the "Petition Date"), the Borrower (in such capacity, the "Debtor"), filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code with the United States Bankruptcy Court for the Northern District of New York Utica Division (the "Bankruptcy Court") initiating a case pending under Chapter 11 of the Bankruptcy Code (the "Case") and has continued to operate its business as a debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code; and

WHEREAS, the Borrower has requested and the Lenders have agreed to provide the Borrower with a priming, senior secured debtor-in-possession credit facility in an aggregate principal amount of $15,000,000 subject to the terms and conditions set forth in this Agreement and the DIP Orders, as applicable.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

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

"363 Sale Transaction" means the sale of the Debtor's assets consummated under Section 363 of the Bankruptcy Code to: (a) the Stalking Horse Bidder on the terms set forth in the Stalking Horse APA and the Sale Order; or (b) another Qualified Bidder pursuant to the terms of an Alternative Transaction in accordance with the Bidding Procedures Order.

"Account" means "accounts" as defined in the UCC, and also means a right to payment of a monetary obligation, whether or not constituting an "account" as defined in the UCC, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise Disposed of, (b) for services rendered or to be rendered, (c) for a policy of insurance issued or to be issued, (d) for a secondary obligation incurred or to be incurred, (e) for energy provided or to be provided, (f) for the use or hire of a vessel under a charter or other contract, (g) arising out of the use of a credit or charge card or information contained on or for use with the card, or (h) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term "Account" includes health-care-insurance receivables.

"Acquisition" means, with respect to any Person, (a) an investment in, or a purchase of, a Controlling interest in the Equity Interests of any other Person, (b) a purchase or other acquisition of all or

substantially all of the assets or properties of, another Person or of any business unit, division or line of business of another Person or (c) any merger or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or of any business unit, division or line of business of another Person, or a Controlling interest in the Equity Interests, of any Person.

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

"Affiliate" means, with respect to any Person, (i) 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, (ii) any director, officer, managing member, partner, trustee, or beneficiary of that Person, and (iii) any other Person directly or indirectly holding 10% or more of any voting class of the Equity Interests of that Person.

"Agent" means Commodore Material Funding, LLC, in its capacity as administrative and collateral agent under any of the Loan Documents, or any successor thereto.

"Agent's Office" means the Agent's address and account as set forth on Schedule 10.02, or such other address or account as the Agent may from time to time notify the Borrower and the Lenders.

"Aggregate Commitments" means the sum of the Commitments of all the Lenders. As of the Closing Date, the Aggregate Commitments are $15,000,000.

"Agreement" means this Senior Secured Debtor-in-Possession Term Loan Agreement.

"Alternative Transaction" means the consummation of a transaction with respect to a material set of assets of the Debtor outside of the ordinary course of business other than the 363 Sale Transaction, including through confirmation of a Reorganization Plan.

"AMT Equipment Lease" means that certain Equipment Lease Agreement, dated as of January 16, 2026, by and between Borrower and Advanced Milling Technologies, LLC.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower from time to time concerning or relating to bribery or corruption.

"Applicable Lenders" means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

"Applicable Percentage" means, with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments (or, where such term is used with respect to the Initial Term Loans or the Delayed Draw Term Loans only, of the Initial Term Loans or Delayed Draw Term Loans, respectively) represented by the outstanding principal balance of such Lender's Loan at such time to the Total Outstandings at such time. The Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means seven and one half percent (7.5%) per annum.

"Approved Budget" has the meaning specified in Section 4.01(k).

"Approved Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, (iii) an entity or an Affiliate of an entity that administers or manages a Lender or (iv) the same investment advisor or an advisor under common control with such Lender, Affiliate or advisor, as applicable.

"Approved Plan" has the meaning specified in Section 8.01(m)(ii).

"Asset Sale" means a sale, lease or sublease (as lessor or sublessor), sale and leaseback, assignment, conveyance, transfer, license or sublicense or other Disposition to, or any exchange of property with, any Person, not in the ordinary course of business, in one transaction or a series of transactions, of all or any part of the Borrower's businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including, without limitation, the Equity Interests of the Borrower. For purposes of clarification, "Asset Sale" shall include (a) the sale or other Disposition for value of any material contract, (b) any Disposition of property through a "plan of division" under the Delaware Limited Liability Company Act or any comparable transaction under any similar law, (c) the early termination or modification of any contract resulting in the receipt by the Borrower of a cash payment or other consideration in exchange for such event and (d) any sale of accounts (or any rights thereto) by the Borrower.

Notwithstanding the foregoing, none of the following items will be deemed to be an Asset Sale:

(i) use or transfer of Cash or Cash Equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents;

(ii) the licensing or sublicensing of patents, trademarks, know-how or other intellectual property or general intangibles related thereto in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Borrower (provided that any exclusive license that effectively constitutes a transfer of the related property shall be deemed to be an Asset Sale); and

(iii) the lease, assignment or sublease of any real or personal property in the ordinary course of business which does not materially interfere with the ordinary conduct of the business of the Borrower.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Agent, in substantially the form of Exhibit A or any other form approved by the Agent.

"Automatic Stay" means the automatic stay imposed under Section 362 of the Bankruptcy Code.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," 11 U.S.C. §§ 101, *et seq.*, as now and hereafter in effect, or any successor statute.

"Bankruptcy Court" has the meaning specified in the Recitals hereto.

"Bidding Procedures Order" means a Final Order entered by the Bankruptcy Court, in form and substance reasonably acceptable to the Required Lenders, approving the bidding and auction procedures with respect to the 363 Sale Transaction, including designating the Stalking Horse as the "Stalking Horse" in accordance with the Stalking Horse APA.

"Board of Directors" means the board of managers of the Borrower.

"Borrower" has the meaning specified in the Recitals hereto.

"Borrowing" means a borrowing consisting of simultaneous Loans made by each of the Lenders pursuant to Section 2.01.

"Business" means the business of the Borrower as conducted on the date hereof.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Agent's Office is located.

"Call Right" has the meaning specified in Section 10.23.

"Capital Lease Obligations" means, with respect to any Person for any period, 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 liabilities on a balance sheet of such Person under GAAP and the amount of which obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"Carve-Out" has the meaning specified in the DIP Orders.

"Case" has the meaning specified in the recitals to this Agreement.

"Cash and Cash Equivalents" means the Permitted Investments described in clauses (a) through (h) of the definition of Permitted Investments.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"CERCLIS" means the Comprehensive Environmental Response, Compensation, and Liability Information System maintained by the United States Environmental Protection Agency.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) 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 foreign regulatory authorities, in each case pursuant to Basel III, shall for the purpose of this Agreement, be deemed to be adopted after the Closing Date, regardless of the date enacted, adopted or issued.

"Change of Control" means, at any time, any of the following occurrences:

(a) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934) (i) shall have acquired beneficial ownership of 10% or more on a fully diluted basis of the voting interest in the Equity Interests of the Borrower or (ii) shall have obtained the power (whether or not exercised) to elect a majority of the members of the Board of Directors (or similar governing body) of the Borrower; or

(b) Holdings shall cease to own and control, directly, all of the Equity Interests of the Borrower;

(c) the majority of the seats (other than vacant seats) on the Board of Directors (or similar governing body) of the Borrower cease to be occupied by Persons who either (i) were members of the Board of Directors of the Borrower on the Closing Date, or (ii) were nominated for election by the Board of Directors (or similar governing body) of the Borrower, a majority of whom were directors on the Closing Date or whose election or nomination for election was previously approved by a majority of such directors.

"Chemicals" means Vanderbilt Chemicals, LLC.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" means any and all "Collateral" as defined in any applicable Security Document and all other property that is or is intended under the terms of the Security Documents and the DIP Orders to be subject to Liens in favor of the Agent.

"Commitment Fee" has the meaning specified in Section 2.09.

"Commitments" means the Initial Term Loan Commitments and the Delayed Draw Term Loan Commitments. The amount of each Lender's Commitment as of the Closing Date is set forth on Schedule 2.01 and the aggregate amount of the Commitments as of the Closing Date is $15,000,000 (in each case, before giving effect to the Loans made on the Closing Date and the Final Term Funding Date).

"Committed Loan Notice" means a notice of a Borrowing which, if in writing, shall be substantially in the form of Exhibit B.

"Committee" means an official committee of unsecured creditors holding unsecured claims or similar statutory committee, if any, appointed in the Case pursuant to Section 1102(a) of the Bankruptcy Code.

"Commodity Account" has the meaning specified in the UCC.

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

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the

consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Contractual Obligation" means, as to any Person, any provision of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

"Credit Party" or "Credit Parties" means (a) individually, (i) each Lender, (ii) the Agent, (iii) each beneficiary of each indemnification obligation undertaken by the Borrower under any Loan Document, (iv) any other Person to whom Obligations under this Agreement and other Loan Documents are owing, and (v) the permitted successors and assigns of each of the foregoing, and (b) collectively, all of the foregoing.

"Credit Party Expenses" means, without limitation, all reasonable and documented out-of-pocket expenses and customary administrative charges incurred by the Agent and each of the Lenders in connection with this Agreement and the other Loan Documents, including without limitation (a) the reasonable and documented out-of-pocket fees and disbursements of (i) counsel for the Agent and for each Lender, (ii) outside consultants for the Agent, (iii) appraisers, and (iv) commercial finance examinations, (b) in connection with (i) the preparation, negotiation, administration, management, execution and delivery of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) the enforcement or protection of their rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce Agent's and the Lenders' rights in the Collateral, or (iii) any workout, restructuring or negotiations in respect of any Obligations, (c) all reasonable and customary documented out-of-pocket fees and charges (as adjusted from time to time) of the Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of the Borrower (whether by wire transfer or otherwise), together with any out-of-pocket costs and expenses incurred in connection therewith, and (d) all reasonable and documented out-of-pocket expenses incurred by the Credit Parties who are not the Agent, the Lender or any Affiliate of any of them, in connection with the enforcement or protection of their rights hereunder, including any workout or restructuring of the Obligations after and during the occurrence of an Event of Default; provided, that, such Credit Parties shall be entitled to reimbursement for no more than one (1) local counsel in each appropriate jurisdiction representing all such Credit Parties (absent a conflict of interest in, which case the Credit Parties may engage and be reimbursed for one (1) additional counsel).

"CRO" has the meaning specified in Section 6.18.

"Debtor" means the Borrower in its capacity as debtor-in-possession in the Case.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would constitute an Event of Default.

"Default Rate" means when used with respect to the Loans and the other Obligations, an interest rate equal to an additional two percent (2%) per annum over the Applicable Rate.

"Defaulting Lender" means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Agent or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, (b) has notified the Borrower or the Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Agent or the Borrower, to confirm in writing to the Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Agent in a written notice of such determination, which shall be delivered by the Agent to the Borrower and each other Lender promptly following such determination.

"Delayed Draw Term Loan" has the meaning specified in Section 2.01(b).

"Delayed Draw Term Loan Commitment" means the commitment of a Lender to make or otherwise fund any Delayed Draw Term Loan pursuant to Section 2.01(b), and "Delayed Draw Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Delayed Draw Term Loan Commitment is set forth opposite such Lender's name on Schedule 2.01, or, if such Lender's Delayed Draw Term Loan Commitment has been assigned, in the applicable Assignment and Assumption Agreement, subject to any adjustment pursuant to the terms and conditions hereof. The aggregate amount of the Delayed Draw Term Commitments as of the Closing Date is $8,500,000 (before giving effect to the Delayed Draw Term Loans made on the Final Term Funding Date).

"Deposit Account" has the meaning specified in the UCC.

"DIP Facility" means the credit facility contemplated by this Agreement.

"DIP Lien" has the meaning specified in the DIP Orders.

"DIP Orders" means the Interim DIP Order and/or the Final DIP Order, as applicable, as each may be amended, restated, amended and restated, supplemented or otherwise modified with the prior written consent of the Agent, in its sole discretion.

"Direct Competitor" means (a) each of the entities described on Schedule 1.01(D) attached hereto (as such schedule may be amended from time to time by the Borrower with the prior written approval of the Agent) and (b) any other company engaged principally in the business of the Borrower identified in writing from time to time by the Borrower to the Agent and approved by the Agent, the identities of which will be made available to the Lenders upon request.

"Disbursements Variance" has the meaning specified in Section 6.01(a).

"Disposition" or "Dispose" means the sale, transfer, exclusive license, lease or other disposition (including any sale and leaseback transaction and any sale, transfer, license or other disposition (including by way of Division) of (whether in one transaction or in a series of transactions) of any property (including, without limitation, any Equity Interests by any Person or the granting of any option or other right to do any of the foregoing (except for the issuance of Equity Interests or grant of any option therein by the Borrower)), including any sale, assignment, settlement, transfer or other disposal, with or without recourse, of any notes or accounts receivable (including through the setoff, recoupment, offset or other netting of any Accounts, including without limitation accounts receivable with any Affiliates of Borrower) or any rights and claims associated therewith; provided, however, that any disposition made pursuant the Intercompany Settlement Order shall not constitute a Disposition.

"Disqualified Stock" means 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, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Equity Interests that do not constitute Disqualified Stock), pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days after the date on which the Loans mature; provided, however, that (a) only the portion of such Equity Interests which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock and (b) with respect to any Equity Interests issued to any employee or to any plan for the benefit of employees of the Borrower or by any such plan to such employees, such Equity Interest shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, resignation, death or disability and if any class of Equity Interest of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of an Equity Interest that is not Disqualified Stock, such Equity Interests shall not be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Equity Interest that would constitute Disqualified Stock solely because the holders thereof have the right to require the Borrower to repurchase such Equity Interest upon the occurrence of a change of control or an Asset Sale shall not constitute Disqualified Stock. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Borrower may become obligated to pay upon maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock or portion thereof, plus accrued dividends.

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons, whether pursuant to a "plan of division" or similar arrangement pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any similar provision under the laws of any other applicable jurisdiction and pursuant to which the Dividing Person may or may not survive.

"Dollars" and "$" mean lawful money of the United States.

"Eligible Assignee" means (a) a Credit Party or any of its Affiliates; (b) a bank, insurance company, investment fund, mutual fund or company engaged in the business of making commercial loans; (c) an

Approved Fund; (d) any Person to whom a Credit Party assigns its rights and obligations under this Agreement as part of an assignment and transfer of such Credit Party's rights in and to a material portion of such Credit Party's portfolio of similar credit facilities, and (e) any other Person (other than a natural person) approved by (i) the Agent, and (ii) unless a Default or an Event of Default under Section 8.01(a) has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided, that, notwithstanding the foregoing, "Eligible Assignee" shall not include the Borrower, a Direct Competitor or any of the Direct Competitors' respective Affiliates or Subsidiaries.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, and legally-binding judgments, orders, decrees or governmental restrictions relating to pollution, the protection of the environment, the release of Hazardous Materials into the environment and human exposure to Hazardous Materials, including those related to the treatment, transport, storage and disposal of Hazardous Materials, air emissions and discharges to public pollution control systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of the Borrower, resulting from or based upon (a) any actual violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) human exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other binding consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equipment" has the meaning set forth in the UCC and to the extent not included therein, all motor vehicles and other rolling stock.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting.

"ERISA Affiliate" means (a) any corporation which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as the Borrower, (b) a trade or business (whether or not incorporated) under common control (within the meaning of Section 414(c) of the Code) with the Issuer or (c) a member of the same affiliated service group (within the meaning of Section 414(m) of the Code) as the Borrower, any corporation described in clause (a) above or any trade or business described in clause (b) above.

"ERISA Event" means (a) a Reportable Event with respect to a Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a "substantial employer" (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA) or insolvent (within the meaning of Section 4245 of ERISA); (d) the filing of a notice of intent to terminate or the

treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, respectively, (e) the institution by the PBGC of proceedings to terminate a Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan; (g) the determination that any Plan is considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (h) the determination that any Multiemployer Plan is considered a plan in endangered or critical status within the meaning of Sections 431 and 432 of the Code or Sections 304 and 305 of ERISA; (i) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate; (j) the conditions for the imposition of a lien under Section 430(k) of the Code or Section 303(k) of ERISA shall have been met with respect to any Plan; or (k) any other event or condition with respect to a Plan or Multiemployer Plan that could result in liability of the Borrower, other than in the usual course.

"Event of Default" has the meaning specified in Section 8.01.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 3.01, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to a failure (other than as a result of a Change in Law) to comply with Section 3.01(e), and (d) any U.S. federal withholding tax imposed under FATCA.

"Exit Fee" has the meaning specified in Section 2.09.

"Extraordinary Receipts" means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including tax refunds, pension plan reversions, proceeds of insurance (other than proceeds of (x) business interruption insurance to the extent such proceeds constitute compensation for lost earnings or (y) insurance relating to Talcum Powder Litigation), indemnity payments (other than to the extent such payments are payable to a Person that is not an Affiliate of the Borrower) and any purchase price adjustments.

"FATCA" means 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) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or official practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on

the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for such day for such transactions received by the Agent from three federal funds brokers of recognized standing selected by it.

"Final DIP Order" means an order of the Bankruptcy Court approving the Loans, this Agreement and the other Loan Documents on a final basis, which order shall be (a) in form and substance acceptable to each Lender in its sole discretion, and (b) a Final Order.

"Final Order" means an order entered by the Bankruptcy Court or other court of competent jurisdiction, the implementation, operation, or effect of which has not been stayed and as which order (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing or writ of certiorari has expired and as to which no appeal or petition for review or rehearing or certiorari has been taken or is pending; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Bankruptcy Code, may be filed relating to such order, shall not cause such order not to be a Final Order.

"Fiscal Year" means a fiscal year of the Borrower, ending on December 31 of each calendar year.

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

"Final Term Funding Date" has the meaning specified in Section 2.01(b).

"Financial Statements" means the consolidated balance sheet, income statement and cash flow statements of the Borrower.

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

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means the government of the United States or any other nation, or of 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).

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of

the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other Obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness or other obligation to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning. The endorsement of negotiable instruments for collection in the ordinary course of business shall not constitute a "Guarantee".

"Hazardous Materials" means all radioactive substances or wastes, petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, infectious or medical wastes and all other substances or wastes of any nature regulated as "hazardous" or "toxic," or as a "pollutant" or a "contaminant," pursuant to any Environmental Law.

"Holdings" means R.T. Vanderbilt Holding Co., Inc., a Delaware corporation.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) the Swap Termination Value under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than ninety (90) days after the date on which such trade account payable was due and payable);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Indebtedness of such Person in respect of any Capital Lease Obligations of any Person, to the extent the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person (including, without limitation, Disqualified Stock), or any warrant, right or option to acquire such Equity Interest, valued, in

the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person or such Person has no liability therefor as a matter of law. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date.

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

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Initial Term Loan Commitment" means, as to each Lender, its commitment to make an Initial Term Loan to the Borrower on the Closing Date (before giving effect to the Initial Term Loans made on the Closing Date) pursuant to Section 2.01(a), and "Initial Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Initial Term Loan Commitment as of the Closing Date is as set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement; provided, that the Initial Term Loan Commitments to make Initial Term Loans on the Closing Date shall not exceed $6,500,000 (before giving effect to the Initial Term Loans made on the Closing Date).

"Initial Term Loans" has the meaning specified in Section 2.01(a).

"Intellectual Property" means all of the Borrower's right, title and interest in and to all present and future: trade secrets, confidential know-how and other proprietary information; trademarks, trademark applications, internet domain names, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and all registrations or applications for registrations which have heretofore been or may hereafter be issued thereon throughout the world; copyrights and copyright applications; (including copyrights for computer programs) and all tangible and intangible property embodying the copyrights; patents and patent applications; industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; books, customer lists, records, writings, computer tapes or disks, flow diagrams, specification sheets, computer software, source code, object code, executable code, data, databases and other physical manifestations, embodiments or incorporations of any of the foregoing; all other intellectual property; and all common law and other rights throughout the world in and to all of the foregoing.

"Intellectual Property Security Agreement" means a short-form Trademark Security Agreement, dated as of the Closing Date, between the Borrower and the Agent and in a form reasonably satisfactory to the Agent, granting a Lien in the applicable Intellectual Property and certain other assets of the Borrower, and as the same now exists or may hereafter be amended, modified, supplemented, renewed, restated or replaced.

"Intercompany Agreement" has the meaning specified in Section 6.12.

"Intercompany Services Agreements" means, collectively, (i) the VGS Services Agreement, (ii) that certain Supply Agreement, dated as of January 16, 2026, by and between Borrower and Vanderbilt Chemicals, LLC, (iii) that certain Supply Agreement, dated as of January 16, 2026, by and between Borrower and Vanderbilt Chemicals, LLC and (iv) the AMT Equipment Lease.

"Intercompany Settlement" means that certain Settlement Agreement (including all exhibits, annexes and schedules thereto), by and among the Debtor and the Intercompany Settlement Counterparties, providing for, among other things, the contribution to the Debtor of all related assets necessary for the Debtor to continue business as a going concern, including but not limited to (i) the inventory, intellectual property, land, building, machinery and equipment of the VEEGUM processing plant located in Murray, Kentucky, (ii) the mining rights and other assets of Vanderbilt Western Resources Lyles Mine, and (iii) the assets of Advanced Milling Technologies, Inc, which such settlement agreement shall be acceptable to Agent in its sole discretion (it being agreed and understood that that the form of Intercompany Settlement attached as Exhibit B to the Intercompany Settlement Motion filed at Docket No. [XX] is acceptable to Agent).

"Intercompany Settlement Assets" means the assets transferred to the Debtor pursuant to the Intercompany Settlement.

"Intercompany Settlement Counterparties" means Holdings and certain Affiliates of Holdings.

"Intercompany Settlement Motion" means that certain motion filed by Debtor contemporaneous with the filing of the Bankruptcy Case seeking Bankruptcy Court approval of the Intercompany Settlement.

"Intercompany Settlement Order" means a Final Order entered by the Bankruptcy Court granting the Intercompany Settlement Motion, approving the transfer of the Intercompany Settlement Assets, and granting the Call Right, which order shall be in the form filed with or provided to the Bankruptcy Court on the Petition Date and consented to by the Stalking Horse Bidder; provided that any subsequent changes (except for immaterial changes) shall be mutually agreed to by the Borrower and the Stalking Horse Bidder.

"Interim DIP Order" means an interim order of the Bankruptcy Court approving the Loans, this Agreement and the other Loan Documents on an interim basis, which order shall be substantially in the form attached hereto as Exhibit C (or in form and substance acceptable to each Lender in its sole discretion).

"Interim Facility Maturity Date" means the date that is twenty-one (21) calendar days after the Petition Date, if the Final DIP Order has not been entered on or prior to such date.

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

"Inventory" has the meaning given that term in the UCC, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under a contract of service, or (iv) consist of raw materials, work in process, or materials used or consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

"Investment" means, as to any Person, any direct or indirect acquisition (including pursuant to any merger or Division) or investment by such Person in any other Person, whether by means of (a) the purchase

or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person, or (c) any Acquisition, or (d) any other investment of money or capital in any other Person. The amount of any outstanding Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment net of any repayments thereof. For the avoidance of doubt, the acquisition or construction of fixed or capital assets by the Borrower shall not constitute an Investment.

"IRS" means the United States Internal Revenue Service.

"Laws" means each international, foreign, Federal, state and local statute, treaty, rule, guideline, regulation, ordinance, code and administrative or judicial precedent or authority, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and each applicable administrative order, directed duty, request, license, authorization and permit of, and agreement with, any Governmental Authority, in each case whether or not having the force of law.

"Lender" has the meaning specified in the introductory paragraph hereto.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Lien" means (a) any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale, Capital Lease Obligation, Synthetic Lease Obligation, or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing) and (b) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"Loan Account" has the meaning assigned to such term in Section 2.11(a).

"Loan Documents" means this Agreement, each Note, the Security Documents, the DIP Orders and any other instrument or agreement now or hereafter executed and delivered in connection herewith or therewith.

"Loans" means the Initial Term Loans and the Delayed Draw Term Loans.

"Lyles Assets" means the mineral rights and other business assets, including real and personal property, located at the Lyles mining facility in Yavapai County, Arizona.

"Management Services Agreement" means that certain Management Services Agreement, dated as of January 1, 2013, between Borrower and Holdings, as amended and restated as of July 9, 2025, and as further amended as of December 23, 2025.

"Material Adverse Effect" means any event, change, effect, condition, state of facts, or occurrence (collectively, a "Change") which has, or would reasonably be expected to have, a material adverse effect on the Debtor's assets or the business, operations, or results of operations of the Debtor, considered as a whole, except that none of the following, alone or in combination, will be deemed to constitute, nor will any of the following (including the effect of any of the following) be taken into account in determining

whether there has been or will be, a "Material Adverse Effect": (a) any Change in the United States or foreign economies or financial markets in general, (b) any Change that generally affects the industries in which the Business operates, (c) any Change arising in connection with pandemics, earthquakes, hurricanes, tornadoes, fires, acts of God, hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such matters, or any response of any Governmental Body to any of the foregoing, (d) any Change in applicable Laws or the enforcement, implementation or interpretation thereof, including trade regulations, trade disputes, restrictions and tariffs (or similar Taxes) as well as restrictions on foreign direct investment, (e) actions taken by Agent or any of its Affiliates (other than those expressly permitted to be taken hereunder), except as contemplated under this Agreement and the Stalking Horse APA as necessary in the Bankruptcy Case to protect the Agent's interests, (f) any Change resulting from the public announcement of this Agreement or the Bankruptcy Case, (g) changes in GAAP or other accounting standards (or interpretations thereof) after the date of this Agreement, or (h) any effect resulting from (i) the commencement or filing of the Bankruptcy Case, or (ii) Debtor's inability to pay certain prepetition obligations as a result of the commencement of the Bankruptcy Case; provided, however, that with respect to clauses (a), (b), (c) and (d), such effects will only be excluded from consideration to the extent the applicable matter does not disproportionately materially adversely affect the business of the Debtor as compared to similarly situated businesses operating in the same industry and geographic areas in which Debtor operates.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party the termination of which would have a Material Adverse Effect.

"Material Indebtedness" means Indebtedness (other than the Obligations) of the Borrower in an aggregate principal amount exceeding the Threshold Amount. For purposes of determining the amount of Material Indebtedness at any time, (a) the amount of the obligations in respect of any Swap Contract at such time shall be calculated at the Swap Termination Value thereof, (b) undrawn committed or available amounts shall be included, and (c) all amounts owing to all creditors under any combined or syndicated credit arrangement shall be included.

"Maturity Date" means the earliest of (a) the Interim Facility Maturity Date, (b) June 16, 2026, (c) the filing of a motion by the Borrower seeking dismissal of the Case, the dismissal of the Case, or the filing of a motion by the Borrower seeking to convert the Case to a case under Chapter 7 of the Bankruptcy Code, (d) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code) of a Reorganization Plan, which for the purposes of this clause (d) shall be no later than the "effective date" of a Reorganization Plan of the Borrower, which has been confirmed by an order entered by the Bankruptcy Court in the Case, (e) the acceleration of the Obligations and the termination of all Commitments hereunder upon the occurrence of an Event of Default in accordance with the Loan Documents and the DIP Orders, (f) [reserved], (g) the consummation of an Alternative Transaction, and (h) the termination of the Stalking Horse APA for any reason other than as a result of a default by the Stalking Horse Bidder.

"Maximum Rate" has the meaning specified in Section 10.09.

"Milestones" has the meaning specified in Section 6.13.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Murray Assets" means the real property and other business assets, including real and personal property, of the VEEGUM processing plant located in Murray, Kentucky.

"Net Proceeds" means:

(a) with respect to any Disposition by the Borrower, or any Extraordinary Receipt, insurance proceeds or condemnation awards received or paid to the account of the Borrower, the excess, if any, of (i) the sum of Cash and Cash Equivalents received in connection with such transaction (including any Cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) the principal amount of any Indebtedness that is secured by a Lien permitted hereunder, on the applicable asset which is senior to the Agent's Lien on such asset and that is required to be repaid (or to establish an escrow for the future repayment thereof) in connection with such transaction (other than Indebtedness under the Loan Documents), (B) the reasonable and customary out-of-pocket expenses incurred by the Borrower in connection with such transaction (including, without limitation, appraisals, brokerage, legal, investment banking, title and recording or transfer tax expenses and commissions, success or transaction fees) paid by the Borrower to third parties, including, without limitation, professional liquidators (other than Affiliates)), (C) taxes (including transfer tax and recording tax) paid or reasonably estimated to be payable by the Borrower and that are directly attributable to such Disposition (as determined reasonably and in good faith by the chief financial officer of the Borrower), (D) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (C) above) (1) related to any of the applicable business or assets and (2) retained by the Borrower, including, without limitation, liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability), shall be deemed to be Net Proceeds of such transaction occurring on the date of such reduction) and (E) all amounts deposited in trust or escrow in respect of any purchase price adjustment or escrow obligations of the Borrower for the benefit of any third party or to which any third party may be entitled in connection with such transaction; and

(b) with respect to the sale or issuance of any Equity Interest by the Borrower, or the incurrence or issuance of any Indebtedness by the Borrower, the excess of (i) the sum of the Cash and Cash Equivalents received in connection with such transaction over (ii) the underwriting discounts and commissions, and other reasonable and customary out-of-pocket expenses, incurred by the Borrower in connection therewith.

"Non-Consenting Lender" has the meaning specified in Section 10.01.

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

"Note" means a promissory note made by the Borrower in favor of a Lender (or its permitted assigns) evidencing the Loan made by such Lender, substantially in the form of Exhibit D as each may be amended, supplemented or modified from time to time.

"NPL" means the National Priorities List under CERCLA.

"Obligations" means all Loans, advances to, and debts (including principal, interest, fees, costs, and expenses, liabilities, obligations, covenants, indemnities, and duties of, the Borrower arising under any Loan Document with respect to any Loan (including payments in respect of reimbursement of disbursements, interest thereon and obligations to provide cash collateral therefor)), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, costs, expenses and indemnities that accrue after the commencement by or against the Borrower of any proceeding under any Debtor Relief Laws naming

such Person as the debtor in such proceeding, regardless of whether such interest, fees, costs, expenses and indemnities are allowed claims in such proceeding.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation 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; (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, and (d) in each case, all shareholder or other equity holder agreements, voting trusts and similar arrangements to which such Person is a party or which is applicable to its Equity Interests and all other arrangements relating to the Control or management of such Person.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, or 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" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Participant" has the meaning specified in Section 10.06(d).

"Participant Register" has the meaning specified in Section 10.06(d).

"PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Perfection Certificate" has the meaning specified in the Security Agreement.

"Permitted Disposition" means any of the following:

(a) Dispositions of Inventory in the ordinary course of business;

(b) non-exclusive licenses and sub-licenses of Intellectual Property of the Borrower in the ordinary course of business;

(c) Dispositions of Equipment in the ordinary course of business that is substantially worn-out, damaged, obsolete or, in the judgment of the Borrower, is no longer useful or necessary in its business and is replaced with similar property having at least equivalent value;

(d) Dispositions of Accounts in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy, workout or similar proceedings, to the extent approved by the Bankruptcy Court;

(e) subject to Agent's prior consent, the unwinding of any Swap Contract pursuant to its terms;

(f) Dispositions consisting of short-term rentals of Equipment to the Borrower's customers in the ordinary course of business;

(g) the granting of Permitted Encumbrances;

(h) any involuntary loss, damage or destruction of property;

(i) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(j) (i) the lapse of registered patents, trademarks, copyrights and other intellectual property of the Borrower that are, in the reasonable business judgment of the Borrower, no longer material to, or no longer used or useful in or not economically desirable for, the business of the Borrower and not required to be retained pursuant to the Stalking Horse APA or (ii) the abandonment of patents, trademarks, copyrights, or other intellectual property rights in the ordinary course of business, so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights and (B) such lapse is not materially adverse to the interests of the Borrower,

(k) the making of Permitted Investments;

(l) Dispositions of cash and Cash Equivalents in the ordinary course of business and in accordance with the Approved Budget;

(m) the making of Restricted Payments that are expressly permitted to be made pursuant to Section 7.06 of this Agreement;

(n) Dispositions set forth in, and in accordance with, this Agreement or the Stalking Horse APA, other Dispositions required by Section 6.13 hereof; provided, that, in each case (i) as of the date of any such Disposition and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, (ii) the Net Proceeds from any such Disposition shall be paid to the Borrower contemporaneously with consummation of the transaction, (iii) to the extent required, the Net Proceeds shall be applied to the repayment of the Obligations, and (iv) 100% of the total consideration received contemporaneously with the consummation of the transaction shall be paid in Cash and Cash Equivalents;

(o) the Disposition of Inventory related to discontinued products;

(p) other Dispositions not otherwise specifically described herein and not exceeding $300,000 in the aggregate during the term of this Agreement; and

(q) in the ordinary course of business in each instance: (i) the payment of cash to Holdings to reimburse Holdings for post-petition capital lease obligations, insurance costs or trade payables paid by Holdings for Borrower's benefit under the Management Services Agreement; (ii) the netting and offset of amounts owed to Holdings by Borrower for management fees under the Management Services

Agreement against that certain Amended and Restated Intercompany Promissory Note, dated as of July 9, 2025, issued by Holdings, as Maker, to Borrower, as Holder; (iii) the payment of cash to VGS on account of post-petition services by VGS under the VGS Services Agreement; (iv) so long as no Event of Default exists, (A) the netting of intercompany accounts payable and intercompany accounts receivable by and between Borrower and Chemicals and (B) after giving effect to such netting transactions, the payment of cash to Chemicals to settle the balance of any intercompany accounts payable owing to Chemicals; and (v) the payment of cash to Advanced Milling Technologies, LLC for equipment lease obligations under the AMT Equipment Lease.

"Permitted Encumbrances" means:

(a) Liens imposed by law for (i) pre-petition Taxes that were not yet due on the Petition Date or which are being contested in compliance with Section 6.04, (ii) pre-petition Taxes to the extent the payment thereof is stayed by reason of the Case, the applicable DIP Orders, or other applicable Bankruptcy Court orders and (iii) post-petition Taxes that are not yet due and payable;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by applicable Law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP;

(c) pledges and deposits of cash made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations, other than any Lien imposed by ERISA;

(d) pledges and deposits of cash to secure or relating to the performance of bids, trade contracts, leases, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business;

(e) easements, covenants, conditions, restrictions, building code laws, zoning restrictions, rights-of-way and similar encumbrances on real property (including Real Estate) imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower;

(f) other imperfections of title, easements, covenants, conditions or restrictions or encumbrances, which are not reasonably likely, individually or in the aggregate, to result in a Material Adverse Effect;

(g) all Liens, adverse claims and other encumbrances existing on the Closing Date and listed on Schedule 7.01;

(h) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower, or (ii) secure any Indebtedness;

(i) Liens (i) of a collection bank arising under Section 4-208 of the Uniform Commercial Code (or equivalent statute) on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking or other financial institution arising as a matter of law or under

customary contractual provisions encumbering deposits or other funds maintained with such banking or other financial institution (including the right of set off and grants of security interests in deposits and/or securities held by such banking or other financial institution) and that are within the general parameters customary in the banking industry;

(j) reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

(k) Liens securing Swap Contracts so long as any related Indebtedness is permitted to be incurred and secured under this Agreement;

(l) Liens in favor of the Agent to secure the Obligations and Liens pursuant to the DIP Orders;

(m) Liens outstanding on the date on which the Intercompany Settlement Order is entered by the Bankruptcy Court and securing Indebtedness assumed by the Debtor pursuant to the Intercompany Settlement Order as of such date; and

(n) Liens consisting of an agreement to Dispose of any property in a Disposition permitted hereunder, in each case, solely to the extent such Disposition would have been a Permitted Disposition on the date of the creation of such Lien.

"Permitted Indebtedness" means each of the following:

(a) Indebtedness outstanding on the Closing Date and listed on Schedule 7.03;

(b) Indebtedness of the Borrower under the Loan Documents;

(c) Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the ordinary course of business;

(d) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business;

(e) unsecured Indebtedness not otherwise specifically described herein; provided, however, that unsecured Indebtedness for borrowed money incurred under this clause (e) shall not exceed $250,000 at any time outstanding;

(f) Indebtedness incurred in connection with obtaining insurance in the ordinary course of business;

(g) Indebtedness under Swap Contracts; and

(h) Indebtedness assumed by the Debtor pursuant the Intercompany Settlement Order.

"Permitted Investments" means:

(a) Investments in cash and Cash Equivalents;

(b) Investments existing on the Petition Date as described in Schedule 7.02;

(c) any Investments 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 or received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Borrower, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes;

(d) Swap Contracts;

(e) Investments made by the Debtor pursuant to the Intercompany Settlement Order; and

(f) other Investments not otherwise specifically described herein that are set forth in the Approved Budget.

"Permitted Variances" has the meaning specified in Section 7.16(b).

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

"Petition" means the voluntary petition for relief under Chapter 11 of the Bankruptcy Code filed by the Borrower with the Bankruptcy Court.

"Petition Date" has the meaning specified in the Recitals hereto.

"Plan" means any "employee benefit plan" (other than a Multiemployer Plan) within the meaning of Section 3(3) of ERISA that is maintained or is contributed to by the Borrower or any ERISA Affiliate and is subject to Title IV of ERISA or the minimum funding standards under Section 412 of the Code or Section 302 of ERISA.

"Prepayment Event" has the meaning set forth in Section 2.07(a).

"Professional Fee Escrow Account" has the meaning provided in the DIP Orders.

"Professional Fees" means the reasonable and documented out-of-pocket fees and expense reimbursements of Professional Persons.

"Professional Person" means a Person who is an attorney, accountant, appraiser, auctioneer or financial advisor or other professional person who is retained with approval of the Bankruptcy Court by the Debtor or any Committee pursuant to Section 327, 328 or 363 of the Bankruptcy Code.

"Qualified Bidder" means a bidder who submits an unconditional bid to purchase the Debtor's assets for a cash purchase price and otherwise complies with the Bidding Procedures Order.

"Real Estate" means all real property owned or leased by the Borrower and other improvements thereon.

"Recipient" means (a) the Agent or (b) any Lender, as applicable.

"Register" has the meaning specified in Section 10.06(c).

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

"Reorganization Plan" means a liquidation plan or plan of reorganization in the Case.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"Reports" has the meaning provided in Section 9.12(b).

"Required Lenders" means, as of any date of determination, Lenders holding more than 50% of the sum of (a) the Total Outstandings, and (b) the unused Aggregate Commitments. The unused Commitment of, and the portion of the Total Outstandings attributable to, any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

"Responsible Officer" means the chief executive officer, president, chief restructuring officer, vice-president, chief financial officer, treasurer or assistant treasurer of the Borrower or any of the other individuals designated in writing to the Agent by an existing Responsible Officer of the Borrower as an authorized signatory of any certificate or other document to be delivered hereunder. Any document delivered hereunder that is signed by a Responsible Officer of the Borrower shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of the Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to such Person's stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment or any management fees to any Affiliate of Borrower; provided, however, that notwithstanding the foregoing, any payments or distributions of the type described in paragraph (q) of the definition of Permitted Disposition shall not constitute a Restricted Payment. Without limiting the foregoing, "Restricted Payments" with respect to any Person shall also include all payments made by such Person with any proceeds of a dissolution or liquidation of such Person.

"Revised Budget" has the meaning provided in Section 4.01(k).

"Sale Order" means a Final Order entered by the Bankruptcy Court, pursuant to Section 363 and 365 of the Bankruptcy Code, authorizing and approving, among other things, the 363 Sale Transaction, in form and substance satisfactory to the Agent in its sole discretion.

"Sanctioned Person" means, 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, the U.S. Department of State, or by the United Nations Security Council, the European Union or any EU member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

"Sanctions" means economic or financial sanctions or trade embargoes 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 or His Majesty's Treasury of the United Kingdom.

"Securities Account" has the meaning specified in the UCC.

"Security Agreement" means the Security Agreement, dated as of the Closing Date, between the Borrower and the Agent, in form reasonably satisfactory to the Agent, as the same now exists or may hereafter be amended, amended and restated, modified, supplemented, renewed, restated or replaced.

"Security Documents" means the Security Agreement, the Intellectual Property Security Agreement, the Perfection Certificate and each other security agreement or other instrument or document executed and delivered to the Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Obligations.

"Settlement Date" has the meaning provided in Section 2.14(a).

"Stalking Horse APA" means that certain Asset Purchase Agreement, dated as of February 15, 2026, by and between the Debtor, as the seller thereunder, and the Stalking Horse Bidder, as the purchaser thereunder, as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time with the prior written consent of the Agent.

"Stalking Horse Bidder" means Commodore Materials, LLC, a Delaware limited liability company or its designee as the "Stalking Horse" under Stalking Horse APA.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned by such Person.

"Superpriority Claims" means all of the allowed superpriority administrative expense claims of the Agent and the Lenders on account of the Obligations, which claims shall be entitled to the benefits of section 364(c)(1) and 364(e) of the Bankruptcy Code, having priority over any and all administrative expenses of the kind that are specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 1113, 1114 or any other provisions of the Bankruptcy Code and any other claims against the Borrower. Superpriority Claims shall, at all times be (a) subject only to the Carve-Out and (b) senior to any and all other administrative expense claims or other claims against the Borrower or its estate, in the Case and any successor case.

"Swap Contract" means (a) any and all rate swap, hedge, forward, future or derivative 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 master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

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

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Talcum Powder Litigation" means any action, suit, proceeding, claim or dispute pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or in writing, at law, in equity, in arbitration or before any Governmental Authority, against the Borrower or against any of its properties or revenues that relate to causes of action arising from exposure to talcum powder.

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

"Testing Period" has the meaning specified in Section 6.01(a)(i).

"Threshold Amount" means $300,000.

"Total Outstandings" means the aggregate outstanding principal amount of all Loans.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

"United States" and "U.S." mean the United States of America.

"United States Trustee" means the United States Trustee appointed under Title 28 Section 586(a)(3) of the Bankruptcy Code to supervise the administration of the Case.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(C).

"Variance Report" has the meaning specified in Section 6.01(a).

"Variance Report Date" has the meaning specified in Section 6.01(a).

"VGS" means Vanderbilt Global Services, LLC.

"VGS Services Agreement" means that certain Services Agreement, dated as of January 1, 2013, by and between Borrower and VGS, as amended as of July 9, 2025 and as amended and restated as of December 23, 2025.

"Withholding Agent" means the Borrower and the Agent.

1.02 *Other Interpretive Provisions*. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly provided, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations (or any of them) shall mean the repayment in Dollars in full in cash or immediately available funds or other collateral as may be requested by the Agent of all of the Obligations (or the applicable Obligations) other than unasserted contingent indemnification Obligations.

1.03 *Accounting Terms.*

(a) Generally. All accounting terms not specifically or completely defined herein, or otherwise noted, shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Financial Statements, except as otherwise specifically prescribed

herein. Financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall not be audited.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP and without including the effect of any changes to lease accounting that requires the assets and liabilities arising under operating leases to be recognized in any statement of financial position. Notwithstanding the foregoing, financial calculations under this Agreement shall be computed to exclude any change to lease accounting rules from those in effect pursuant to Financial Account Standards Board Account Standards Codification 840 (Leases) and other related lease account guidance as in effect on the Closing Date.

1.04 *Rounding*. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 *Times of Day*. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.06 *Divisions*. For all purposes under the Loan Documents, in connection with Division: (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE LOANS

2.01 *Initial Term Loans and Delayed Draw Term Loans.*

(a) Initial Term Loans. Each Lender having an Initial Term Loan Commitment agrees, severally and not jointly, subject to the terms and conditions set forth herein, to make on the Closing Date, subject to satisfaction (or waiver by all the Lenders) of the conditions precedent set forth in Section 4.01, term loans to the Borrower in a principal amount equal to such Lender's Initial Term Loan Commitment (each such loan being referred to herein as an "Initial Term Loan"). Once repaid, whether such repayment is voluntary or required, no portion of the Initial Term Loans may be reborrowed.

(b) Delayed Draw Term Loans. Each Lender having a Delayed Draw Term Loan Commitment agrees, severally and not jointly to make, subject to satisfaction (or waiver by all the Lenders) of the conditions precedent set forth in Section 4.02 and in accordance with the procedures in Section 2.02, upon written request by the Borrower after the entry of the Final DIP Order, and in accordance with the Approved Budget, term loans to the Borrower in a principal amount equal to such Lender's Delayed Draw Term Loan Commitment (collectively, the "Delayed Draw Term Loans"; the date of the making of the Delayed Draw Term Loans, which may be no later than two (2) Business Days following the Final Order

Entry Date, the "Final Term Funding Date"). Once repaid, whether such repayment is voluntary or required, no portion of the Delayed Draw Term Loans may be reborrowed.

(c) Each Lender shall make each Loan to be made by it hereunder on the Closing Date or the Final Term Funding Date, as the case may be, by wire transfer of immediately available funds by 2:00 p.m., New York, New York time, to the account of the Agent most recently designated by it for such purpose by notice to the Lenders. Upon satisfaction (or waiver by all the Lenders) of the applicable conditions set forth in Section 4.01 or 4.02, as applicable, the Agent will make each such Loan(s) available to the Borrower by wire transfer of such funds in accordance with instructions provided to (and reasonably acceptable to) the Agent by the Borrower. The failure of any Lender to make any Loan shall neither relieve any other Lender of its obligation to fund its Loan in accordance with the provisions of this Agreement nor increase the obligation of any such other Lender.

(d) Unless the Agent shall have received notice from a Lender prior to the proposed date of any Loan to be made by such Lender that such Lender will not make available to the Agent such Lender's share of such borrowing, the Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its Loan available to the Agent, then such Lender and the Borrower jointly and severally agree to pay to the Agent forthwith on written demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Agent, at (i) in the case of any Lender, the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate set forth in Section 2.08(a) hereof.

(e) The aggregate Initial Term Loan Commitments shall be automatically and permanently reduced to zero (0) on the date of the Borrowing of the Initial Term Loans. The aggregate Delayed Draw Term Loan Commitments shall be automatically and permanently reduced to zero (0) on the Final Term Funding Date. The Aggregate Commitments shall terminate on the date that is five (5) Business Days after the date hereof if the Closing Date has not occurred by such date.

(f) During the period after the Closing Date but prior to the Final Term Funding Date, the Borrower may, upon notice to the Agent, from time to time terminate (in whole or in part) the unused portion of the aggregate Delayed Draw Term Loan Commitments; provided that (i) any such notice shall be received by the Agent not later than 11:00 a.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in a minimum amount of $500,000 or any whole multiple of $100,000 in excess thereof.

2.02 *Borrowings of Loans.*

(a) Each Borrowing of Loans shall be made upon the Borrower's irrevocable notice to the Agent, which may be given by telephone. Each such notice must be received by the Agent not later than 11:00 a.m. (i) on the Business Day of the Borrowing of the Initial Term Loans, and (ii) three (3) Business Days prior to the requested date of the Borrowing of the Delayed Draw Term Loans (unless waived by the Required Lenders). Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Agent of a written Committed Loan Notice appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify (i) the requested date of the Borrowing (which shall be a Business Day) and (ii) the principal amount of Loans to be borrowed.

(b) Following receipt of a Committed Loan Notice, the Agent shall promptly notify each Lender of the amount of its share of the applicable Loans.

(c) Each Borrowing of Loans shall be made by the Lenders pro rata in accordance with their respective Initial Term Loan Commitments or Delayed Draw Term Loan Commitments, as applicable.

(d) The Agent, without the request of the Borrower, may advance any interest, fee, service charge (including direct wire fees), Credit Party Expenses, or other payment to which any Credit Party is entitled from the Borrower pursuant hereto or any other Loan Document and may charge the same to the Loan Account. The Agent shall advise the Borrower of any such advance or charge promptly after the making thereof. Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.02(d) shall bear interest at the interest rate then and thereafter applicable to the Loans.

2.03 *[Reserved].*

2.04 *Repayment of Loans*. The Borrower shall repay to the Agent, for the account of each Lender, the aggregate principal amount of all Loans outstanding on the Maturity Date.

2.05 *Optional Prepayments*. The Borrower may, upon its irrevocable notice to the Agent, at any time or from time to time voluntarily prepay Loans in whole or in part, plus all amounts due under Section 2.08(c) and Section 2.09; provided, that, (i) such notice must be received by the Agent not later than 11:00 a.m. (A) three (3) Business Days prior to any date of prepayment, and (ii) any prepayment shall be in a principal amount of at least $500,000 or a whole multiple of $100,000 in excess thereof; in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's applicable share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Each such prepayment shall be applied pro rata to the Loans of the Lenders. Any notice delivered pursuant to this Section 2.05 in connection with a refinancing of this Agreement may state that such notice is conditioned upon the effectiveness of the other credit facility or receipt of proceeds from the issuance of new Indebtedness comprising such replacement financing, in which case such notice may be revoked (by written notice to Agent on or prior to the specified effective date of termination) if such effectiveness does not occur.

2.06 *[Reserved].*

2.07 *Mandatory Prepayments.*

(a) Subject in all respects to the DIP Orders, the outstanding Loans shall be prepaid as follows upon any of the following events (each of the following being a "Prepayment Event"):

(b) Asset Sales.

(i) On the date of receipt by the Borrower of any Net Proceeds from one or more Asset Sales (other than (x) a sale to the Lenders or their designee or (y) a sale made in the ordinary course of business), the Borrower shall prepay the Loans as set forth in subsection (g) below in an aggregate amount equal to such Net Proceeds.

(ii) Nothing contained in this Section 2.07(b) shall permit the Borrower to sell or otherwise Dispose of any assets other than in accordance with Section 7.05.

(c) Insurance/Condemnation Proceeds. On the date of receipt by the Borrower, or the Agent as loss payee, of any Net Proceeds from insurance or any condemnation, taking or other casualty in excess of the Threshold Amount in the aggregate over the term hereof, the Borrower shall prepay the Loans as set forth in subsection (g) below in an aggregate amount equal to such Net Proceeds in excess of the Threshold Amount in the aggregate.

(d) Extraordinary Receipts. On the date of receipt by the Borrower of any Extraordinary Receipts, the Borrower shall prepay the Loans as set forth in subsection (g) below in the amount of such Extraordinary Receipts.

(e) Issuance of Debt. On the date of receipt by the Borrower of any net cash proceeds from the incurrence of any Indebtedness of the Borrower (other than Permitted Indebtedness) or issuance of Disqualified Stock, the Borrower shall prepay the Loans as set forth in subsection (g) below in the amount of such net cash proceeds.

(f) Prepayment Certificate. Concurrently with any prepayment of the Loans pursuant to Section 2.07(a) through Section 2.07(e), the Borrower shall deliver to the Agent a certificate of a Responsible Officer demonstrating the calculation of the amount of the applicable net proceeds. In the event that the Borrower shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, the Borrower shall promptly make an additional prepayment of the Loans, and the Borrower shall concurrently therewith deliver to the Agent a certificate of a Responsible Officer demonstrating the derivation of such excess.

(g) All mandatory prepayments in respect of the Loans shall be applied pro rata to the Loans.

2.08 *Interest.*

(a) Subject to the provisions of Section 2.08(b) and Section 3.02 below, the Loans and the other Obligations shall bear interest on the outstanding principal amount thereof at a rate per annum equal to the Applicable Rate and accrue from the date any Loan is advanced or the Obligation is incurred or payable, until paid by the Borrower.

(b) (i) If any amount payable under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any Event of Default exists, then the Agent may, and upon the request of the Required Lenders shall, notify the Borrower that all outstanding Obligations shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate and thereafter such Obligations shall bear interest at the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest accrued on the Loans shall be due and payable in arrears, (i) on the first day of each month beginning with March 1, 2026; (ii) on any date of any voluntary or mandatory prepayment, with respect to the principal amount of the Loan being prepaid; and (iii) on the Maturity Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents.

Notwithstanding the foregoing, interest accrued at the Default Rate shall be due and payable on demand, in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

(d) Interest payable hereunder and the Commitment Fees then due and owing under Section 2.09 shall automatically be paid in kind on each interest payment date specified in the foregoing subsections (a) through (c) by adding the accrued amount thereof to the outstanding principal amount of the Loans, and the amounts so added to principal shall thereafter bear interest in accordance with this Section 2.08.

2.09 *Fees*. The Borrower shall pay (or cause to be paid) to the Agent, for the ratable benefit of the Lenders in accordance with their Commitments, a non-refundable commitment fee equal to one half percent (0.50%) of the Commitments under the DIP Facility, which shall be fully earned on the Closing Date in kind as set forth in Section 2.08(d) (the "Commitment Fee"). The Borrower shall also pay (or cause to be paid) to the Agent, for the ratable benefit of the Lenders in accordance with their Commitments, a non-refundable exit fee equal to one percent (1.00%) of the Commitments under the DIP Facility (the "Exit Fee"). The Commitment Fee and the Exit Fee shall each be due and payable on the Maturity Date. If the Agent or any Lender successfully "credit bids" all or any portion of the Obligations, or purchases all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles or on behalf of any Lender or designee thereof), such Commitment Fee and Exit Fee shall be applied to such credit bid.

2.10 *Computation of Interest and Fees*. All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed. Interest shall accrue on the day such Loan is made and until (but not including) the day on which such Loan (or such portion thereof) is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 *Evidence of Debt.*

(a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by the Agent (the "Loan Account") in the ordinary course of business. In addition, each Lender may record in such Lender's internal records an appropriate notation evidencing the date and amount of each Loan from such Lender, each payment and prepayment of principal of any such Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by the Agent and each Lender shall be conclusive absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrower will issue, in lieu thereof, a replacement Note in favor of such Lender (or its permitted assigns), in the same principal amount thereof and otherwise of like tenor.

(b) In the event of any conflict between the accounts and records maintained by the Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error.

2.12 *Payments Generally; Agent's Clawback.*

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Agent, for the account of the respective Lenders to which such payment is owed, at the Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. Subject to Section 2.14 hereof, the Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Agent after 2:00 p.m., at the option of the Agent, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) Unless the Agent shall have received notice from the Borrower prior to the time at which any payment is due to the Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders, severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Agent, at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation. A notice of the Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(b) shall be conclusive, absent manifest error.

(c) Except for payments and other amounts received by Agent and applied in accordance with the provisions of Section 8.03 (or required to be applied in accordance with Section 2.07), all payments and any other amounts received by the Agent from or for the benefit of the Borrower shall be applied as follows: first, to pay principal of, and interest on, any portion of the Loan the Agent may have advanced pursuant to the express provisions of this Agreement on behalf of any Lender, for which the Agent has not then been reimbursed by such Lender or the Borrower, second, to pay all other Obligations then due and payable and third, as the Borrower shall so designate. Except as otherwise expressly provided for herein, payments in respect of the Loans received by the Agent shall be distributed to each Lender in accordance with such Lender's pro rata share of the Loans; and all payments of fees and all other payments in respect of any other Obligation shall be allocated ratably among such of the Lenders as are entitled thereto.

(d) The provisions of this Section 2.12 shall be subject in all respects to the DIP Orders.

2.13 *Sharing of Payments by Lenders*. If any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to, any of the Obligations resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Obligations greater than its pro rata share thereof as provided herein (including as in contravention of the priorities of payment set forth in Section 8.03), then the Credit Party receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties ratably and in the priorities set forth in Section 8.03, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower (as to which the provisions of this Section shall apply).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

2.14 *Settlement Among Lenders.*

(a) The amount of each Lender's Applicable Percentage of outstanding Loans shall be computed each time a payment is made by the Borrower (or more frequently in the Agent's discretion) and shall be adjusted upward or downward based on all Loans and repayments of Loans received by the Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the receipt by the Agent of any such payment. Interest shall cease to accrue on the portion of any Loan paid on the date such payment is made to Agent regardless of the Settlement Date.

(b) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, and subject to Section 8.03, (i) the Agent shall transfer to each Lender its Applicable Percentage of repayments, and (ii) each Lender shall transfer to the Agent (as provided below) or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Loans made by each Lender shall be equal to such Lender's Applicable Percentage of all Loans outstanding as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 1:00 p.m. on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent, equal to the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing.

2.15 *Priority and Liens.*

(a) Priority. The Obligations, and the Liens of the Security Documents, shall have the priority specified in the applicable DIP Order.

(b) Collateral; Grant of Lien and Security Interest.

(i) Upon entry of the Interim DIP Order or Final DIP Order, as the case may be, the Liens and security interests in favor of the Agent under the Security Documents shall be valid and perfected Liens on, and security interests in, the Collateral, prior to all other Liens on, and security interests in, the Collateral, other than the Carve-Out. Such Liens and security interests and their priority shall remain in effect until the Commitments shall have been terminated and all Obligations shall have been repaid in cash.

(c) Grants; Rights and Remedies. The Liens and security interests granted under the Security Documents may be independently granted by the Loan Documents and by other Loan Documents hereafter entered into. This Agreement, the DIP Orders and such other Loan Documents supplement each other, and the grants, priorities, rights and remedies of the Agent and the Lenders hereunder and thereunder are cumulative.

(d) No Filings Required. The Liens and security interests referred to herein shall be deemed valid and perfected by entry of the Interim DIP Order or the Final DIP Order, as the case may be. The Agent shall not be required to file any financing statements, mortgages, certificates of title, control agreements, notices of Lien or similar instruments in any jurisdiction or filing office or to take any other action in order to validate or perfect the Lien and security interest granted by or pursuant to this Agreement, the Interim DIP Order or the Final DIP Order, as the case may be, or any other Loan Document; provided, that the Agent shall be permitted to file any financing statements, mortgages, certificates of title, notices of Lien or similar instruments in any jurisdiction or filing office or to take any other action with respect to the Lien and security interest granted by or pursuant to this Agreement.

(e) Further Assurances. The Borrower shall take any other actions reasonably requested by the Agent and the Lenders from time to time to cause the attachment, perfection and first priority of, and the ability of the Agent and the Lenders to enforce, the security interest of the Agent and the Lenders in any and all of the Collateral, including, without limitation, (a) executing and delivering any requested security agreement, pledge agreement or mortgage, (b) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the Uniform Commercial Code or other applicable law, to the extent, if any, that the Borrower's signature thereon is required therefor, (c) causing the Agent's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of the Agent to enforce, the security interest of the Agent in such Collateral, (d) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the Agent to enforce, the security interest of the Agent in such Collateral, and (e) obtaining the consents and approvals of any Governmental Authority or third party and taking all actions required by the Uniform Commercial Code or by other law, as applicable in any relevant jurisdiction.

2.16 *No Discharge; Survival of Claims.* The Borrower agrees that to the extent that the Obligations have not been paid in full, (i) its obligations under the Loan Documents shall not be discharged by the entry of an order confirming a Reorganization Plan (and the Borrower, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge) and (ii) the DIP superpriority claim granted to the Agent and the Lenders pursuant to the DIP Orders and the Liens granted to the Agent and the Lenders pursuant to the DIP Orders shall not be affected in any manner by the entry of an order confirming a Reorganization Plan.

2.17 *Defaulting Lenders.*

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Laws:

(i) Waivers and Amendments. 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) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the 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 Agent; third, if so determined by the 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 as may be required under the Loan Documents in connection with any Lien conferred thereunder or directed by a court of competent jurisdiction; provided that if (1) 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 (2) such Loans were 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 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 Lenders pro rata in accordance with the Aggregate Commitments hereunder. 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 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(b) Defaulting Lender Cure. If the Borrower and the Agent agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 *Taxes.*

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after all such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.01(a)) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Agent timely reimburse it for the payment of, any Other Taxes.

(c) Indemnification by the Borrower. The Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01(c)) payable or paid by such Recipient or required to be deducted or withheld from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

(e) Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower and the Agent, at the time or times prescribed by applicable Law or reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by applicable Law or reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. Such delivery shall be provided on or before the Closing Date and on or before such documentation expires or becomes obsolete or after the occurrence of an event requiring a change in the documentation most recently delivered. In addition, any Lender, if reasonably requested by the Borrower or the Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in paragraphs (e)(i) and (e)(ii) (other than paragraph (e)(ii)(E) of this Section) 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.

Without limiting the generality of the foregoing:

(i) any Lender that is a U.S. person (within the meaning of Section 7701(a)(30) of the Code) shall deliver to the Borrower and the 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 the Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax; and

(ii) any Lender that is not a U.S. person (within the meaning of Section 7701(a)(30) of the Code) shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Agent (in such number of copies as shall be requested by the recipient) 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 the Borrower or the Agent), whichever of the following is applicable:

(A) in the case of a 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 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 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;

(B) executed copies of IRS Form W-8ECI,

(C) in the case of a 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 E-1 to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" related to the Borrower as 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,

(D) to the extent a Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-9, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, and/or other certification documents from each beneficial owner, as applicable; provided that if the Lender is a partnership and one or more direct or indirect partners of such Lender are claiming the portfolio interest exemption, such Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-4 on behalf of each such direct and indirect partner, and

(E) any other duly completed forms, documents or certifications prescribed by applicable Law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable Law or requested by the Borrower or Agent to permit the Borrower or Agent to determine the withholding or deduction required to be made, including under FATCA.

If a payment to a Lender would be subject to U.S. federal withholding Tax imposed under FATCA if a 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 Borrower and the Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and other documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower or the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (e)(ii)(A), "FATCA" shall include any amendment made to FATCA after the date of this Agreement.

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 the Borrower and the Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to Section 3.01 (including by the payment of additional amounts pursuant to Section 3.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 3.01(f) (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 to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 3.01(f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 3.01(f) 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.

(g) Mitigation Obligations. If any Lender requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or Governmental Authority pursuant to this Section 3.01 shall use reasonable efforts (consistent with legal and regulatory restrictions) to file any certificate or document reasonably requested in writing by the Borrower or to change the jurisdiction of its Lending Office if the making of such a filing or change would avoid the need for or reduce the amount of any such payment under this Section 3.01, would not require such Lender to disclose any information such Lender reasonably deems confidential, would not subject such Lender to any unreimbursed cost or expense and would not, in the good faith determination of such Lender, be otherwise disadvantageous to such Lender.

The Borrower hereby agrees to pay all reasonable and documented out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(h) Indemnification by Lenders. Each Lender shall severally indemnify the Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) 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 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the 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 Agent to the Lender from any other source against any amount due to the Agent under this Section 3.01(h).

(i) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the 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.

3.02 *Increased Costs.*

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender any other condition, cost or expense affecting this Agreement or Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital requirements 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, the Commitments of such Lender or the Loans made by, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such

Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will 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) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.03 *Survival*. All of the Obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV
CONDITIONS PRECEDENT TO THE CLOSING DATE

4.01 *Conditions Precedent to the Occurrence of the Closing Date and to the Making of the Initial Term Loans*. The occurrence of the Closing Date, and the obligation of each Lender to make Initial Term Loans on the Closing Date is subject to the fulfillment (or waiver in accordance with Section 10.01), to the satisfaction of the Agent and each Lender, of each of the following conditions precedent (but in each case, any item required to be delivered after the Closing Date pursuant to Section 6.22 shall be deemed to have been delivered on the Closing Date for the purposes of determining compliance with this Section 4.01):

(a) Loan Documents. Receipt by the Agent of executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the Borrower and, in the case of this Agreement, by each Lender.

(b) Organization Documents, Resolutions, Etc. Receipt by the Agent of the following, in form and substance reasonably satisfactory to the Agent:

(i) copies of the Organization Documents of the Borrower certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its organization, where applicable, and certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date;

(ii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Borrower as the Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof

authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents; and

(iii) such documents and certifications as the Agent may reasonably require to evidence that the Borrower is duly formed, and is validly existing, in good standing and qualified to engage in business in its state of formation.

(c) Perfection and Priority of Liens. Receipt by the Agent of the following:

(i) searches of Uniform Commercial Code filings in the jurisdiction of formation of the Borrower or where a filing would need to be made in order to perfect the Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens;

(ii) UCC financing statements for each appropriate jurisdiction as is necessary, in the Agent's sole discretion, to perfect the Agent's security interest in the Collateral;

(iii) all certificates evidencing any certificated Equity Interests (if any) pledged to the Agent pursuant to the Security Agreement, together with duly executed in blank and undated stock powers attached thereto;

(iv) searches of ownership of, and Liens on, intellectual property of the Borrower in the appropriate governmental offices; and

(v) duly executed notices of grant of security interest in the form required by the Security Agreement and as are necessary, in the Agent's reasonable discretion, to perfect the Agent's security interest in the intellectual property of the Borrower.

(d) Closing Certificate. Receipt by the Agent of a certificate signed by a Responsible Officer of the Borrower certifying that the conditions specified in Sections 4.01(n) and (o) have been satisfied.

(e) Fees. Receipt by the Agent and the Lenders of any fees required to be paid on or before the Closing Date, to the extent invoiced at least two (2) Business Days prior to the Closing Date.

(f) Attorney Costs. The Borrower shall have paid all fees, charges and disbursements of counsel to the Agent to the extent invoiced at least two (2) Business Days prior to the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Agent). Such fees, charges and disbursements may be paid directly by the Agent from the proceeds of the Initial Term Loans.

(g) Request for Credit Extension. Receipt by the Agent of a Committed Loan Notice in accordance with the requirements hereof with respect to the Initial Term Loans.

(h) Insurance. Receipt by the Agent of evidence of insurance required to be maintained herein and otherwise under the other Loan Documents, naming the Agent and the Lenders, as additional insureds and/or lenders loss payees, as applicable.

(i) Due Diligence; PATRIOT ACT. The Agent and the Lenders shall have received all documentation and other information required under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, at least three Business Days prior to the requested Borrowing.

(j) Collateral Requirement. On or prior to the Closing Date, the Security Agreement and the Interim DIP Order (upon its entry in the Chapter 11 Case), shall be effective to create in favor of the Agent, for the benefit of the holders of the Obligations, a legal, valid and enforceable first priority perfected security interests in and Liens on the Collateral, subject to the Carve-Out.

(k) Interim DIP Order. The Interim DIP Order shall have been entered by the Bankruptcy Court, which Interim DIP Order (i) shall have been entered upon an application or motion of the Debtor in form and substance satisfactory to the Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by the Agent; (ii) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed; and (iii) shall otherwise satisfy the requirements of the definition of Interim DIP Order herein. The Debtor, the Agent, and the Lenders shall be entitled to rely in good faith upon the Interim DIP Order notwithstanding any such objection, appeal, or motion for reconsideration.

(l) Budget. The Lenders shall have received and approved a detailed weekly budget (the "Approved Budget") of projected receipts and expenditures of the Borrower for the period commencing on the Petition Date and continuing through the period specified in the DIP Orders, delivered to the Agent on or prior to the Closing Date, which shall set forth forecasted (A) cash receipts, and (B) cash disbursements in a form consistent with Schedule 4.01(k). The Approved Budget will initially cover the first thirteen weeks after the Petition Date. By the close of business of the third Friday of each month, a revised budget will be submitted to the Agent for approval (each, a "Revised Budget"). Upon the Agent's approval of each Revised Budget, such Revised Budget shall be utilized for any subsequent Variance Report.

(n) Chapter 11 Case. The Borrower shall have commenced the Case in the Bankruptcy Court and filed each of its first day motions, including the Intercompany Settlement Motion and the motion seeking entry of the Bidding Procedures Order and approval of the Stalking Horse APA, each in forms and substance satisfactory to the Agent, and no trustee or examiner shall have been appointed with respect to the Debtor, or any property of the Debtor's estate.

(o) Outside Date. The Closing Date shall have occurred within one (1) Business Day after the Interim Order Entry Date.

(p) Representations and Warranties. The representations and warranties of the Borrower contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects) on and as of the date of such Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date.

(q) Default. No Default shall exist, or would result from such proposed Loan or from the application of the proceeds thereof.

(r) Loan Notice. The Agent and shall have received a Committed Loan Notice in accordance with the requirements hereof.

(s) No Bar. Subject to the entry of the DIP Orders and subject to the terms thereof, the Borrower, the Agent and the Lenders shall be permitted and required to perform their respective obligations in compliance with this Agreement and the other Loan Documents, and the making of such loan shall not violate any requirement of Law and shall not have been enjoined, whether temporarily, preliminarily or permanently.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 *Conditions Precedent to All Loans*. No Lender shall be required to make any Loan unless and until the following conditions are satisfied:

(a) Representations and Warranties. The representations and warranties of the Borrower contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects) on and as of the date of such Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality or reference to Material Adverse Effect) as of such earlier date.

(b) Default. No Default shall exist, or would result from such proposed Loan or from the application of the proceeds thereof.

(c) Loan Notice. The Agent and shall have received a Committed Loan Notice in accordance with the requirements hereof.

(d) DIP Orders. In the case of any Delayed Draw Term Loans, the Bankruptcy Court shall have entered the Final DIP Order which shall be in form and substance acceptable to each Lender in its sole discretion, shall be in full force and effect and shall not have been reversed, vacated, stayed, amended, supplemented or otherwise modified without the prior consent of each Lender in its sole discretion.

(e) Other Orders. (i) In the case of the Delayed Draw Term Loans, the Bankruptcy Court shall have entered the Intercompany Settlement Order; (ii) all orders (if any) providing for payment of prepetition indebtedness of the Borrower or affecting in any way the Obligations or Collateral submitted for entry in the Cases (in each case, other than the DIP Orders) shall be reasonably satisfactory in form and substance to the Agent, as entered, and shall not deviate from the form thereof approved by the Agent in any material respect which is adverse to the interests of the Agent or the Lenders; and (iii) all motions, orders, and other documents to be filed by the Debtor with the Bankruptcy Court in connection with the DIP Facility or that could reasonably be expected to affect the DIP Facility, the Collateral or the rights or remedies of the Agent shall be in form and substance reasonably satisfactory to the Lenders.

(f) No Bar. Subject to the entry of the DIP Orders and subject to the terms thereof, the Borrower, the Agent and the Lenders shall be permitted and required to perform their Loan respective obligations in compliance with this Agreement and the other Loan Documents, and the making of such loan shall not violate any requirement of Law and shall not have been enjoined, whether temporarily, preliminarily or permanently.

(g) Intercompany Settlement. The Borrower shall be in compliance with the Intercompany Settlement.

The Committed Loan Notice submitted by the Borrower in respect of the Delayed Draw Term Loans shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a), (b), (d) and (e) have been satisfied on and as of the Final Term Funding Date.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make the Loans hereunder, the Borrower represents and warrants to the Agent and the other Credit Parties that:

5.01 *Existence, Qualification and Power*. The Borrower (a) is a limited liability company, duly formed, validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its formation, (b) subject to the entry of the DIP Orders and subject to the terms thereof, has all requisite power and authority and all requisite governmental licenses, permits, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, where applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Schedule 5.01 attached hereto sets forth, as of the Closing Date, the Borrower's name as it appears in official filings in its state of organization, its state of organization, organization type, organization number, if any, issued by its state of organization, and its federal employer identification number.

5.02 *Authorization; No Contravention*. Subject to the entry of the DIP Orders and subject to the terms thereof, the execution, delivery and performance by the Borrower of each Loan Document to which such the Borrower is or is to be a party, has been duly authorized by all necessary limited liability company organizational action, and does not and will not (a) contravene the terms of the Borrower's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any Material Indebtedness to which the Borrower is a party or affecting the Borrower or the properties of the Borrower or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which the Borrower or its property is subject; (c) result in or require the creation of any Lien upon any asset of the Borrower (other than Liens in favor of the Agent under the Security Documents); or (d) violate any Law.

5.03 *Governmental Authorization; Other Consents*. Subject to the entry of the DIP Orders, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Borrower of this Agreement or any other Loan Document to which such Person is a party, except for (a) the perfection or maintenance of the Liens created under the Security Documents (including the priority thereof as described in the DIP Orders) or (b) such as have been obtained or made and are in full force and effect.

5.04 *Binding Effect*. Subject to the entry of the DIP Orders, this Agreement has been, and each other Loan Document, when delivered, will have been, duly executed and delivered by the Borrower. Subject to the entry of the DIP Orders, this Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, 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.

5.05 *Financial Statements; No Material Adverse Effect.*

(a) The Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) to the extent required by GAAP, show all Material Indebtedness.

(b) Any unaudited financial statements of the Borrower delivered to the Agent and the Lenders prior to the Closing Date, in each case as of the last day and for the applicable fiscal period then ended, (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Borrower as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the Petition Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

5.06 *Litigation*. As of the Closing Date, other than with respect to any Talcum Powder Litigation, there are no unstayed actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or against any of its properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.07 *No Default*. As of the Closing Date, the Borrower is not in default in any material respect under or with respect to, any Material Contract or any Material Indebtedness except for any defaults triggered by the filing of the Case. Subject to the entry of the DIP Orders and subject to the terms thereof, no Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 *Ownership of Property; Liens.*

(a) The Borrower has good record and marketable title in fee simple to or valid leasehold interests in all assets necessary or used in the ordinary conduct of its business, except in each case as does not have and would not reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 5.08(b) sets forth, as of the Closing Date, the address (including street address, county and state) of all leases of Real Estate and all owned Real Estate of the Borrower.

(c) Schedule 7.01 sets forth a complete and accurate list of all Liens (other than Permitted Encumbrances described in clause (a) through (g) and (i) through (n) of the definition thereof) on the property or assets of the Borrower, showing as of the Closing Date the lienholder thereof, the principal amount of the obligations secured thereby and the property or assets of the Borrower subject thereto. The property of the Borrower is subject to no Liens, other than Permitted Encumbrances.

(d) Schedule 7.02 sets forth a complete and accurate list of all Investments (other than Permitted Investments described in clauses (a), (b), (d), (e) or (f) of the definition thereof) held by the Borrower as of the Closing Date, showing as of the Closing Date the amount, obligor or issuer and maturity, if any, thereof.

(e) Schedule 7.03 sets forth a complete and accurate list of all Material Indebtedness (other than Permitted Indebtedness described in clauses (b) through (e) of the definition thereof) (other than the Obligations) of the Borrower as of the Closing Date, showing as of, and after giving effect to the occurrence, the Closing Date the amount, obligor or issuer and maturity thereof.

5.09 *Environmental Compliance.*

(a) The Borrower is not subject to any Environmental Liability that would reasonably be expected to have a Material Adverse Effect.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, (i) none of the properties currently, or to the knowledge of the Borrower, formerly owned or operated by, the Borrower is listed or, to the knowledge of the Borrower, proposed for listing on the NPL or on the SEMS, CERCLIS or any analogous foreign, state or local list, (ii) there is no asbestos or asbestos-containing material on any property currently owned or operated by the Borrower requiring investigation, remediation, mitigation, removal, or assessment, or other response, remedial or corrective action, pursuant to any Environmental Law and (iii) Hazardous Materials have not been released, discharged or disposed of on any property currently or, to the knowledge of the Borrower, formerly owned or operated by the Borrower, except for such releases, discharges and disposals that were in compliance with or that do not require remediation by the Borrower under Environmental Laws.

(c) The Borrower is not undertaking, and has not completed, either individually or together with other potentially responsible parties, any investigation, remediation, mitigation, removal, assessment or remedial, response or corrective action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law, except for any such investigations or assessments or remedial or responsive actions that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(d) All Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or, to the knowledge of the Borrower, formerly owned or operated the Borrower have been disposed of by the Borrower in a manner not reasonably expected to result in liability to the Borrower that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

5.10 *Insurance*. The properties of the Borrower are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption and property damage insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower operates. Schedule 5.10 sets

forth a description of all insurance maintained by or on behalf of the Borrower as of the Closing Date. Each insurance policy listed on Schedule 5.10 is in full force and effect and all premiums in respect thereof that are due and payable have been paid.

5.11 *Taxes*. The Borrower has filed all federal, material state and other material tax returns and have paid all federal, material state and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, except those which are prohibited or excused from being paid by the Bankruptcy Code or the Bankruptcy Court or are being contested in good faith by appropriate proceedings being diligently conducted, for which adequate reserves have been provided in accordance with GAAP, and as to which Taxes no Lien has been filed and which contest effectively suspends the collection of the contested obligation and the enforcement of any Lien securing such obligation. There is no proposed tax assessment against the Borrower that would, if made, have a Material Adverse Effect. The Borrower is not a party to any tax sharing agreement.

5.12 *Employee Benefit Plans and Labor Matters.*

(a) Neither the Borrower nor any of its ERISA Affiliates maintains, contributes to or has any obligation to contribute to any Plan. Further, the Borrower is not, and is not acting on behalf of or with any assets of, any Plan, nor will they be during the term of any Loan Document.

(b) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse effect: (i) there are no strikes or other labor disputes against the Borrower pending or, to the knowledge of the Borrower, threatened; (ii) hours worked by and payment made to employees of the Borrower have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters; and (iii) all payments due from the Borrower on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the Borrower.

5.13 *Subsidiaries; Equity Interests*. The Borrower has no Subsidiaries and owns no Equity Interests. All of the outstanding Equity Interests in the Borrower have been validly issued, and are fully paid and non-assessable and are owned in the amounts specified on Schedule 5.13 free and clear of all Liens except for those created under the Security Documents and the Specified Permitted Liens. The copies of the Organization Documents of the Borrower and each amendment thereto provided pursuant to Section 4.01 are true and correct copies of each such document, each of which is valid and in full force and effect.

5.14 *Margin Regulations; Investment Company Act.*

(a) The Borrower is not engaged or will not be engaged, 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 FRB), or extending credit for the purpose of purchasing or carrying margin stock. None of the proceeds of the Loans shall be used directly or indirectly for the purpose of purchasing or carrying any margin stock, for the purpose of reducing or retiring any Indebtedness that was originally incurred to purchase or carry any margin stock or for any other purpose that might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulations T, U, or X issued by the FRB.

(b) None of the Borrower or any Person Controlling the Borrower is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 *Disclosure*. The Borrower has disclosed to the Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished by or on behalf of the Borrower to the

Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (excluding projected financial information, forward-looking statements and general industry or general economic data) (in each case, as modified or supplemented by other information so furnished) taken as whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that projections by their nature are inherently uncertain and that, even though the projections are prepared in good faith on the basis of assumptions believed to be reasonable at the time such projections were prepared, the results reflected in the projections may not be achieved and actual results may differ and such differences may be material).

5.16 *Compliance with Laws*. The Borrower is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its property, except in such instances in which (i) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (ii) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.17 *Intellectual Property*. The Borrower owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted. No material claim has been asserted and is pending by any Person challenging or questioning the use of any Intellectual Property, nor does the Borrower know of any valid basis for any such claim. The use of Intellectual Property by the Borrower does not infringe on the rights of any Person in any material respect.

5.18 *Anti-Corruption Laws and Sanctions*. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its officers and employees and to the knowledge of the Borrower, its directors and agents, are in compliance with Anti-Corruption Laws in all material respects and applicable Sanctions. Neither (a) the Borrower or any of its directors, officers or employees, nor (b) to the knowledge of the Borrower, any agent of the Borrower that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No borrowing, use of proceeds or other transaction contemplated by the transactions will violate Anti-Corruption Laws or applicable Sanctions.

5.19 *Security Documents.*

(a) Subject to the entry of the DIP Orders, the Security Agreement creates in favor of the Agent, for the benefit of the Secured Parties referred to therein, a legal, valid, continuing and enforceable security interest in the Collateral (as defined in the Security Agreement), the enforceability of which is subject to applicable bankruptcy, insolvency, 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, and the Pledged Securities (as defined in the Security Agreement) have been delivered to the Agent (together with stock powers or other appropriate instruments of transfer executed in blank form). Subject to the entry of the DIP Orders, the Agent has a fully perfected Lien on, and security interest in, to and under all right, title and interest of each pledgor thereunder in the Pledged Securities, and such security interest has the priority set forth in the DIP Orders.

(b) [Reserved].

(c) The Agent has a perfected Lien on, and security interest in, to and under all right, title and interest of the grantor thereunder in all Collateral that may be perfected under the UCC (in effect on the date this representation is made) by filing, recording or registering a financing statement or by obtaining control or possession, in each case prior and superior in right to any other Person subject to Permitted Encumbrances having priority under applicable Law and/or the DIP Orders.

(d) Subject to the entry of the DIP Orders, the Security Agreement (or the short form thereof or Intellectual Property Security Agreement, as applicable) filed in the United States Patent and Trademark Office and the United States Copyright Office and the filed financing statements described on Schedule 5.19 are in appropriate form and create a perfected Lien on, and security interest in, all right, title and interest of the Borrower in the Intellectual Property (as defined in the Security Agreement) in which a security interest may be perfected by filing, recording or registering a security agreement, financing statement or analogous document in the United States Patent and Trademark Office or the United States Copyright Office, as applicable, in each case prior and superior in right to any other Person as described in the DIP Orders (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a Lien on registered trademarks, trademark applications and copyrights acquired by the Borrower after the Closing Date).

5.20 *Intercompany Agreements.* As of the Closing Date, the Intercompany Services Agreements, the Management Services Agreement, and the Intercompany Settlement are the only Intercompany Agreements in existence and to which Borrower is a party.

5.21 *Accounts*. Attached hereto as Schedule 5.21 is a list of all Deposit Accounts, Securities Accounts and Commodity Accounts maintained by the Borrower as of the Closing Date, which Schedule includes, with respect to each such account (a) the name and address of the applicable institution at which such account is maintained; (b) the account number(s) maintained with such institution; and (c) a contact person at such institution.

5.22 *Brokers*. Except as set forth on Schedule 5.22 hereto, no broker or finder brought about the obtaining, making or closing of the Loans or transactions contemplated by the Loan Documents, and neither the Borrower nor Affiliate thereof has any obligation to any Person in respect of any finder's or brokerage fees in connection therewith.

5.23 *Bankruptcy Matters.*

(a) The Interim DIP Order and, at all times after its entry by the Bankruptcy Court, the Final DIP Order, is in full force and effect, and has not been reversed, modified, amended, stayed or vacated absent the written consent of the Lenders.

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations, the Lenders shall, subject to the provisions of the Interim DIP Order or Final DIP Order, be entitled to immediate payment of such Obligations, and to enforce the remedies provided for hereunder in accordance with the terms hereof, without further application to or order by the Bankruptcy Court.

(c) If either the Interim DIP Order or the Final DIP Order is the subject of a pending appeal in any respect, none of such DIP Order, the making of the Loans or the performance by the Borrower of any of its obligations under any of the Loan Documents is or shall be the subject of a presently effective stay pending appeal. The Borrower, the Agent and the Lenders shall be entitled to rely in good faith upon the DIP Orders, notwithstanding objection thereto or appeal therefrom by any interested party. The Borrower, the Agent and the Lenders shall be permitted and required to perform their respective obligations

in compliance with this Agreement notwithstanding any such objection or appeal unless the relevant Order has been stayed by a court of competent jurisdiction.

(d) The Borrower is in compliance with all material agreements entered into and all orders entered by the Bankruptcy Court from and after the Petition Date.

(e) Pursuant to the terms of the DIP Orders, the Obligations of the Borrower under this Agreement constitute Superpriority Claims and shall be allowed superpriority administrative expense claims in the Case under section 364(c) of the Bankruptcy Code, having priority over all administrative expense claims and unsecured claims against the Borrower now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code and all super-priority administrative expense claims granted to any other Person, subject only to the terms of the DIP Orders and the Carve-Out.

(f) The Debtor will undertake best efforts include the Agent, the Lenders and their respective Affiliates and Related Parties in any release or exculpation provision contained in any Reorganization Plan filed by the Debtor.

ARTICLE VI
AFFIRMATIVE COVENANTS

So long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification obligations for which a claim has not been asserted), the Borrower shall:

6.01 *Variance Reports; Financial Statements*.

(a) Deliver to the Agent, in form and detail satisfactory to the Agent, commencing on the Thursday after the second full calendar week following the Petition Date and for each calendar week thereafter, by no later than 5:00 p.m. New York City time on the Thursday of such calendar week (each such Thursday, a "Variance Report Date" unless an extension is granted via email), a variance report substantially in the form of Exhibit F (each, a "Variance Report") for the applicable Testing Period setting forth, in reasonable detail, differences between the aggregate cumulative actual cash receipts and cash disbursements for such Testing Period compared to the projected aggregate cumulative cash receipts and cash disbursements set forth in the Approved Budget for such Testing Period (consistent in form with Schedule 4.01(k)), together with a statement from the Borrower's Chief Restructuring Officer certifying the information contained in such Variance Report and compliance with Section 7.16 hereof. The Variance Report shall also provide a reasonably detailed explanation for material variances. The term "Testing Period" means (i) the two previous full weeks prior to the applicable Variance Report Date until the third calendar week after the Petition Date and (ii) the three previous full weeks prior to the applicable Variance Report Date until the fourth calendar week after the Petition Date, after which the Testing Period shall mean the four full weeks prior to the applicable Variance Report Date. Further, the Debtor will deliver to Agent Financial Statements no later than 5 p.m. New York City time on the last Monday or subsequent business day for the prior calendar month; and

(b) Deliver to Agent Financial Statements no later than 5 p.m. New York City time on the last Monday or subsequent business day for the prior calendar month.

6.02 *Certificates; Other Information*. Deliver to the Agent, in form and detail reasonably satisfactory to the Agent:

(a) promptly after receipt, any proposal for an Alternative Transaction not in accordance with the Bidding Procedures Order;

(b) promptly after the same are available, copies of financial statements sent to the holders of the Equity Interests of the Borrower and not otherwise required to be delivered to the Agent pursuant hereto;

(c) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of Material Indebtedness of the Borrower pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(d) promptly after the Agent's reasonable request therefor, copies of all Material Contracts and documents evidencing Material Indebtedness;

(e) promptly, such additional information regarding the business affairs, financial condition or operations of the Borrower, or compliance with the terms of the Loan Documents, as the Agent or any Lender may from time to time reasonably request;

(f) promptly, and in any event within two (2) Business Days after receipt thereof by the Borrower, copies of all material written reports and presentations delivered by or on behalf of the Borrower to the Committee or any other party in interest in the Case that have not been filed publicly on the Bankruptcy Court's docket within such period; and

(g) promptly (after a director or officer of the Borrower obtains knowledge, or has notice, thereof), notice of any party seeking relief from the Automatic Stay other than as expressly authorized under the DIP Orders.

6.03 *Notices*. Promptly notify the Agent:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect;

(c) of any breach or non-performance of, or any default under, a Material Contract or with respect to Material Indebtedness by the Borrower;

(d) of any dispute, litigation, investigation, proceeding or suspension between the Borrower and any Governmental Authority or the commencement of, or any material development in, any litigation or proceeding affecting the Borrower, including pursuant to any applicable Environmental Laws, in each such case which could reasonably be expected to have a Material Adverse Effect;

(e) of the occurrence of any ERISA Event, where there is any potential material liability to the Borrower as a result thereof;

(f) of any change in accounting policies or financial reporting practices the Borrower;

(g) of any change in the Borrower's senior executive officers;

(h) of the discharge by the Borrower of its present certified public accounting firm or any withdrawal or resignation by such certified public accounting firm;

(i) of the filing of any Lien for unpaid Taxes against the Borrower in excess of $100,000;

(j) of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the Collateral is damaged or destroyed;

(k) of any (i) entry by the Borrower into a Material Contract, (ii) voluntary or involuntary grant of any Lien other than a Permitted Encumbrance upon any property of the Borrower or (iii) making of any Permitted Investment by the Borrower in excess of $500,000;

(l) of any Disposition of the type described in clauses (h) or (i) of the definition of Permitted Dispositions; and

(m) of the Borrower becoming aware of the granting of any Permitted Encumbrance other than those granted in the ordinary course of business.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached).

6.04 *Payment of Obligations*. In accordance with the Bankruptcy Code and subject to any required approval by the Bankruptcy Court, pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all Tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and, (c) to the extent not prohibited hereunder, all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except, in each case, where (w) the validity or amount thereof is being contested in good faith by appropriate proceedings, (v) the Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (x) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, (y) no Lien has been filed with respect thereto and (z) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

6.05 *Preservation of Existence, Etc.*

(a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization or formation except in a transaction permitted by Section 7.04 or 7.05, (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect and (c) preserve or renew all of its Intellectual Property, except to the extent such Intellectual Property (i) is no longer used or useful in the conduct of the business of the Borrower or (ii) is not otherwise material to the business of the Borrower in any respect.

6.06 *Maintenance of Properties*. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted and (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.07 *Maintenance of Insurance.*

(a) Maintain or cause to be maintained, with financially sound and reputable insurers, (i) business interruption insurance reasonably satisfactory to the Agent, and (ii) casualty insurance, such commercial general liability insurance, third party property damage insurance or such other insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Borrower as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons. Each such commercial general policy of insurance maintained by the Borrower shall (1) name the Agent, on behalf of Lenders, as an additional insured thereunder as its interests may appear, and (2) in the case of each property insurance policy, contain a lenders loss payable clause or endorsement, satisfactory in form and substance to the Agent, that names the Agent, on behalf of Secured Parties as the loss payee thereunder. If the Borrower fails to maintain such insurance, the Agent may, upon prior written notice to the Borrower, arrange for such insurance, but at the Borrower's expense and without any responsibility on the Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Upon the occurrence and during the continuance of an Event of Default, the Agent shall have the sole right, in the name of the Lenders and the Borrower, to file claims under any insurance policies, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

(b) Each of the insurance policies required to be maintained under this Section 6.07 shall provide for at least thirty (30) days' prior written notice to the Agent of the cancellation or substantial modification thereof. Receipt of such notice shall entitle the Agent (but the Agent shall not be obligated), upon prior written notice to the Borrower, to renew any such policies, cause the coverages and amounts thereof to be maintained at levels required pursuant to this Section 6.07 or otherwise to obtain similar insurance in place of such policies, in each case at the expense of the Borrower and to the extent the Borrower has not so renewed such policies or obtained similar insurance in place therefor.

6.08 *Compliance with Laws; Policies and Procedures*. Without limiting any of the other covenants in this Article VI, (i) conduct its business, and otherwise be, in compliance with all applicable laws, regulations, ordinances and orders of any governmental or judicial authorities if the failure to comply thereunder would reasonably be expected to have a Material Adverse Effect; provided, however, that this Section 6.08 shall not require the Borrower to comply with any such law, regulation, ordinance or order if it shall be contesting such law, regulation, ordinance or order in good faith by appropriate proceedings and reserves in conformity with GAAP, (ii) comply with all obligations it might have under Anti-Corruption Laws and (iii) comply with all applicable Sanctions imposed on it. Maintain in effect and enforce policies and procedures intended to ensure compliance by the Borrower and its officers, directors, employees and agents with Anti-Corruption Laws and Sanctions.

6.09 *Books and Records; Accountants.*

(a) (i) Cause Holdings to maintain proper books of record and account with respect to the Borrower, in which full, true and correct entries in conformity with GAAP consistently applied shall be

made of all financial transactions and matters involving the assets and business of the Borrower and (ii) cause such books of record and account to be maintained in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower.

(b) At all times cause Holdings to retain a firm of certified public accountants which is satisfactory to the Agent and shall cause Holdings to instruct such firm to cooperate with, and be available to, the Agent or its representatives to discuss the Borrower's financial performance, financial condition, operating results, controls, and such other matters, within the scope of the retention of such firm, as may be reasonably raised by the Agent.

6.10 *Inspection Rights.* Permit representatives and independent contractors of the Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and certified public accountants, and permit the Agent or professionals (including investment bankers, consultants, accountants, and lawyers) retained by the Agent to conduct evaluations of the Borrower's business plan, forecasts and cash flows, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when a Default or Event of Default exists the Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

6.11 *Use of Proceeds*.

(a) Use the proceeds of the Loans (i) to pay certain costs, fees and expenses related to this Agreement and the Case, including, but not limited to, depositing estimated Professional Fees into the Professional Fee Escrow and (ii) for working capital and general corporate purposes of the Borrower, in each case in accordance with the Approved Budget, or in a manner constituting a Permitted Variance.

(b) Notwithstanding anything to the contrary contained in any Loan Document, none of the proceeds of the Loans and none of the Obligations, the cash collateral, the Collateral or the Carve-Out may be used in connection with: (i) preventing, hindering, or delaying the Secured Parties' enforcement or realization upon any of the Collateral; (ii) using or seeking to use cash collateral or selling or otherwise disposing of Collateral outside the ordinary course of business; (iii) outside the ordinary course of business, using or seeking to use any insurance proceeds constituting Collateral; (iv) incurring any indebtedness; (v) seeking to amend or modify any of the rights granted to the Secured Parties under the Interim DIP Order or the Loan Documents; (vi) objecting to or challenging in any way the Liens, the Obligations, the Collateral (including cash collateral) or any other claims or liens, held by or on behalf of any of the Agent or Lenders, or the ability to credit bid the Loans under section 363(k) of the Bankruptcy Code; (vii) asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any actions under Chapter 5 of the Bankruptcy Code, applicable state law equivalents, any so-called "lender liability" claims and causes of action or other actions to recover or disgorge payments against the Secured Parties, or any of their affiliates, successors and assigns and the partners, shareholders, controlling persons, directors, officers, employees, agents, attorneys, advisors, and professionals); (viii) litigating, objecting to, challenging, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the Obligations, the Liens, or any other rights or interests of the Secured Parties; or (ix) seeking to subordinate, recharacterize, disallow, or avoid the Obligations.

(c) No portion of the proceeds of any Loan shall be used in any manner that causes or might cause such Loan or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the FRB or any other regulation thereof.

6.12 *Intercompany Agreements*. Maintain in full force and effect, and not terminate, cancel, materially amend, waive, breach, or otherwise fail to perform under, any agreement or arrangement between the Borrower and any Affiliate (each, an "Intercompany Agreement") that is necessary or reasonably necessary for the continued operation of the Borrower's business. Notwithstanding the foregoing, the Borrower may (i) amend or otherwise modify an Intercompany Agreement if such amendment or modification, individually or in the aggregate, is not adverse to the interests of the Agent or the Lenders or is made with the prior written consent of the Agent or (ii) replace an Intercompany Agreement with a new agreement or arrangement on arm's-length terms with the same or another Affiliate, so long as such replacement provides goods, services, or other benefits that are, in the aggregate, no less favorable to the Borrower and no more burdensome on the Borrower than those provided under the Intercompany Agreement being replaced and, in each case, is not adverse to the interests of the Agent or is made with the prior written consent of the Agent.

6.13 *Milestones*. Achieve each of the following milestones (as the same may be extended from time to time with the consent of the Agent; the "Milestones"):

(a) On the Petition Date, the Debtor shall file a motion in form and substance satisfactory to the Agent seeking approval of the DIP Orders.

(b) On the Petition Date, the Debtor shall file the Intercompany Settlement Motion.

(c) On the Petition Date, the Debtor shall file a motion in form and substance satisfactory to the Agent seeking entry of the Bidding Procedures Order and approval of the 363 Sale Transaction.

(d) Within three (3) calendar days of the first day hearing in the Case, the Bankruptcy Court shall have entered the Interim DIP Order.

(e) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have approved the Bidding Procedures Order.

(f) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have approved the Intercompany Settlement Order.

(g) On or before the date that is twenty-one (21) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order.

(h) On or before the date that is forty-five (45) calendar days after the Petition Date, the Auction (as defined in the Bidding Procedures Order) shall have been held, unless the Debtor determines not to hold an Auction in accordance with the procedures approved in the Bidding Procedures Order;

(i) One (1) day after the Auction (as defined in the Bidding Procedures Order), if held, the Debtor shall file with the Bankruptcy Court a notice of the Auction results in accordance with the Bidding Procedures Order.

(j) On or before the date that is fifty (50) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Sale Order; and

(k) On or before the date that is sixty (60) calendar days after the Petition Date, the Debtor shall have consummated the 363 Sale Transaction.

Each of the foregoing motions and orders shall be in form and substance reasonably acceptable to the Agent and Lenders (unless a different standard is specified above).

6.14 *Information Regarding the Collateral*. Furnish to the Agent at least fifteen (15) days (or such shorter period as the Agent may agree) prior written notice of any change in: (i) the Borrower's name or in any trade name used to identify it in the conduct of its business or in the ownership of its properties; (ii) the location of the Borrower's chief executive office, its principal place of business, any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility, but excluding in-transit Collateral); (iii) the Borrower's organizational structure or jurisdiction of formation; or (iv) the Borrower's Federal Taxpayer Identification Number or organizational identification number assigned to it by its state of organization. Except as otherwise agreed by the Agent, the Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC or otherwise that are required in order for the Agent to continue at all times following such change to have a valid, legal and perfected first priority security interest in all the Collateral for its own benefit and the benefit of the other Credit Parties.

6.15 *Intercompany Settlement*. Deliver to the Agent as soon as reasonably practicable, but in no event less than three (3) days after the entry thereto, copies of all amendments, supplements, waivers, or other modifications to the Intercompany Settlement made pursuant to Section 10.23.

6.16 *Control Agreements.* Subject to the following sentence, the Borrower shall not open, maintain or otherwise have any deposit or other accounts (including securities accounts) at any bank or other financial institution, or any other account where money or securities are or may be deposited or maintained with any Person, other than (i) deposit accounts that are maintained at all times with depositary institutions as to which the Agent and the Lenders shall have received a Control Agreement, (ii) securities accounts that are maintained at all times with financial institutions as to which the Agent and the Lenders shall have received a Control Agreement and (iii) Excluded Accounts. The Borrower shall enter into and maintain in effect Control Agreements with respect to each deposit, securities, commodity or similar account (other than Excluded Accounts) maintained by it; provided, however, that the Borrower shall have until the date that is (x) ten (10) Business Days (or such later date as the Agent may agree in its sole discretion) after the Petition Date to enter into and maintain in effect such Control Agreements with respect to any such account (other than Excluded Accounts) of the Borrower existing on the Closing Date and (y) twenty-one (21) calendar days (or such later date as the Agent may agree in its sole discretion) after the closing date of any Permitted Investment to enter into and maintain in effect such Control Agreements with respect to any such account (other than Excluded Accounts) acquired in connection with such Investment. Notwithstanding the foregoing, the Agent may waive in writing the Control Agreement requirement set forth in this Section 6.16 with respect to one or more accounts in its sole discretion if the Borrower is unable to obtain a Control Agreement with respect to such account after using commercially reasonable efforts to obtain such a Control Agreement.

6.17 *Further Assurances.*

(a) Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that may be required under any applicable Law, or which the Agent may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created by the Security Documents or the DIP Orders or the validity or priority of any such Lien, all at the expense of the Borrower. The Borrower also agrees to provide to the Agent, from time to time upon request, evidence reasonably satisfactory to the Agent as to

the perfection and priority of the Liens created or intended to be created by the Security Documents and by the DIP Orders.

(b) If any material assets of the type constituting Collateral are acquired by the Borrower after the Closing Date, notify the Agent thereof, and the Borrower will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or shall be reasonably requested by the Agent to grant and perfect such Liens, including actions described in paragraph (a) of this Section 6.17, all at the expense of the Borrower. In no event shall compliance with this Section 6.17(b) waive or be deemed a waiver or consent to any transaction giving rise to the need to comply with this Section 6.17(b) if such transaction was not otherwise prohibited by this Agreement or the other Loan Documents.

6.18 *Chief Restructuring Officer and Independent Director*. Retain and maintain at all times: (a) Applied Business Strategy, or another person reasonably acceptable to the Agent, as the Borrower's Chief Restructuring Officer on terms reasonably satisfactory to the Agent (the "CRO") and (b) Ben Pickering, or any other Person reasonably acceptable to the Agent, as an independent member of the Board of Directors of the Borrower. The Borrower hereby (i) authorizes the Agent (or its agents or advisors) to communicate directly with the CRO regarding any and all matters related to the Borrower, including, without limitation, all financial reports and projections developed, reviewed or verified by the CRO and all additional information, reports and statements reasonably requested by the Agent and (ii) authorizes and directs the CRO to provide the Agent (or their respective agents or advisors) with copies of reports and other information or materials prepared or reviewed by such CRO as the Agent may reasonably request.

6.19 *Material Contracts.* Except as otherwise excused by the Bankruptcy Court, (a) perform and observe in all material respects all the terms and provisions of each Material Contract to be performed or observed by it, unless the failure to so perform such Material Contract could not reasonably be expected to have a Material Adverse Effect, (b) use commercially reasonable efforts to enforce each Material Contract in accordance with its terms, and (c) upon the occurrence and during the continuance of an Event of Default, at the request of the Agent, make each other party to each such Material Contract such demands and requests for information and reports or for action as the Borrower is entitled to make under such Material Contract.

6.20 *Compliance with Environmental Laws*. Except, in each case, to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect, (a) comply, and make all reasonable efforts to cause all lessees and other Persons operating or occupying its properties to comply, in all material respects, with all applicable Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and properties and (b) to the extent required under Environmental Laws, conduct any investigation, mitigation, study, sampling and testing, and undertake any cleanup, removal or remedial, corrective or other action necessary to respond to and remove all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws, unless liability for such actions is being contested in good faith.

6.21 *Bankruptcy Matters*. (a) Comply in all material respects with all of the requirements and obligations set forth in the DIP Orders, the Intercompany Settlement Order, and the Bidding Procedures Order and in all material respects with any other orders entered in the Case to the extent relevant to the interests of the Lenders, in each case after the entry thereof.

(a) Deliver (or, if the same do not relate to the Intercompany Settlement, DIP Facility, the DIP Liens, the Collateral or the 363 Sale Transaction process, use reasonable efforts to deliver) to the Agent and the Lenders (and each of their respective advisors) as soon as reasonably practicable, but in no event less than three (3) days prior to any filing, copies of all material proposed pleadings, motions,

applications, orders, financial information and other documents to be filed by or on behalf of the Borrower with the Bankruptcy Court in the Case, or distributed by or on behalf of the Borrower to any official or unofficial committee appointed or appearing in the Case or any other party in interest, including, without limitation, the DIP Orders, any Reorganization Plan and any disclosure statements related to such Reorganization Plan, in the Case (each of which must (i) in the case of any of the foregoing relating to the Intercompany Settlement, the DIP facility, the DIP Liens, the Collateral or the 363 Sale Transaction process, be in form and substance reasonably acceptable to the Agent and Lenders in their sole discretion, or (ii) otherwise be in form and substance reasonably acceptable to the Agent and the Lenders).

(b) If not otherwise provided through the Bankruptcy Court's electronic docketing system, as soon as available, promptly deliver to the Agent and the Lenders (and their counsel), copies of all final pleadings, motions, applications, orders, financial information and other documents distributed by or on behalf of the Borrower to any official or unofficial committee appointed or appearing in the Case.

(c) Except as otherwise is permitted by the DIP Orders, provide prior written notice as soon as reasonably practicable to the Agent and the Lenders (and their counsel) prior to any assumption or rejection of the Borrower's contracts or non-residential real property leases pursuant to Section 365 of the Bankruptcy Code, and no such contract or lease shall be assumed or rejected if such assumption or rejection adversely impacts the Collateral, any Liens thereon or any Superpriority Claims payable therefrom (including, without limitation, any sale or other Disposition of Collateral or the priority of any such Liens or Superpriority Claims), if the Agent informs 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.

6.22 *Post-Closing Obligations*. Perform the obligations set forth on Schedule 6.22, as and when set forth therein, in each case in form and substance reasonably satisfactory to the Agent.

ARTICLE VII
NEGATIVE COVENANTS

So long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification obligations for which a claim has not been asserted), the Borrower shall not, directly or indirectly:

7.01 *Liens*. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired or sign or file or suffer to exist under the UCC or any similar Law or statute of any jurisdiction a financing statement that names the Borrower as debtor; sign or suffer to exist any security agreement authorizing any Person thereunder to file such financing statement; sell any of its property or assets subject to an understanding or agreement (contingent or otherwise) to repurchase such property or assets with recourse to it; or assign or otherwise transfer any accounts or other rights to receive income other than, as to all of the above, Permitted Encumbrances.

7.02 *Investments*. Make any Investments, except Permitted Investments.

7.03 *Indebtedness; Disqualified Stock*. (a) Create, incur, assume, guarantee, suffer to exist or otherwise become or remain liable with respect to, any Indebtedness, except Permitted Indebtedness; or (b) issue Disqualified Stock.

7.04 *Fundamental Changes*. Merge, dissolve, liquidate, consolidate with or into another Person or consummate a Division (or agree to do any of the foregoing).

7.05 *Dispositions*. Except (x) as expressly permitted under the Intercompany Settlement that has been approved by the Bankruptcy Court, and (y) Permitted Dispositions, make any Disposition.

7.06 *Restricted Payments*. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, other than payments related to the Intercompany Services Agreements or Management Services Agreement, in each case, that are made in accordance with the Approved Budget.

7.07 *Prepayments of Indebtedness and Payments of Certain Indebtedness*. Except in respect of the Obligations as provided for herein and except as specifically authorized pursuant to the DIP Orders, prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in respect of any violation of any subordination terms of, any Indebtedness.

7.08 *Change in Nature of Business*. Engage in any material line of business substantially different from the Business conducted by the Borrower on the Closing Date or any business reasonably related, complementary, ancillary or incidental thereto.

7.09 *Transactions with Affiliates*. Without Agent's consent or except as expressly set forth in the Intercompany Settlement, enter into, renew, extend or be a party to any transaction of any kind with any Affiliate of the Borrower other than in the ordinary course of business; provided that the foregoing restriction shall not apply to (a) Permitted Dispositions, (b) transactions described on Schedule 7.09 hereto, (c) advances for commissions, travel and other similar purposes in the ordinary course of business to directors, officers and employees to the extent permitted under this Agreement, (d) subject to Agent's prior approval or as otherwise set forth in an approved Budget, the payment of reasonable fees and out-of-pocket costs to the Borrower's directors, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers, managers or employees of the Borrower, (e) Restricted Payments permitted under Section 7.06 and payments permitted under Section 7.07 and (f) employment and severance arrangements between the Borrower and its officers and employees in the ordinary course of business and transactions pursuant to stock option plans and employee benefit plans and arrangements in the ordinary course of business.

7.10 *Burdensome Agreements*. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability of the Borrower to create, incur, assume or suffer to exist Liens on property of such Person in favor of the Agent or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person; provided that the foregoing clauses (a) and (b) shall not apply to (i) restrictions and conditions imposed by law, (ii) customary provisions included in licenses, contracts, leases, agreements and other instruments restricting assignment and/or encumbrance, (iii) customary provisions restricting subletting, assignment or transfer of any lease governing a leasehold interest of the Borrower, (iv) restrictions arising in connection with cash or other deposits permitted hereunder and limited to such cash or deposit, (v) restrictions existing on the date hereof set forth in documents governing any Permitted Indebtedness, and (vi) any amendments, modifications, restatements or renewals of the agreements, contracts or instruments referred to in clauses (i) through (vi) above, provided that such amendments, modifications, restatements, or renewals, taken as a whole, are not materially more restrictive with respect to such encumbrances or restrictions than those contained in such predecessor agreements, contracts or instruments.

7.11 *Use of Proceeds*. Use the proceeds of any Loans, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose; or (b) for purposes other than those permitted under this Agreement and the DIP Orders.

7.12 *Amendment of Material Documents*. Amend, modify or waive any of the Borrower's rights under (a) its Organization Documents or (b) any Material Contract or Material Indebtedness, in each case to the extent that such amendment, modification or waiver would result in a Default or Event of Default under any of the Loan Documents, would be materially adverse to the Credit Parties or otherwise would be reasonably likely to have a Material Adverse Effect.

7.13 *Fiscal Year*. Change the Fiscal Year of the Borrower, or the accounting policies or reporting practices of the Borrower, except as required by GAAP; provided, that the Borrower may, upon written notice to the Agent, change its Fiscal Year to any other fiscal year reasonably acceptable to the Agent, in which case the Borrower and the Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such changes.

7.14 *Accounts*. Except as expressly contemplated by this Agreement and the Security Documents, open or maintain any Deposit Account, Securities Account or Commodity Account.

7.15 *[Reserved].*

7.16 *Disbursements; DIP Budget Variance.*

(a) Make any disbursements other than those set forth in the Approved Budget (or as otherwise permitted in accordance with the terms of the DIP Orders).

(b) Permit as of any Variance Report Date the actual aggregate amount of all cash disbursements in the Approved Budget to exceed 115% of the projected aggregate cash disbursements in such Approved Budget during such Testing Period (other than actual and projected disbursements with respect to Chapter 11 expenses, professional fees and expenses and debt service). Any variances not exceeding the limitations set forth in this clause (b) are referred to in this Agreement as "Permitted Variances".

7.17 *Case Matters.*

(a) Assert, file or seek, or consent to the filing or the assertion of or joinder in, or use any portion of the proceeds of the Loans, Obligations, the Collateral, the Carve-Out or cash collateral to compensate services rendered or expenses incurred in connection with, any claim, counterclaim, action, proceeding, order, application, pleading, motion, objection, any other papers or documents, defense (including offsets and counterclaims of any nature or kind), or other contested matter (including any of the foregoing the purpose of which is to seek or the result of which would be to obtain any order, judgment, determination, declaration, or similar relief):

(i) avoiding, re-characterizing, recovering, reducing, subordinating (except pursuant to the DIP Orders), disallowing, or otherwise challenging (under Sections 105, 506(c), 542, 543, 544, 545, 547, 548, 549, 550, 551, 552(b), or 553 of the Bankruptcy Code or applicable non-bankruptcy law), in each case, in whole or in part, the Obligations or the DIP Liens; or reversing, modifying, amending, staying or vacating the DIP Orders, without the prior written consent of the Agent;

(ii) granting priority for any administrative expense, secured claim or unsecured claim against the Borrower (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expenses of the kind specified in, or arising or ordered under, Sections 105, 326, 327, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 and 1114 of the Bankruptcy Code) equal or superior to the priority of the Agent and

the Lenders in respect of the Obligations, except to the extent as provided under the Carve-Out or expressly permitted under the DIP Orders;

(iii) granting or imposing, under Section 364(c) or 364(d) of the Bankruptcy Code or otherwise, any additional financing under such sections or any Lien equal or superior to the priority of the DIP Lien except to the extent expressly permitted under the DIP Orders;

(iv) permitting the use of cash collateral as defined in Section 363 of the Bankruptcy Code, except as expressly permitted by the DIP Orders and this Agreement;

(v) modifying, altering, or impairing in any manner the DIP Liens, or any of the Agent's or the Lenders' rights or remedies under the DIP Orders, this Agreement, any of the other Loan Documents or any documents related thereto (including the right to demand payment of all Obligations and to enforce its Liens and security interests in the Collateral), whether by Reorganization Plan, order of confirmation, or any financings of, extensions of credit to, or incurring of debt by the Borrower or otherwise, whether pursuant to Section 364 of the Bankruptcy Code or otherwise;

(b) Seek or consent to any order (i) dismissing the Case under Sections 105, 305 or 1112 of the Bankruptcy Code or otherwise; (ii) converting the Case to a case under Chapter 7 of the Bankruptcy Code; (iii) appointing a Chapter 11 trustee in the Case; (iv) appointing an examiner with enlarged powers beyond those set forth in sections 1104(d) and 1106(a)(3) and (4) of the Bankruptcy Code in the Case; or (v) granting a change of venue with respect to the Case or any related adversary proceeding.

(c) Seek or consent to any order modifying the terms of the Bidding Procedures Order without the Agent's prior written consent.

(d) Make any payments or transfer any property on account of claims asserted by any vendors of the Borrower for reclamation in accordance with Section 2-702 of any applicable UCC and Section 546(c) of the Bankruptcy Code, unless otherwise ordered by the Bankruptcy Court upon prior notice to the Agent or unless otherwise consented to by the Required Lenders.

(e) Return any inventory or other property to any vendor pursuant to Section 546(g) of the Bankruptcy Code, unless otherwise ordered by the Bankruptcy Court in accordance with Section 546(g) of the Bankruptcy Code upon prior notice to the Agent or unless otherwise consented to by the Required Lenders.

(f) Propose to the Bankruptcy Court, or otherwise, a Reorganization Plan or a sale of all or substantially all of the Collateral that does not include the 363 Sale Transaction, without the prior written consent of the Agent.

(g) (i) Make payments under any management incentive plan or on account of claims or expenses arising under section 503(c) of the Bankruptcy Code, except, in each case, in amounts and on terms and conditions that (1) are approved by order of the Bankruptcy Court after notice and hearing, (2) are expressly permitted by the terms of the Loan Documents and within the limits, including any allowed variance, of the Approved Budget, and (3) as approved by the Agent, (ii) make payments of any bonus or other incentive or retention payment less than the aggregate amount of $200,000 (in one transaction or a series of related transactions) to any employees individually or together, other than those bonus or other incentive or retention payments already approved by the board of directors of the Borrower, or provided for in any employment agreements, employee compensation plans, or other agreements, in each case, entered into or in effect prior to the Petition Date, or (iii)(A) enter into or make or implement any

amendment, waiver, supplement, or other modification to any employment agreement or employee compensation plan or (B) pay or cause to be paid any amount contemplated by such agreements or plans before the date on which such amount becomes due and payable pursuant to the terms of such agreements or plans, as applicable, in each case, unless in the ordinary course of business.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

8.01 *Events of Default*. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower fails to pay when and as required to be paid herein, (i) any amount of principal of any Loan, or (ii) any interest on any Loan, or any fee due hereunder within five (5) days of its due date, or (iii) any other amount payable hereunder or under any other Loan Document within five (5) days of its due date; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement (i) contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.07, 6.10, 6.11, 6.13, 6.14, 6.18, 6.21 or 6.22 or Article VII or (ii) of the Security Agreement with respect to any portion of the Collateral (other than Collateral having only a *de minimis* value); or

(c) Other Defaults. The Borrower fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for ten (10) days after the earlier of (i) the date the Borrower obtains knowledge of a breach of any such covenant or agreement or (ii) the Borrower's receipt of notice from the Agent of any such breach; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. Other than any defaults caused by the filing of the Case (i) the Borrower (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Material Indebtedness (after giving effect to the expiration of any applicable grace periods), or (B) fails to observe or perform any other agreement or condition relating to any such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs (after giving effect to the expiration of any applicable grace periods), the effect of which default or other event is to cause, or to permit the holder or holders of such Material Indebtedness or the beneficiary or beneficiaries of any Guarantee thereof (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower is the "defaulting party" (as defined in such Swap Contract) or (B) any Termination Event (as defined in such Swap Contract) under such Swap Contract as to which the Borrower is an Affected Party (as defined in such Swap Contract) and, in either event, the Swap Termination Value owed by the Borrower as a result thereof is greater than the Threshold Amount; or

(f) Intercompany Services Agreements/Management Services Agreement. Following written notice to the Borrower and the applicable counterparty specifying in reasonable detail the alleged failure, any counterparty to an Intercompany Services Agreement or Management Services Agreement continues to fail or refuses to provide, in any material respect, the services and support required thereunder, and such failure or refusal persists after the Borrower has used its best efforts to cause such counterparty to perform (including the exercise of any available contractual rights and remedies); provided that no Event of Default under this clause (f) shall arise from any immaterial, inadvertent, or promptly cured failure of such Intercompany Services Agreement or Management Services Agreement; or

(g) [Reserved]; or

(h) Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or payment in full of all the Obligations, ceases to be in full force and effect (other than in accordance with its terms); or the Borrower or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or the Borrower denies that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of the discharge of the Borrower in accordance with the terms of the applicable Loan Document), or purports to revoke, terminate or rescind any provision of any Loan Document or seeks to avoid, limit or otherwise adversely affect any Lien purported to be created under any Security Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by the Borrower or any other Person not to be, a valid and perfected Lien on any Collateral (other than as a result of Agent's negligence with respect to failure to maintain the filing of a financing statement or loss of possessory Collateral), with the priority required by the applicable Security Document; or

(i) Change of Control. There occurs any Change of Control; or

(j) Loss of Collateral. There occurs any uninsured loss (in excess of any applicable insurance deductible) to Collateral with an aggregate value in excess of the Threshold Amount; or

(k) [Reserved]; or

(l) [Reserved]; or

(m) Chapter 11 Case. Any of the following shall have occurred in the Case:

(i) the bringing of a motion or application by the Debtor in the Case, or the entry of any order by the Bankruptcy Court in the Case: (A) to obtain additional post-petition financing under section 364(c) or (d) of the Bankruptcy Code that does not provide for the payment in full in cash of all Obligations in full immediately upon the consummation of such financing; (B) to grant any Lien, other than Liens expressly permitted under this Agreement or the DIP Orders upon or affecting any Collateral; or (C) except as provided in this Agreement or the DIP Orders, to use cash collateral of the Agent and the Lenders under section 363(c) of the Bankruptcy Code; or

(ii) the filing of any Reorganization Plan or disclosure statement attendant thereto, or any amendment, modification or supplement to such Reorganization Plan or disclosure statement, by the Debtor, unless such Reorganization Plan or disclosure statement contains provisions for the termination of the Lenders' commitment to make loans hereunder, the indefeasible payment in full in cash of the Obligations, the release of the Lenders in full from all claims that could be asserted by the Debtor or its estate, and is otherwise in form and substance acceptable to the Agent (an "Approved Plan"); or

(iii) the termination or modification of the Debtor's exclusive right to file and solicit acceptances of a Reorganization Plan; or

(iv) the entry of an order in the Case approving a disclosure statement in respect of a Reorganization Plan other than an Approved Plan, or the entry of an order confirming a Reorganization Plan other than an Approved Plan; or

(v) entry of an order in the Case terminating exclusivity having been entered (or requested, unless actively contested by the Borrower); or

(vi) the entry of an order in the Case amending, supplementing, staying, vacating or otherwise modifying any Loan Document, the Bidding Procedures Order, the Sale Order, or the Intercompany Settlement Order without the prior written consent of the Agent; or

(vii) the payment of, or application by the Debtor for authority to pay, any prepetition claim (including, without limitation, related to any reclamation claims) other than amounts set forth in the Approved Budget; or

(viii) the entry of an order by the Bankruptcy Court appointing, or the filing of a motion or application by the Debtor for an order seeking the appointment of an interim or permanent trustee in the Case or the appointment of a receiver or an examiner under section 1104 of the Bankruptcy Code in the Case, with expanded powers (beyond those set forth in sections 1106(a)(3) and 1106(a)(4) of the Bankruptcy Code) to operate or manage the financial affairs, the business, or reorganization of the Borrower or with the power to conduct an investigation of (or compel discovery); or

(ix) the sale of the Debtor's assets (other than pursuant to the Stalking Horse APA) either through a sale under section 363 of the Bankruptcy Code, through a Reorganization Plan confirmed by the Bankruptcy Court in the Case, or otherwise; or

(x) the dismissal of the Case, or if the Debtor files a motion or other pleading seeking the dismissal of the Case; or

(xi) the conversion of the Case from one under Chapter 11 of the Bankruptcy Code to one under Chapter 7 of the Bankruptcy Code, or if the Debtor files a motion or other pleading seeking the conversion of the Case under section 1112 of the Bankruptcy Code or otherwise; or

(xii) without Agent's consent, the Debtor files a motion or application seeking, or the entry of an order by the Bankruptcy Court, as applicable, granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code to allow any creditor to execute upon or enforce a Lien on any Collateral not in accordance with the terms hereof; or

(xiii) the Debtor files a motion or application seeking to challenge, subordinate, disgorge, avoid or require repayment of, or the entry of an order in the Case challenging, subordinating, disgorging, avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Agreement or the other Loan Documents; or

(xiv) the failure of the Debtor to perform any of its obligations under the DIP Orders or any violation of any of the terms of the DIP Orders, subject to any applicable grace or cure periods set forth therein; or

(xv) the DIP Orders shall cease to create a valid and perfected Lien on the Collateral or to be in full force and effect; or

(xvi) the Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtor shall occur, or any material damage to or loss of material assets of the Debtor shall occur; or

(xvii) the challenge by the Debtor to the validity, extent, perfection or priority of any liens granted under or obligations arising under the Loan Documents; or

(xviii) the remittance, use or application of proceeds of the Loans, cash collateral or other cash or funds of the Debtor other than in accordance with this Agreement and the DIP Orders; or

(xix) an order of the Court shall be entered denying or terminating use of cash collateral by the Borrower; or

(xx) the Debtor files a motion or application seeking, or the entry of an order in the Case granting any other superpriority administrative claim or Lien equal or superior to that granted to the Agent, on behalf of itself and the Lenders, without the prior written consent of the Required Lenders (other than any such superpriority administrative claim or lien that is expressly permitted to have such priority hereunder); or

(xxi) the filing of a motion or application by the Debtor requesting, or the entry of any order granting, any super-priority claim which is senior or pari passu with the Agent's or the Lenders' claims under the Loan Documents not in accordance with the terms hereof; or

(xxii) any (a) Debtor files a motion or application seeking, or the entry of an order precluding the Agent (or its designee) from having the right to or being permitted to "credit bid" any amount of the Obligations with respect to the assets of the Debtor or (b) the Bankruptcy Court enters an order prohibiting, restricting, precluding, or otherwise impairing the unqualified right of the Agent (or its designee) from having the right to or being permitted to "credit bit" any amount of the Obligations, with respect to the assets of the Debtor; or

(xxiii) any attempt by the Debtor to reduce (other than a reduction in accordance with the terms of this Agreement), avoid, set off or subordinate the Obligations or the Liens securing the Obligations to any other debt; or

(xxiv) the revocation, reversal, stay, vacation, supplementation or other modification of the DIP Orders or any provision thereof without the consent of the Required Lenders; or

(xxv) [reserved]; or

(xxvi) the payment of any administrative expense claim of $50,000 or more, unless such claim is expressly set forth in the Approved Budget; or

(xxvii) (A) the Debtor, any holder of an Equity Interest in the Debtor or any Affiliate of the Debtor commences, or the Debtor supports any Person, in any proceeding challenging or seeking to challenge the validity and priority of the DIP Liens against the Agent or the Lender or the Loan Documents, or the disallowance of the Obligations (or any of them), or (B)

any material provision of the DIP Orders shall cease to be valid and binding unless, in any case under this clause (xxiii), the Lenders shall have consented to the same; or

(xxviii) the Debtor shall be unable to pay its post-petition debts as they mature or shall fail to comply with any order of the Bankruptcy Court in any material respect; or

(xxix) the Debtor shall make any payment or grant any form of adequate protection with respect to Indebtedness existing prior to the Petition Date (other than, in each case, as permitted under this Agreement, the DIP Orders or an Approved Plan or relief sought in any "first day" motions filed on the Petition Date); or

(xxx) an application or motion for any of the orders described in this Section 8.01 shall be made by a Person other than the Agent or the Required Lenders and such application is not, to the extent requested by the Agent or the Required Lenders, contested by the Borrower in good faith and the relief requested is granted in an order that is not stayed pending appeal; or

(xxxi) the cessation of Liens or superpriority claims granted with respect to this Agreement to be valid, perfected and enforceable in all respects; or the Bankruptcy Court shall cease to have exclusive jurisdiction with respect to all matters relating to the exercise of rights and remedies under the Loan Documents, the DIP Orders, the Liens granted under the Collateral Documents and the Collateral; or

(xxxii) any Person shall be permitted to surcharge the Collateral under section 506(c) of the Bankruptcy Code, or any costs or expenses whatsoever shall be imposed on the Collateral; or

(xxxiii) the Agent shall be made subject to any equitable remedy of marshalling or any similar doctrine with respect to the Collateral; or

(xxxiv) the entry by the Bankruptcy Court of an interim DIP order other than the Interim DIP Order, or a final DIP order other than the Final DIP Order.

8.02 *Remedies Upon Event of Default*. Upon the occurrence and during the continuance of any Event of Default, the Agent may, or at the request of the Required Lenders shall, deliver a written notice to the Borrower (a "Termination Declaration"), that, pursuant to and subject to the DIP Orders, the automatic stay provision of Section 362 of the Bankruptcy Code shall be deemed vacated and modified to the extent necessary to permit the Agent and the Lenders to: (i) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other Obligations (other than Obligations under any Swap Contract) to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; and (ii) to the extent not prohibited by the DIP Orders, proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents or 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 this Agreement and the other Loan Documents or any instrument pursuant to which the 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 the Credit Parties.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of Law.

Each of the Lenders agrees that it shall not, unless specifically requested to do so in writing by Agent, take or cause to be taken any action, including, the commencement of any legal or equitable proceedings to enforce any Loan Document against the Borrower or to foreclose any Lien on, or otherwise enforce any security interest in, or other rights to, any of the Collateral.

The Borrower may seek an emergency hearing during the five (5) calendar days following the date a Termination Declaration is delivered (such five (5) calendar day period, the "Remedies Notice Period"), at which the sole issue that may be raised by the Borrower shall be whether an Event of Default has in fact occurred or is continuing, and the Borrower hereby waives its right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in any way impair or restrict the rights and remedies of the Secured Parties.

8.03 *Application of Funds*. Subject to the DIP Orders, after the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations shall be applied by the Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, Credit Party Expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Article III) payable to the Agent;

Second, to payment of that portion of the Obligations constituting indemnities, Credit Party Expenses, and other amounts (other than principal, interest and fees) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and fees payable in respect thereof, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them until paid in full;

Fifth, to payment of all other Obligations (including without limitation the cash collateralization of unliquidated indemnification obligations), ratably among the Credit Parties in proportion to the respective amounts described in this clause Fifth held by them; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE IX
THE AGENT

9.01 *Appointment and Authority.*

(a) Each of the Lenders hereby irrevocably appoints Commodore Material Funding, LLC to act on its behalf as the administrative and collateral agent hereunder and under the other Loan

Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof (including, without limitation, acquiring, holding and enforcing any and all Liens on Collateral granted by the Borrower to secure any of the Obligations), together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any of such provisions.

(b) Each of the Lenders (in its capacities as a Lender) hereby irrevocably appoints Commodore Material Funding, LLC as Agent and authorizes the Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by the Borrower to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Agent, as "Agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Agent), shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents, as if set forth in full herein with respect thereto.

(c) Each Lender authorizes and directs the Agent to enter into this Agreement and the other Loan Documents to which it is a party. Each Lender agrees that any action taken by the Agent or the Required Lenders in accordance with the terms of this Agreement or the other Loan Documents and the exercise by the Agent or the Required Lenders of their respective powers set forth herein or therein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

(d) The Lenders acknowledge that the Obligations are secured by Liens on the Collateral and that the exercise of certain of the rights and remedies of Agent under the Loan Documents may be subject to the provisions of the DIP Orders. Each Lender irrevocably (i) consents to the subordination of Liens provided for in the applicable Order and the other terms and conditions therein, (ii) authorizes and directs the Agent to take all actions (and execute all documents) required (or deemed advisable) by it in accordance with the terms of the applicable Order, in each case, and without any further consent, authorization or other action by such Lender, (iii) agrees that such Lender will be bound by the provisions of the applicable Order as if it were a signatory thereto and will take no actions contrary to the provisions the applicable Order, (iv) agrees that no Lender shall have any right of action whatsoever against the Agent as a result of any action taken by Agent pursuant to this Section or in accordance with the terms of the applicable Order and (v) acknowledges (or is deemed to acknowledge) that a copy of the applicable Order has been delivered, or made available, to such Lender. Each Lender hereby further irrevocably authorizes and directs the Agent to enter into such amendments, supplements or other modifications to the applicable Order as are approved by Agent and the Required Lenders, provided, that Agent may execute and deliver such amendments, supplements and modifications thereto as are contemplated by the applicable Order in connection with any extension, renewal, refinancing or replacement of this Agreement or any refinancing of the Obligations, in each case, on behalf of such Lender and without any further consent, authorization or other action by any Lender. The Agent shall have the benefit of the provisions of this Article IX with respect to all actions taken by it pursuant to this Section or in accordance with the terms of the applicable Order to the full extent thereof.

9.02 *Rights as a Lender*. The Person serving as the Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though they were not the Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in

any other advisory capacity for and generally engage in any kind of business with the Borrower or any other Affiliate thereof as if such Person were not the hereunder and without any duty to account therefor to the Lenders.

9.03 *Exculpatory Provisions*. The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

The Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Agent by the Borrower, a Lender. Upon the occurrence of a Default or Event of Default, the Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Applicable Lenders. Unless and until the Agent shall have received such direction, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to any such Default or Event of Default as it shall deem advisable in the best interest of the Credit Parties. In no event shall the Agent be required to comply with any such directions to the extent that the Agent believes that its compliance with such directions would be unlawful.

The Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

9.04 *Reliance by Agent*. The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice (including telephonic Committed Loan Notices), request, certificate, consent, statement, instrument, document or other writing (including, but not limited to, any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may 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. 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, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received written notice to the contrary from such Lender prior to the making of such Loan. The Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 *Delegation of Duties*. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agent.

9.06 *Resignation of Agent*. The Agent may at any time give written notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the approval of the Borrower (which shall not be required if an Event of Default has occurred and is continuing), to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such 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 (subject to the approval of the Borrower, which approval shall not be required if an Event of Default has occurred and is continuing), appoint a successor Agent meeting the qualifications set forth above; provided that if the Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) 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 held by the Agent on behalf of the Lenders 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) and (b) all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). 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 the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 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 the retiring Agent was acting as Agent hereunder.

9.07 *Non-Reliance on Agent and Other Lenders*. Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder. Except as provided in Section 9.12, the Agent shall not have any duty or responsibility to provide any Credit Party with any other credit or other information concerning the affairs, financial condition or business of the Borrower that may come into the possession of the Agent.

9.08 *Credit Bidding*. Each of the Lenders hereby irrevocably authorizes the Agent, on behalf of itself and all Lenders, to take any of the following actions upon the instruction of the Required Lenders:

(a) consent to the Disposition of all or any portion of the Collateral free and clear of the Liens securing the Obligations in connection with any Disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof (or other applicable Debtor Relief Laws);

(b) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles or on behalf of any Lender or designee thereof), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof (or other applicable Debtor Relief Laws);

(c) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles or on behalf of any Lender or designee thereof), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles or on behalf of any Lender or designee thereof), in connection with any foreclosure or other Disposition conducted in accordance with applicable law following the occurrence of an Event of Default, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Obligations of such Lender;

it being understood that (x) any portion of the Obligations owing on behalf of any Lender may be bid on behalf of such Lender, and (y) no Lender shall be required to fund any amount in connection with any purchase of all or any portion of the Collateral by the Agent pursuant to the foregoing clause (b), (c) or (d) without its prior written consent.

Each Lender agrees that the Agent is under no obligation to credit bid any part of the Obligations or to purchase or retain or acquire any portion of the Collateral. In connection with any credit bid or purchase described under clause (b), (c) or (d) of the preceding paragraph, the Obligations owed to all of the Lenders (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be credit bid by the Agent on a ratable basis or on such other basis as the Agent may determine.

With respect to any contingent or unliquidated claim that is an Obligation, the Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of the Agent to credit bid the Obligations or purchase the Collateral in the relevant Disposition. In the event that the Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of the Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

The Agent may assign its rights to credit bid under this Section 9.08. The provisions of this Section 9.08 shall supersede any provision of Section 9.06 or Section 10.06 to the contrary.

9.09 *[Reserved].*

9.10 *Collateral Matters*. The Credit Parties irrevocably authorize the Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon payment in full of all Obligations (other than contingent indemnification obligations for which no claim has been asserted), (ii) that is Disposed of or to be Disposed of as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.01; and

(b) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by clause (h), (m), (u) or (v) of the definition of Permitted Encumbrances.

Upon request by the Agent at any time, the Applicable Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property. In each case as specified in this Section 9.10, the Agent will, at the Borrower's expense, execute and deliver to the Borrower such documents as the Borrower may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

9.11 *Notice of Transfer*. The Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Obligations for all purposes, unless and until, and except to the extent, an Assignment and Assumption shall have become effective as set forth in Section 10.06.

9.12 *Reports and Financial Statements.*

By signing this Agreement, each Lender:

(a) [Reserved];

(b) is deemed to have requested that the Agent furnish such Lender, promptly after they become available, copies of all financial statements required to be delivered by the Borrower hereunder and all commercial finance examinations and appraisals of the Collateral received by the Agent (collectively, the "Reports");

(c) expressly agrees and acknowledges that the Agent makes no representation or warranty as to the accuracy of the Reports, and shall not be liable for any information contained in any Report;

(d) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or any other party performing any audit or examination will inspect only specific information regarding the Borrower and will rely significantly upon the Borrower's books and records, as well as on representations of the Borrower's personnel;

(e) agrees to keep all Reports confidential in accordance with the provisions of Section 10.07 hereof; and

(f) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Loans that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or any portion thereof; and (ii) to pay and protect, and indemnify, defend, and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

9.13 *Agency for Perfection*. Each Lender hereby appoints each other Lender as agent for the purpose of perfecting Liens for the benefit of the Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable Law of the United States can be perfected only by possession or control. Should any Lender (other than the Agent) obtain possession or control of any such Collateral, such Lender shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

9.14 *Indemnification of Agent*. Without limiting the obligations of the Borrower hereunder, the Lenders hereby agree to indemnify the Agent and any Related Party, as the case may be, ratably according to their Applicable Percentages, from and against any and all liabilities, 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 the Agent, and their Related Parties in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by the Agent and their Related Parties in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's and its Related Parties' gross negligence, bad faith or willful misconduct as determined by a final and nonappealable judgment of a court of competent jurisdiction.

9.15 *Relation among Lenders*. The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

ARTICLE X
MISCELLANEOUS

10.01 *Amendments, Etc*. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Required Lenders (or the Agent at the direction of the Required Lenders), and the Borrower, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 2.01) without the consent of such Lender;

(b) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for any scheduled payment (including the Maturity Date) of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the consent of such Lender entitled to such payment;

(c) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Loan held by such Lender, or any fees or other amounts payable hereunder or under any other Loan Document to or for the account of such Lender, without the consent of each Lender entitled to such amount; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) as to any Lender, change Section 2.07(b), Section 2.12(c), Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby or the priority of such payments set forth therein without the written consent of each Lender;

(e) change any provision of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the consent of each Lender;

(f) except as expressly permitted hereunder or under any other Loan Document, release, or limit the liability of, the Borrower or permit the Borrower to assign its rights under the Loan Documents without the consent of each Lender;

(g) except for Permitted Dispositions, release all or substantially all of the Collateral from the Liens of the Security Documents or release all or substantially all of the Guaranties without the consent of each Lender;

(h) increase the Aggregate Commitments without the consent of each Lender; or

(i) except as expressly permitted herein or in any other Loan Document, subordinate the Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the consent of each Lender;

and, provided further, that no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Lenders required above, affect the rights or duties of the Agent under this Agreement or any other Loan Document.

If any Lender does not Consent (a "Non-Consenting Lender") to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the Consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Agent or Borrower to be made pursuant to this paragraph).

10.02 *Notices; Effectiveness; Electronic Communications.*

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all 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 telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or the Agent, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Borrower, the Agent and the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such the Lender, as applicable, has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The Agent may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Each of the Borrower and the Agent, may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices

and other communications hereunder by notice to the Borrower and the Agent. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(d) Reliance by Agent and Lenders. The Agent and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

10.03 *No Waiver; Cumulative Remedies*. No failure by any Credit Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein and in the other Loan Documents are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Credit Party may have had notice or knowledge of such Default or Event of Default at the time.

10.04 *Expenses; Indemnity; Damage Waiver.*

(a) Costs and Expenses. The Borrower shall pay all Credit Party Expenses in accordance with the applicable DIP Order.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Agent (and any sub-agent thereof), each other Credit Party, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless (on an after tax basis) from, any and all losses, claims, causes of action, damages, liabilities, settlement payments, costs, and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agents thereof) and their Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any release of Hazardous Materials in violation of Environmental Law on or from any property owned or operated by the Borrower, or any Environmental Liability related in any way to the Borrower, (iv) any claims of, or amounts paid by any Credit Party to, a Person which has entered into a control agreement with any Credit Party hereunder, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of the Borrower's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) 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 Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, as determined by a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. Without limiting their obligations under Section 9.14 hereof, to the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it, each Lender severally agrees to pay to the Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this subsection (c) are several and not joint. The failure of any Lender to make any payment under this subsection (c) shall not relieve any other Lender of its obligation to do so, and no Lender shall be responsible for the failure of any other Lender to make its required payment hereunder.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof, in each case, whether or not arising in connection with any matter otherwise addressed in this Section 10.04. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable on demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Agent, the assignment of any portion of any Loan by any Lender, the replacement of any Lender, and the repayment, satisfaction or discharge of all the other Obligations.

10.05 *Payments Set Aside*. To the extent that any payment by or on behalf of the Borrower is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under

clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 *Successors and Assigns.*

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior consent of the Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of subsection Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Loan and/or unused Commitment at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date of the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $500,000 unless each of the Agent and, so long as no Default or Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans and/or the Commitments assigned;

(iii) Required Consents and Other Conditions. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section, and in addition:

(A) with respect to any Eligible Assignee pursuant to clause (e) of the definition of Eligible Assignee, the consent of the Borrower (such consent not to be unreasonably withheld or delayed and in any event such consent unless (1) a Default or Event of Default shall have occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund with respect to such Lender;

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Loans or Commitment if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) no assignment may be made to the Borrower or an Affiliate of the Borrower

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided, however, that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.02 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender and a Note or replacement Note to the assignor Lender (in the event of a replacement Note, the assignor Lender shall cancel and return to the Borrower the superseded Note). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d).

(c) Register. The Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts 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 Borrower, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agent, 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. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.07 as if such Participant was a Lender hereunder.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (a), (b), (c) or (f) of the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 and 3.02 (subject to the requirements and limitations of such Sections, including Section 3.01(e) it being understood that the documentation required under Section 3.01(e) shall be delivered to the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender granting a participation shall, as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents ("Participant Register"); provided that, no Lender shall have any obligation to disclose all or any portion of any Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Loans or other rights or obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Loan or other right or obligation is in registered form under Treasury Regulation Sections 5f.103-1(c) and 1.871-14(c). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.02 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the right to receive a greater payment results from a Change in Law after the participant becomes a Participant.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping

system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

10.07 *Treatment of Certain Information; Confidentiality*. Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower (but only if such Credit Party has no actual knowledge that such source has breached a confidentiality obligation).

For purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower or its businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Borrower (provided that, if such information is furnished by a source actually known to such Credit Party to be subject to a confidentiality obligation, such source, to the knowledge of such Credit Party, is not in violation of such confidentiality obligation by such disclosure), provided that, in the case of information received from the Borrower after the Closing Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 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 to its own confidential information.

Each of the Credit Parties acknowledges that (a) the Information may include material non-public information concerning the Borrower, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including Federal and state securities Laws.

10.08 *Right of Setoff*. Subject to the DIP Orders, if an Event of Default shall have occurred and be continuing or if any Lender shall have been served with a trustee process or similar attachment relating to property of the Borrower, each Lender, and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Agent or the Required Lenders, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, or any such Affiliate to or for the credit or the account of the Borrower against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are

owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, or its respective Affiliates may have. Each Lender agrees to notify the Borrower and the 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.

10.09 *Interest Rate Limitation*. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 *Counterparts; Integration; Effectiveness; Electronic Signature.*

(a) This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Agent and when the Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

(i) The words "delivery," "execute," "execution," "signed," "signature," and words of like import in any Loan Document or any other document executed in connection herewith and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state Laws based on the Uniform Electronic Transactions Act;·provided that notwithstanding anything contained herein to the contrary neither the Agent nor any Lender is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Agent or such Lender pursuant to procedures approved by it and provided further without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Agent and each of the holders of the Obligations of a manually signed paper document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a "Communication") which has been converted into electronic form (such as

scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention.

(ii) The Borrower hereby acknowledges the receipt of a copy of this Agreement and all other Loan Documents. The Administrative Agent and each Lender may, on behalf of the Borrower, create a microfilm or optical disk or other electronic image of this Agreement and any or all of the other Loan Documents. The Agent and each Lender may store the electronic image of this Agreement and the other Loan Documents in its electronic form and then destroy the paper original as part of the Agent's and each Lender's normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals.

10.11 *Survival*. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or Event of Default at the time of any Loans, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder (other than contingent indemnity obligations for which claims have not been made) shall remain unpaid or unsatisfied. Further, the provisions of Sections 3.01, 3.02, and 10.04 and Article IX shall survive and remain in full force and effect regardless of the repayment of the Obligations, and the Commitments or the termination of this Agreement or any provision hereof. In connection with the termination of this Agreement and the release and termination of the security interests in the Collateral, the Agent may require such indemnities and collateral security as they shall reasonably deem necessary or appropriate to protect the Credit Parties against (x) loss on account of credits previously applied to the Obligations that may subsequently be reversed or revoked and (y) any Obligations that may thereafter arise under Section 10.04.

10.12 *Severability*. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.13 *Governing Law; Jurisdiction; Etc.*

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF, BUT INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

(b) SUBMISSION TO JURISDICTION. THE BORROWER 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, NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT

OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND THE BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. THE BORROWER AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY CREDIT PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. THE BORROWER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

(e) ACTIONS COMMENCED BY THE BORROWER. THE BORROWER AGREES THAT ANY ACTION COMMENCED BY THE BORROWER ASSERTING ANY CLAIM OR COUNTERCLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT IN THE BANKRUPTCY COURT, AND IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM)JURISDICTION, SOLELY IN A COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY OR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AS THE AGENT MAY ELECT IN ITS SOLE DISCRETION AND CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS WITH RESPECT TO ANY SUCH ACTION.

10.14 *Waiver of Jury Trial*. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.15 *No Advisory or Fiduciary Responsibility*. In connection with all aspects of each transaction contemplated hereby, the Borrower acknowledges and agrees that: (a) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower, on the one hand, and the Credit Parties, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (b) in connection with the process leading to such transaction, the each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person; (c) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising the Borrower or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to the Borrower 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; (d) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (e) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against each of the Credit Parties with respect to any breach or alleged breach of agency or fiduciary duty.

10.16 *USA PATRIOT Act Notice*. Each Lender that is subject to the PATRIOT Act and the Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Agent, as applicable, to identify the Borrower in accordance with the PATRIOT Act. The Borrower is in compliance, in all material respects, with the Patriot Act.

10.17 *Time of the Essence*. Time is of the essence with respect to all provisions of the Loan Documents.

10.18 *Press Releases.*

(a) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Agent and without the prior written consent of the Agent unless (and only to the extent that) such Credit Party or Affiliate is required to do so under applicable Law and then, in any event, such Credit Party or Affiliate will consult with the Agent before issuing such press release or other public disclosure.

(b) The Borrower consents to the publication by the Agent, any Lender or their respective representatives of advertising material, including any "tombstone," press release or comparable advertising, on its website or in other marketing materials of Agent, relating to the financing transactions contemplated by this Agreement using the Borrower's name, product photographs, logo, trademark or other

insignia. The Agent or such Lender shall provide a draft reasonably in advance of any advertising material, "tombstone" or press release to the Borrower for review and comment prior to the publication thereof. The Agent reserves the right to provide to industry trade organizations and loan syndication and pricing reporting services information necessary and customary for inclusion in league table measurements.

10.19 *Additional Waivers.*

(a) To the fullest extent permitted by Applicable Law, the obligations of the Borrower shall not be affected by (i) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement or any other Loan Document, or (ii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of the Agent or any other Credit Party.

(b) The obligations of the Borrower shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the payment in full of the Obligations), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations the Borrower hereunder shall not be discharged or impaired or otherwise affected by the failure of the Agent or any other Credit Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, in the performance of any of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of the Borrower or that would otherwise operate as a discharge of the Borrower as a matter of law or equity (other than the payment in full of all the Obligations).

10.20 *No Strict Construction*. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

10.21 *Attachments*. The exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

10.22 *DIP Orders Govern*. The Borrower, the Agent and the Lenders agrees that any reference contained herein to (a) the Interim DIP Order shall include all terms, conditions, and provisions of such Interim DIP Order and that the Interim DIP Order is incorporated herein for all purposes, and (b) the Final DIP Order shall include all terms, conditions, and provisions of the Final DIP Order and that the Final DIP Order is incorporated herein for all purposes. To the extent there is any inconsistency between the terms of this Agreement or any other Loan Document and the terms of the DIP Orders, the terms of the DIP Orders shall govern.

10.23 *Intercompany Settlement; Third-Party Beneficiary Call Right*.

(a) The Borrower acknowledges that it has entered into the Intercompany Settlement, whereby the Borrower has the right to require the Intercompany Settlement Counterparties to contribute, convey, assign, transfer and deliver to the Borrower the Intercompany Settlement Assets in accordance with the terms thereof and subject to the occurrence of the Intercompany Settlement Order (as defined in the

Intercompany Settlement) (the "Call Right"). The Borrower hereby acknowledges and agrees, subject to the occurrence of the Intercompany Settlement Order and entry of the Final DIP Order, that (i) the Agent and the Lenders are intended third-party beneficiaries of the Intercompany Settlement, (ii) at any time that an Event of Default has occurred and is continuing, the Agent shall have the right (but not the obligation), automatically without any further action or notice and in its names or in the name of the Borrower, to exercise the Call Right and to enforce the Intercompany Settlement and all rights and remedies of the Borrower thereunder, including by delivering any notices, consents, demands or elections required to effectuate the Call Right, and to take any actions incidental or necessary thereto, in each case on such terms and at such times as the Agent may reasonably determine in its sole discretion, and (iii) the Borrower shall not oppose or interfere with any such exercise or enforcement of the Call Right pursuant to clause (ii) hereunder. To facilitate the foregoing, the Borrower shall, at its sole cost and expense, promptly execute, acknowledge, deliver and cause to be executed, acknowledged and delivered all such further acts, conveyances, assignments, transfers, instruments and assurances as the Agent may reasonably request to effectuate the purposes of this Section 10.23. The Borrower shall not amend, supplement, waive, terminate, assign or otherwise modify the Intercompany Settlement, or grant any consent thereunder, in a manner adverse to the interests of the Agent or the Lenders, in each case, without the prior written consent of the Agent. Any purported amendment, waiver or other modification in violation of the foregoing shall be void. For the avoidance of doubt, all proceeds, assets and other consideration received by or for the account of the Borrower in connection with the Intercompany Settlement or the exercise of the Call Right shall constitute Collateral and shall be applied and controlled in accordance with this Agreement and the other Loan Documents.

(b) Without limiting any rights or powers granted by this Agreement or the Security Agreement to the Agent while no Event of Default has occurred and is continuing, upon the occurrence and during the continuance of any Event of Default, the Agent is hereby appointed the attorney in fact of the Borrower for the purpose of carrying out the provisions of this Section 10.23 and taking any action and executing any instruments that the Agent may deem necessary or advisable to exercise the Call Right and to enforce the Intercompany Settlement and all rights and remedies of the Borrower thereunder and otherwise accomplish the purposes hereof, which appointment as attorney in fact is automatic, irrevocable and coupled with an interest, and shall survive the bankruptcy, insolvency, dissolution or cessation of existence of the Borrower, and shall not be affected by any limitation on the powers of the Borrower. Without limiting the generality of the foregoing, so long as the Agent shall be entitled to make collections in respect of the Collateral, the Agent shall have the right and power to receive, endorse and collect all checks made payable to the order of the Borrower representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same. The Borrower hereby ratifies and confirms all actions taken by the Agent pursuant to this Section 10.23 and agrees not to contest the validity or enforceability of any such action.

[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 date first above written.

VANDERBILT MINERALS, LLC, as the Borrower and Debtor

DocuSigned by:
By: Dean Vomero
D04F2FB1270744C...
Name: Dean Vomero
Title: Chief Restructuring Officer

Docusign Envelope ID: ACD125BE-5445-4E3B-AE24-C5630F4653E4

COMMODORE MATERIAL FUNDING, LLC,
as Agent and as a Lender

By: DocuSigned by: Eric Mara E94B4095E1E943C...
Name: Eric J. Mara
Title: Manager

[Schedules to Credit Agreement Omitted.]

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [the][each][1] Assignor identified in item 1 below ([the][each, an] "Assignor") and [the][each] [2] Assignee identified in item 2 below ([the][each, an] "Assignee"). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees][3] hereunder are several and not joint.][4] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by [the][each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Agent as contemplated below (i) all of [the Assignor's][the respective Assignors'] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective facilities identified below (including without limitation any letters of credit, guarantees, and swingline loans included in such facilities), and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] "Assigned Interest"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

---

[1] For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

[2] For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

[3] Select as appropriate.

[4] Include bracketed language if there are either multiple Assignors or multiple Assignees.

1. Assignor[s]: _____

2. Assignee[s]: _____
[Assignee is an [Affiliate][Approved Fund][5] of [*identify Lender*]]

3. Borrower: Vanderbilt Minerals, LLC (the "Borrower")

4. Agent: Commodore Material Funding, LLC, as the administrative agent and the collateral agent under the Credit Agreement (the "Agent")

5. Credit Agreement: Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, the Lenders from time to time party thereto and the Agent.

6. Assigned Interest:

Assignor[s][6]	Assignee[s][7]	Facility Assigned[8]	Aggregate Amount of Commitment/Loans for all Lenders[9]	Amount of Commitment/Loans Assigned[8]	Percentage Assigned of Commitment/ Loans[10]	CUSIP Number
			$	$	%	
			$	$	%	
			$	$	%	

[7. Trade Date: _____][11]

[Signature page follows]

[5] Select as applicable.

[6] List each Assignor, as appropriate.

[7] List each Assignee, as appropriate.

[8] Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g., "Initial Term Loan Commitment," "Delayed Draw Term Loan Commitment," etc.)

[9] Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

[10] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[11] To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date.

Effective Date:_____, 20__ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

8. Notice and Wire Instructions:

[NAME OF ASSIGNOR]	[NAME OF ASSIGNEE]
Notices:	Notices:
_____ _____ _____ Attention: Telecopier:	_____ _____ _____ Attention: Telecopier:
With a copy to:	With a copy to:
_____ _____ _____ Attention: Telecopier:	_____ _____ _____ Attention: Telecopier:
Wire Instructions:	Wire Instructions:

9. [Registration and Processing Fee: $3,500.00]

The terms set forth in this Assignment are hereby agreed to:

ASSIGNOR[S][12]
[NAME OF ASSIGNOR]

By:_____
Name:
Title:

ASSIGNEE[S][13]
[NAME OF ASSIGNEE]

By:_____
Name:
Title:

[12] Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

[13] Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

[Consented to and Accepted:[14]

COMMODORE MATERIAL FUNDING, LLC,
as Agent

By:_____
Name:
Title:]

[Consented to:[15]

VANDERBILT MINERALS, LLC

By:_____
Name:
Title:]

[14] Consent of Agent is not required if the assignment is to a Person that is a Lender, an Affiliate of the Lender assigning its Commitment or an Approved Fund with respect to the Lender assigning its Commitment.

[15] Consent of Borrower is not required if (1) a Default or Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund.

ANNEX 1

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT
AND ASSUMPTION AGREEMENT

1. *Representations and Warranties*.

1.1. *Assignor[s]*. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is not a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. *Assignee[s]*. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 10.06 of the Credit Agreement (subject to such consents, if any, as may be required thereunder), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Agent 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 Assignment and Assumption and to purchase [the][such] Assigned Interest, and (vii) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, [the][any] Assignor 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 the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. *Payments*. From and after the Effective Date, the Agent shall make all payments in respect of [the][each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts that have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts that have accrued from and after the Effective Date. Notwithstanding the foregoing, the Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Effective Date to [the][the relevant] Assignee.

3. *General Provisions*. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall

be governed by, and construed in accordance with, the law of the State of New York and, to the extent applicable, the Bankruptcy Code.

EXHIBIT B

FORM OF COMMITTED LOAN NOTICE

Date: _____, ____

To: COMMODORE MATERIAL FUNDING, LLC, as Agent

Ladies and Gentlemen:

Reference is made to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), the Lenders from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent"). All capitalized terms used herein and not otherwise defined shall have the same meaning herein as in the Credit Agreement.

1. The Borrower hereby requests a Borrowing of Loans:

(a) On _____ (a Business Day)[16]

(b) In the amount of $ _____[17]

The Borrower hereby represents and warrants that (a) the Borrowing requested herein complies with Section 2.02 and the other provisions of the Credit Agreement and (b) the conditions specified in Section [4.01(p) and (q) and][18] 4.02(a) and (b) of the Credit Agreement have been satisfied on and as of the date specified in Item 1(a) above.

[signature page follows]

[16]Each Committed Loan Notice must be received by the Agent not later than 11:00 a.m. (i) on the Business Day of the Borrowing of the Initial Term Loans, and (ii) three (3) Business Days prior to the requested date of the Borrowing of the Delayed Draw Term Loans.

[17] Each Borrowing of Loans must be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof.

[18] For Initial Term Loans only.

Dated as of the date above first written.

VANDERBILT MINERALS, LLC, as Borrower

By: _____

Name: _____

Title: _____

EXHIBIT C

FORM OF INTERIM DIP ORDER

See attached.

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
Vanderbilt Minerals, LLC,	)	Case No. 26-60110(WAK)
Debtor.[1]	)	

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING AND (B) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO THE DIP LENDER; (II) MODIFYING THE AUTOMATIC STAY; AND (III) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of Vanderbilt Minerals, LLC ("Borrower" or "Debtor") in the above-captioned chapter 11 case, pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), and 507(b) of title 11 of the United States Code (the "Bankruptcy

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

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

Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Bankruptcy Rules (the "Local Rules") of the United States Bankruptcy Court for the Northern District of New York (this "Court"), seeking entry of an interim order (this "Interim Order") and a final order (the "Final Order", and together with the Interim Order, the "DIP Orders") granting the following relief to be provided on an interim basis until the date that a Final Order has been entered (such interim period being the "Interim Period"):

a. authorization and approval for the Debtor to obtain up to $15,000,000.00 in postpetition financing (the "DIP Facility"), up to $6,500,000.00 of which to be available during the Interim Period, pursuant to and in accordance with the terms and conditions of that certain *Senior Secured Debtor-in-Possession Term Loan Agreement* dated February 15, 2026 (as it may be amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Credit Agreement"), substantially as filed with the Court and attached hereto as **Exhibit 2**, by and among the Borrower, Commodore Material Funding, LLC, as the agent, and the lender parties thereto (collectively, the "DIP Lender"), which may, *inter alia*, be used for the following purposes:

   i. for paying certain costs, fees, and expenses related to the DIP Credit Agreement and this chapter 11 case; and

   ii. for working capital and general corporate purposes of the Debtor, in each case in accordance with the Approved Budget (as defined below), or in a manner constituting a Permitted Variance;

b. approval of and authorization and direction for the Debtor to (i) enter into, execute and perform under (a) the DIP Credit Agreement and (b) all security agreements, pledge agreements, notes, mortgages, certificates, reports, and other agreements, documents, and instruments either or both executed and/or delivered with or to the DIP Lender in connection with or related thereto (collectively, as amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Financing Documents") and (ii) take and perform all other acts and steps as may be required or contemplated by or in connection with the DIP Financing Documents or this Interim Order;

c. granting to the DIP Lender a first priority perfected security interests in the Liens and on the Collateral, subject to the Carve-Out (as defined below);

d. granting to the DIP Lender allowed superpriority administrative expense claims on account of the Obligations, pursuant to sections 364(c)(1) and 507(b) of the

Bankruptcy Code, subject to the terms of the Carve-Out (defined below) and DIP Orders;

e. subject to the entry of a Final Order, the waiver by the Debtor of (i) any right to surcharge the Collateral pursuant to section 506(c) of the Bankruptcy Code, (ii) any rights under the "equities of the case" exception in section 552(b) of the Bankruptcy Code, and (iii) the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral;

f. modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent hereinafter set forth and waiving the fourteen (14) day stay provisions of Bankruptcy Rule 4001(a)(3);

g. waiving the 21-day provision of Bankruptcy Rule 6003(b) and the notice requirements of Bankruptcy Rule 6004(a), waiving any applicable stay (including under Bankruptcy Rule 6004), and providing for immediate effectiveness of this Interim Order; and

h. scheduling a final hearing on the Motion (the "Final Hearing") for entry of a Final Order authorizing the postpetition financing contemplated hereby on a final basis and granting such other relief as is requested in the Motion and approving the form of notice with respect to the Final Hearing.

Notice of the Motion, the relief requested therein, and the Interim Hearing (as defined below) ("Notice") having been served by the Debtor in accordance with Bankruptcy Rule 4001(c) on: (i) the United States Trustee for the Northern District of New York (the "U.S. Trustee"); (ii) the 'Top Talc Counsel List; (iii) the Internal Revenue Service; (iv) other governmental agencies having a regulatory or statutory interest this chapter 11 case; (v) any party that has requested notice pursuant to Bankruptcy Rule 2002; (vi) all parties known to the Debtor who hold any liens or security interests in the Debtor's assets, or who have asserted any liens on any of the Debtor's assets; (vii) all creditors known to the Debtor to be holding a claim under section 503(b)(9) of the Bankruptcy Code; and (viii) all other parties entitled to receive notice pursuant to the Bankruptcy Rules and the Local Rules (collectively, the "Noticed Parties").

An interim hearing on the Motion having been held by this Court and concluded (the "Interim Hearing"); this Court having considered the relief requested in the Motion, the

Declaration of Dean Vomero, the Chief Restructuring Officer of Debtor Vanderbilt Minerals, LLC in Support of First Day Motions of Debtor and Debtor in Possession (the "First Day Declaration"), the *Declaration of Dean Vomero in Support of the Bidding Procedures and DIP Financing Motions* (the "Vomero Sale and Financing Declaration") and the *Declaration of Dean Vomero in Support of the Bidding Procedures and DIP Financing Motions* (the "Mendelsohn Declaration" and, together with the First Day Declaration and the Vomero Sale and Financing Declaration, the "Supporting Declarations"), with all objections and reservations of rights, if any, to the entry of the Interim Order having been withdrawn, resolved, or overruled, and after due deliberation and consideration, and good and sufficient cause appearing therefor, and the arguments of counsel made at the Interim Hearing; it appearing that approval of the relief requested in the Motion is fair and reasonable and in the best interests of the Debtor and its estate, and is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending the Final Hearing; it appearing that the Debtor's entry into and performance under the DIP Financing Documents and the other transactions contemplated by this Interim Order is a sound and prudent exercise of the Debtor's business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[3]

A. **Petition**. On February 16, 2026 (the "Petition Date"), the Debtor commenced this chapter 11 case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to

[3] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed and no official committee of unsecured creditors, or any other statutory committee has been appointed in this chapter 11 case.

B. **Jurisdiction and Venue**. The Court has jurisdiction over this chapter 11 case, the Motion, this Interim Order, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. The Motion is a "core" proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), and (M). Venue of this chapter 11 case and the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice**. Upon the record presented to this Court at the Interim Hearing, and under the exigent circumstances set forth therein, and in the Motion and the First Day Declaration, notice of the Motion, the relief requested thereby and granted in this Interim Order has been provided in accordance with Bankruptcy Rules 2002, 4001(b) and 4001(c)(1), which notice was appropriate under the circumstances and sufficient for entry of this Interim Order. No other or further notice of the Motion is required for entry of this Interim Order. The relief granted herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate pending a Final Hearing.

D. **Final Hearing**. At the Final Hearing, the Debtor will seek approval of the Final Order, which shall be subject to the terms and conditions of the DIP Loan Documents. Notice of the Final Hearing and Final Order will be provided in accordance with this Interim Order.

E. **No Control**. The DIP Lender does not now control (nor has DIP Lender in the past controlled) the Debtor, its properties or operations. The DIP Lender does not have authority to determine the manner in which the Debtor's operations are conducted or is not a control person or insider of the Debtor by virtue of any of the actions taken with respect to, in connection with, related to or arising from the DIP Loan Documents or otherwise.

F. **Findings Regarding the Postpetition Financing**.

(1) Request for Postpetition Financing. Subject to the entry of a Final Order, Debtor has requested from the DIP Lender, and the DIP Lender is willing to extend, certain loans, advances, and other financial accommodations, as more particularly described, and subject to the terms and conditions set forth, in this Interim Order and the DIP Financing Documents.

(2) Need for Postpetition Financing. The Debtor does not have sufficient available sources of working capital to pay necessary expenses and fund ongoing operations while it pursues a sale of the Debtor's business without the DIP Facility as described in this Interim Order. The Debtor's ability to pay expenses is essential to preserve and maximize the value of its estate for the benefit of all stakeholders. The ability of the Debtor to obtain sufficient working capital and liquidity through the proposed DIP Facility on the terms set forth in the DIP Financing Documents and this Interim Order is vital to the preservation and maximization of the value of the Debtor's estate and facilitates an orderly sale. Accordingly, the Debtor has an immediate need to obtain funds from the DIP Facility for the limited purposes set forth herein in order to, among other things, manage and preserve the assets of the Debtor's bankruptcy estate in order to maximize the recoveries to the Debtor's creditors.

(3) No Credit Available on More Favorable Terms. Subject to the entry of a Final Order, consistent with the Supporting Declarations, the Debtor is unable to procure financing in the form of unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code, as an administrative expense under section 364(a) or (b) of the Bankruptcy Code, or in exchange for the grant of an administrative expense priority pursuant to section 364(c)(1) of the Bankruptcy Code, without the grant of the priming lien described herein and in the DIP Credit Agreement. The Debtor has been unable to procure the necessary financing on terms more favorable than the

financing offered by the DIP Lender pursuant to the DIP Financing Documents and this Interim Order.

(4) Budget. Based upon the record presented to the Court by the Debtor, (i) the Debtor has prepared and delivered the budget annexed hereto as **Exhibit 1** (as such may be revised in accordance with the DIP Financing Documents, the "Approved Budget"), (ii) the Approved Budget has been thoroughly reviewed by the Debtor and its management and advisors, and (iii) the Approved Budget sets forth, among other things, the projected cash receipts and expenditures for the periods covered thereby. The Debtor believes in good faith that the Approved Budget is achievable and will allow the Debtor to operate in chapter 11 without the accrual of unpaid administrative expenses during the term of the Approved Budget. The Approved Budget is subject to such variances as permitted in the DIP Credit Agreement.

(5) Business Judgment and Good Faith Pursuant to Section 364(e) and Section 363(m). (i) the Debtor and the DIP Lender have negotiated at arms' length and in good faith regarding the terms of the DIP Financing Documents, the DIP Facility and this Interim Order, respectively, all subject to the terms of this Interim Order and (ii) the terms of the DIP Credit Agreement, the other DIP Financing Documents, the DIP Facility and this Interim Order are fair and reasonable, reflect the Debtor's exercise of prudent business judgment, and constitute reasonably equivalent value and fair consideration. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in "good faith" (as that term is used in sections 364(e) and 363(m) of the Bankruptcy Code) by the DIP Lender.

(6) Good Cause. The relief requested in the Motion is necessary, essential, and appropriate and is in the best interest of and will benefit the Debtor and its estate, as its implementation will, among other things, provide the Debtor with the necessary liquidity to

(i) minimize disruption to the Debtor's efforts for the orderly sale of its business, (ii) preserve and maximize the value of the Debtor's estate, and (iii) avoid immediate and irreparable harm to the Debtor, its business, employees, and assets.

(7) Corporate Authority. Each Debtor has the requisite corporate power and authority to execute and deliver the DIP Financing Documents to which it is a party and to perform its obligations thereunder.

(8) Immediate Entry. Good and sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in this chapter 11 case has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been resolved or withdrawn) are hereby overruled.

Based upon the foregoing, and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED THAT:

I. Authorization and Terms of DIP Financing.

A. **Motion Granted**. Subject to the entry of a Final Order, the Motion to obtain postpetition financing is granted in accordance with Bankruptcy Rule 4001(c)(2) under the terms and conditions provided in this Interim Order.

B. **Authorization to Borrow**. The Debtor is hereby authorized and empowered to immediately borrow and obtain advances under the DIP Credit Agreement, and the Debtor is hereby authorized and empowered to incur indebtedness and obligations owing to the DIP Lender on the terms and subject to the conditions (including, without limitation, sublimits and availability restrictions) set forth in the DIP Financing Documents and this Interim Order, during the Interim

Period up to the maximum amount of $6,500,000.00, subject to the Approved Budget (with any variances permitted thereto under the terms and conditions of the DIP Credit Agreement).

C. **Financing Documents**.

(1) Authorization. Subject to the entry of a Final Order, the Debtor is hereby authorized and empowered to (a) enter into, execute, deliver, perform, and comply with all of the terms, conditions, and covenants of the DIP Financing Documents, including, without limitation, the DIP Credit Agreement, (b) execute and deliver all certificates, reports, statements, and other agreements and documents required or contemplated by the DIP Financing Documents (including, without limitation, documents required for the Debtor's performance of its obligations under the DIP Financing Documents and creation and perfection of liens granted or contemplated therein), and (c) pay all obligations incurred under or described in (whether principal, interest, fees, costs, expenses, indemnities, or otherwise) and perform all other undertakings and acts required or contemplated by the DIP Financing Documents or this Interim Order.

(2) Approval of Financing Documents. Subject to the entry of a Final Order, the DIP Financing Documents (and all certificates, reports, statements, and other agreements and documents), except to the extent such documents are inconsistent with this Interim Order, are approved to the extent necessary to implement the terms and provisions of this Interim Order.

(3) Amendment of DIP Financing Documents. Subject to the entry of a Final Order, the Debtor and the DIP Lender are hereby authorized to approve and implement, in accordance with the terms of the DIP Financing Documents, any non-material modification of the DIP Financing Documents*; provided*, *however*, that any material modification or amendment to the DIP Financing Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the U.S. Trustee, each of whom shall have five

(5) business days from the date of such notice within which to object in writing to such material modification or amendment unless a Committee and/or the U.S. Trustee agrees in writing to a shorter period. If a timely objection is interposed, the Court shall resolve such objection prior to such material modification or amendment becoming effective.

(4) Application of DIP Facility Proceeds. Subject to the entry of a Final Order, the advances under the DIP Facility shall be used in each case in a manner consistent with the terms and conditions of the DIP Financing Documents, and in accordance with and as may be limited by the Approved Budget (subject to any variances thereto permitted under the terms and conditions of the DIP Credit Agreement), solely as follows:

(a) to pay fees, costs, and expenses as provided in the DIP Financing Documents, including amounts incurred in connection with the preparation, negotiation, execution and delivery of the DIP Credit Agreement and the other DIP Financing Documents;

(b) for general operating and working capital purposes, for the payment of fees, expenses, and costs incurred in connection with this chapter 11 case and other proper corporate purposes of the Debtor not otherwise prohibited by the terms hereof for working capital, and other lawful corporate purposes of the Debtor;

(c) for making other payments as provided in this Interim Order; and

(d) to fund the Carve-Out Reserve Accounts (as defined below).

(5) Conditions Precedent. Subject to the entry of a Final Order, the DIP Lender shall have no obligation to make any loan or advance under the DIP Credit Agreement unless the conditions precedent to make such loan or extension of credit under the DIP Credit Agreement have been satisfied in full or waived in accordance with the DIP Credit Agreement.

(6) Budget Maintenance. By the close of business on the third Friday of each month, a revised budget will be submitted to the DIP Lender for approval (each a "Revised Budget"). Upon the Agent's approval of each Revised Budget, such Revised Budget shall become the Approved Budget and shall be utilized for any subsequent Variance Report.

D. **Payments and Application of Payments**. Subject to the entry of a Final Order, the Debtor is authorized to make all payments and transfers of property of the Debtor's estate to the DIP Lender as provided, permitted, or required under the DIP Financing Documents or this Interim Order, which payments and transfers shall not be avoidable or recoverable from the DIP Lender under sections 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code, or any other section thereof, or be subject to any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law, or otherwise. Without limiting the generality of the foregoing, the Debtor is authorized and directed, without further order of this Court, to (i) pay all principal, interest, fees, and indemnities, when due, under the DIP Financing Documents or this Interim Order and (ii) pay or reimburse the DIP Lender for all present and future costs and expenses, including, without limitation, all reasonable and documented professional fees, consultant fees, and legal fees and expenses, and all Credit Party Expenses paid or incurred by the DIP Lender in connection with the financing transactions, regardless of whether such amounts are in the Approved Budget, all of which shall be and are included as part of the principal amount of the Obligations under the DIP Financing Documents and secured by the Collateral. No attorney or advisor to the DIP Lender shall be required to file an application or any other materials in connection with compensation for services or reimbursement of expenses with the Court.

E. **Interest and Fees**. Subject to the entry of a Final Order, the rate(s) of interest to be charged for any advances under the DIP Facility pursuant to the DIP Credit Agreement shall be

the rates set forth in the DIP Credit Agreement and shall be calculated in the manner and payable at the times set forth in the DIP Credit Agreement. The fees charged under the DIP Facility shall be those set forth in the DIP Credit Agreement and shall be unconditionally payable in the amounts and at the times set forth in the DIP Credit Agreement, which are absolutely and unconditionally earned upon execution of the DIP Credit Agreement and shall be non-refundable.

II. Collateralization for DIP Loan.

A. **DIP Lien Grant**. Subject to the entry of a Final Order, to secure the prompt payment and performance of any and all Obligations of the Debtor to the DIP Lender of whatever kind, nature, or description, absolute or contingent, now existing or hereafter arising, the DIP Lender shall have, and is hereby granted, effective as of the Petition Date, valid, binding, enforceable, continuing, non-avoidable, and perfected first (priming) liens (such security interests and liens collectively, the "DIP Liens") on all of the Collateral. The DIP Liens on the Collateral are only subject to the Carve-Out (as defined below).

B. **Priority of DIP Liens**. Subject to the entry of a Final Order, the DIP Liens on the Collateral securing the Obligations, pursuant to section 364(d) of the Bankruptcy Code, shall be first and senior in priority to all other interests and liens of every kind, nature, and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or security interests granted in favor of third parties in conjunction with sections 363, 364, or any other section of the Bankruptcy Code or other applicable law; *provided*, *however*, that (i) the DIP Liens shall be subject to the Carve-Out (as defined below), and (ii) the DIP Liens on proceeds of any Avoidance Actions (as defined below) shall be subject to the entry of a Final Order.

C. **Postpetition Lien Perfection**. Subject to the entry of a Final Order, this Interim Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the DIP Liens and security interests granted herein, effective as of the Petition Date, without any

further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the Collateral, or other act to validate or perfect such security interest or lien (a "Perfection Act"). Notwithstanding the foregoing, if the DIP Lender shall, in its sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, the DIP Lender is authorized to perform such act, and the Debtor is authorized to perform such acts to the extent necessary or required by the DIP Lender which act or acts shall be deemed to have been accomplished as of the Petition Date notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is shall accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Lender may choose to file, record, or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office shall accept, file, or record such certified copy of this Interim Order in accordance with applicable law. Should the DIP Lender so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the DIP Liens granted herein by virtue of the entry of this Interim Order.

III. Superpriority Administrative Expenses. Subject to the Carve-Out (as defined below), all Obligations now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents, or otherwise, the DIP Lender is granted an allowed superpriority administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses (other than Carve-Out Expenses (as defined below) subject to the Carve-Out (as defined below)),

any and all priority claims of the kind specified in, or ordered pursuant to, *inter alia*, sections 105, 326, 328, 330, 331, 364(c)(1), 503(b), 507(a), 507(b), 546(c), 1113, or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtor and all proceeds thereof (including, subject to the entry of the Final Order, proceeds of Avoidance Actions) (collectively, the "DIP Superpriority Claims").

IV. Carve-Out.

A. Carve-Out.

(1) The DIP Liens, the DIP Superpriority Claims, and any other liens or claims granted by this Interim Order or the Final Order shall be subject and subordinate to the right of payment and priority (the "Carve-Out") for Carve-Out Expenses (as defined below). The Carve-Out shall be senior to all claims and liens over all assets of the Debtor, including the Collateral. As used in this Interim Order, the "Carve-Out Expenses" means the sum of the following: (i) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) with respect to the Debtor, including any interest payable thereon under 31 U.S.C. § 3717 (if any), and any fees payable to the Clerk of the Court (collectively, the "UST Carve-Out"); (ii) to the extent allowed at any time, and solely to the extent such fees are not in excess of the Approved Budget amounts (as such Approved Budget may be revised in accordance with the DIP Financing Documents), all unpaid fees and expenses (the "Allowed Professional Fees") actually incurred by persons or firms retained by the Debtor pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") (in each case, including any unpaid amounts that may be payable to Greenhill & Co. LLC ("Greenhill") as an M&A Fee as defined in its engagement letter effective as of August 18, 2025 (and as amended and restated as of January 24, 2026) between Greenhill and the Debtor,

in an amount no greater than $2,750,000) or any Committee pursuant to sections 328 or 1103 of the Bankruptcy Code (the "Committee Professionals," and together with the Debtor Professionals, the "Professional Persons"), and in the case of Committee Professionals in an amount not excess of $50,000 (the "Committee Carve-Out"), that are incurred or earned at any time extending through and including the date of delivery by the DIP Lender of a Carve-Out Trigger Notice (as defined below), whether allowed prior to or after delivery of a Carve-Out Trigger Notice (the "Professional Fee Carve-Out"); and (iii) Allowed Professional Fees of Professional Persons in the aggregate amount not to exceed $1,000,000.00, in each case incurred after the first Business Day following delivery by the DIP Lender of the Carve-Out Trigger Notice (as defined below), to the extent allowed at any time (the "Post-Trigger Carve-Out," and together with the UST Carve-Out and the Professional Fee Carve-Out, the "Carve-Out").

(2) For the avoidance of doubt, to the extent that professional fees and expenses of the Professional Persons have been incurred by Debtors or a Committee (if appointed) at any time commencing on the Petition Date and extending through and including the date of delivery by DIP Lender of a Carve-Out Trigger Notice but have not yet been allowed by the 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 Court, whether by interim or final compensation order and whether before or after delivery of the Carve-Out Trigger Notice, and the Carve-Out Reserve Account (defined below) shall include such professional fees and expenses, provided that in all events, with regard to this Section IV.A.(2) and any Allowed Professional Fee paid thereunder, are subject to the Approved Budget (as such Approved Budget may be revised in accordance with the DIP Financing Documents) and shall not be in excess thereof.

B. **Carve-Out Trigger Notice**. "Carve-Out Trigger Notice" shall mean a written notice delivered by the DIP Lender to lead restructuring counsel to the Debtor, the U.S. Trustee and counsel to any Committee, stating that (i) the Post-Trigger Carve-Out has been invoked, which notice may be delivered following the occurrence and during the continuation of an Event of Default under the DIP Credit Agreement; (ii) the DIP Loans have been accelerated; and (iii) the DIP Lender does not intend to fund further advances under the DIP Loans. Thereafter, if the DIP Lender funds further advances under the DIP Loans (other than amounts required to be funded in accordance with this Interim Order), the Carve-Out Trigger Notice shall be deemed automatically revoked. If a Carve-Out Trigger Notice is revoked, the Carve-Out will operate as if the Carve-Out Trigger Notice was never delivered.

C. **Carve-Out Accounts**.

(1) Prior to delivery of a Carve-Out Trigger Notice by the DIP Lender, and upon entry of this Interim Order, $2,250,000.00 shall be paid into one or more segregated accounts, exclusively for the benefit Allowed Professional Fees and not subject to the control of the DIP Lender (the "Carve-Out Reserve Account"). Thereafter, on a weekly basis, solely to the extent such Professional Fees are not in excess of the Approved Budget amounts (as such Approved Budget may be revised in accordance with the DIP Financing Documents), the amount of actually incurred but unpaid fees of the Debtor's Professionals shall be paid into the Carve-Out Reserve Account, but solely to the extent the amount in the Carve-Out Reserve Account are less than the actually incurred and unpaid fees of the Debtor's Professionals. Upon delivery of the Carve-Out Trigger Notice and termination of the DIP Credit Agreement, an additional amount shall be paid into the Carve-Out Reserve Account by the Debtor (or, to the extent that the Debtor has insufficient cash on hand to make such payment, by the DIP Lenders, provided that there exists sufficient

availability under the DIP Credit Agreement to make such payment) so that the amount in the Carve-Out Reserve Account equals the actually incurred but unpaid fees of the Debtor's Professionals not in excess of the Approved Budget (as such Approved Budget may be revised in accordance with the DIP Financing Documents), plus the UST Carve-Out, plus the Committee Carve-Out, plus $1,000,000.00 (the "Carve-Out Reserve Amount").

(2) On the date the Carve-Out Trigger Notice is given by the DIP Lender, the Debtor is hereby authorized and directed to utilize all cash on hand as of such date, and any available cash thereafter held by the Debtor, to fund the Carve-Out Reserve Account in an amount equal to the amount required to be funded. The Debtor shall deposit and hold such amounts in one or more segregated accounts exclusively to pay such Allowed Professional Fees benefiting from the Carve-Out.

(3) Following the end of the second Business Day after delivery of a Carve-Out Trigger Notice, the DIP Lender shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtor until the Carve-Out Reserve Account has been fully funded.

(4) The Carve-Out shall be effective upon entry of this Interim Order and shall not be rendered ineffective as a result of the occurrence, or non-occurrence, of any event or circumstance thereafter.

(5) Upon the consummation of a sale of all or substantially all of Debtor's assets consented to by the DIP Lender, the Debtor shall be authorized and directed (without the requirement to have received a Carve-Out Trigger Notice) to transfer from the proceeds of such sale(s) funds equal to the Carve-Out Reserve Amount to the Carve-Out Reserve. For the avoidance

of doubt, funds held in the Carve-Out Reserve Account shall at all times remain solely available to fund payment of Allowed Professional Fees.

D. **Excluded Professional Fees**. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out, nor the proceeds of any advances under the DIP Credit Agreement or Collateral shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional in connection with any of the following: (i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief: (a) challenging the legality, validity, priority, perfection, or enforceability of the Obligations or the DIP Lender's liens on and security interests in the Collateral, or the ability to of the DIP Lender to credit bid the Obligations under section 363(k) of the Bankruptcy Code, (b) seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Obligations or the DIP Lender's liens on and security interests in the Collateral, or (c) except for an action permitted by Section VI.B.2 of this Interim Order, preventing, hindering, or delaying the DIP Lender's assertion or enforcement of any lien, claim, right, or security interest or realization upon any Collateral in accordance with the terms and conditions of this Interim Order; (ii) a request for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to section 364(c) or (d) of the Bankruptcy Code, other than from the DIP Lender, without the prior written consent of the DIP Lender, unless such other debtor-in-possession financing or financial accommodation is used, in part, to indefeasibly pay and satisfy in full in cash all Obligations owed to the DIP Lender; or (iii) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against the DIP Lender or the Stalking Horse Bidder, or any of their respective officers, directors, employees, agents, attorneys, affiliates, successors, or assigns, including, without

limitation, any attempt to avoid any claim, lien, or interest of, or obtain any recovery from the DIP Lender under chapter 5 of the Bankruptcy Code.

V. Right to Credit Bid. Subject to the entry of a Final Order, the DIP Lender shall have the right to credit bid (either directly or through one or more acquisition vehicles) in accordance with section 363(k) of the Bankruptcy Code, up to the full amount of the DIP Lender's claims, in any sale of all or any portion of the Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan.

VI. Default; Rights and Remedies; Relief from Stay.

A. **Events of Default**. The following shall constitute an "Event of Default" under this Interim Order:

(1) The occurrence of any Event of Default under the DIP Credit Agreement;

(2) The failure of Debtor to meet the Milestones set forth in Section 6.13 of the DIP Credit Agreement, unless the DIP Lender agrees in writing to an extension of any Milestone;

(3) Consummation of an Alternative Transaction;

(4) The Debtor sells, transfers, leases, encumbers, or otherwise disposes of any portion of the Collateral without an order of this Court and the written consent of the DIP Lender, except for sales of the Debtor's inventory in the ordinary course of its business or as otherwise permitted under the DIP Credit Agreement;

(5) The Debtor, without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Lender), (a) enter into any agreement to return any inventory or other property to any of its creditors for application against any prepetition indebtedness under any applicable provision of section 546 of the Bankruptcy Code, or (b) consent to any creditor exercising any setoff against any of its

prepetition indebtedness based upon any such return pursuant to section 553(b)(l) of the Bankruptcy Code or otherwise; and

(6) The failure of the Debtor to obtain entry of a Final Order or the Intercompany Settlement Order on or before twenty-one (21) calendar days from the Petition Date, unless otherwise agreed in writing by the DIP Lender.

(7) The entry of an order by the Court appointing, or the filing of a motion or application by the Debtor for an order seeking the appointment of an interim or permanent trustee in this chapter 11 case or the appointment of a receiver or an examiner under section 1104 of the Bankruptcy Code in this chapter 11 case, with expanded powers (beyond those set forth in sections 1106(a)(3) and 1106(a)(4) of the Bankruptcy Code) to operate or manage the financial affairs, the business, or reorganization of the Debtor or with the power to conduct an investigation of (or compel discovery).

B. **Rights and Remedies Upon Event of Default**.

(1) Upon the occurrence of and during the continuance of an Event of Default, the DIP Lender, without the necessity of seeking relief from the automatic stay or any further order of the Court, and after providing not less than three (3) business days' advance written notice thereof (the "Notice Period"), which notice may be by electronic mail (the "Enforcement Notice"), to counsel to the Debtor, the U.S. Trustee, and counsel to any Committee, shall be entitled, subject to the Carve-Out, to take any action and exercise all rights and remedies provided to the DIP Lender by this Interim Order, the DIP Financing Documents, or applicable law, as the DIP Lender may deem appropriate in its sole discretion, including, without limiting the DIP Lender's rights: (i) the DIP Lender shall no longer have any obligation to make any advances (or otherwise extend credit) under the DIP Facility; (ii) all amounts outstanding under the DIP Financing Documents

shall, at the option of the DIP Lender, be accelerated and become immediately due and payable; (iii) the Debtor shall be bound by all post-default restrictions, prohibitions, and other terms as provided in this Interim Order, the DIP Credit Agreement, and the other DIP Financing Documents; (iv) the DIP Lender shall be entitled to charge the default rate of interest under the DIP Credit Agreement and seek recovery of all Obligations; and (v) the DIP Lender shall be entitled to take any other act or exercise any other right or remedy as provided in this Interim Order, the DIP Financing Documents, or applicable law, including, without limitation, setting off any Obligations with Collateral or proceeds in the possession of the DIP Lender, and enforcing any and all rights and remedies with respect to the Collateral.

(2) During the Notice Period, the Debtor may only seek relief from the Court relating to whether an Event of Default has actually occurred or is continuing, and may not seek to limit the DIP Lender's exercise of rights or remedies hereunder.

(3) Upon the occurrence and during the continuance of an Event of Default, and after the Notice Period, the DIP Lender shall be entitled to take any action and exercise all rights and remedies provided to the DIP Lender by this Interim Order, or the DIP Financing Documents, or applicable law, unless otherwise ordered by this Court, as the DIP Lender may deem appropriate in its sole discretion to, among other things, proceed against and realize upon the Collateral or any other assets or properties of the Debtor's estate upon which the DIP Lender has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Obligations. Notwithstanding the foregoing or anything in Section VI.(B).(1) above, the DIP Lender may continue to apply proceeds received into the lockbox or collection accounts to reduce the Obligations in any order at the sole discretion of the DIP Lender.

(4) Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by the DIP Lender of its rights and remedies under this Interim Order or the DIP Financing Documents, the Debtor shall cooperate with the DIP Lender in the exercise of rights and remedies and assist the DIP Lender in effecting any sale or other disposition of the Collateral required by the DIP Lender, including any sale of Collateral pursuant to section 363 of the Bankruptcy Code or assumption and assignment of Collateral consisting of contracts and leases pursuant to section 365 of the Bankruptcy Code, in each case, upon such terms that are acceptable to the DIP Lender.

(5) Upon the occurrence and during the continuance of an Event of Default and after the Notice Period, in connection with a liquidation of any of the Collateral, the DIP Lender (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtor, to: (i) enter upon, occupy, and use any real property owned by the Debtor, any real property leased by the Debtor where Collateral is located, or any third party warehouse or other facility where Collateral is located, and use or remove such Collateral; (ii) withdraw all moneys, instruments, securities and other property in any bank, financial securities, deposit or other account of the Debtor constituting Collateral for application to the Obligations, and all depository banks or other financial institutions with control over any such bank, financial, securities, deposit or other account shall comply with the DIP Lender's withdrawal requests and payment instructions; and (iii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment, or any other similar assets of the Debtor, or assets which are owned by or subject to a lien of any third party and which are used by the Debtor in its business, subject to applicable non-bankruptcy law.

(6) The rights and remedies of the DIP Lender specified herein are cumulative and not exclusive of any rights or remedies that the DIP Lender may have under the DIP Financing Documents or otherwise and may be exercised in whole or in part in any order. The fourteen-day stay provisions of Bankruptcy Rules 6004(h) and 4001(a)(3) are hereby waived.

VII. Debtor's Waivers and Releases.

A. **Section 506(c) Claims and 552(b) Equities**. Effective upon the entry of a Final Order approving the Motion, no costs or expenses of administration which have been or may be incurred in this chapter 11 case or successor case at any time shall be charged against the DIP Lender or its claims in this chapter 11 case, pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of the DIP Lender (and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender). Effective upon the entry of a Final Order, the DIP Lender 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 DIP Lender with respect to proceeds, products, offspring, or profits of any of the Collateral.

B. **Release.**

(1) Upon entry of the Final Order, and in consideration of and as a condition to the DIP Lender providing a substantial contribution to the Debtor's estate by providing critical postpetition funding under the DIP Credit Agreement, the DIP Lender's affiliate committing to act as the Stalking Horse bidder under the APA, and the DIP Lender providing other credit and financial accommodations to the Debtor pursuant to the provisions of this Interim Order and the DIP Financing Documents, the Debtor, on behalf of itself, its successors and assigns, and the Debtor's estate (collectively, "Releasors"), hereby absolutely releases and forever discharges and acquits the DIP Lender and its successors, participants, and assigns, and their present and former

shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, and other representatives (all such parties being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever of every kind, name, nature, and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this Interim Order. In addition, upon entry of the Final Order and the indefeasible payment and satisfaction in full of all Obligations owed to the DIP Lender by the Debtor and termination of the rights and obligations arising under this Interim Order and the DIP Financing Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Lender), the DIP Lender shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims, and causes of action arising or occurring in connection with or related to the DIP Financing Documents or this Interim Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated).

(2) Upon the entry of the Final Order, each Releasor hereby absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding, or otherwise) any Releasee on the basis of any claim

released and discharged by each Releasor pursuant to Section VII.(B).(1) above. If any Releasor violates the forgoing covenant, the Debtor agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

VIII. Other Rights and Obligations.

A. **No Modification or Stay of this Interim Order**. Based upon the record presented to the Court by the Debtor, notwithstanding (i) any stay, modification, amendment, supplement, vacating, revocation, or reversal of this Interim Order, the DIP Financing Documents, or any term hereunder or thereunder, (ii) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (iii) the dismissal or conversion of chapter 11 case, the DIP Lender shall retain and be entitled to all of the rights, remedies, privileges, and benefits in favor of the DIP Lender pursuant to sections 363(m) and 364(e) of the Bankruptcy Code, this Interim Order, and the DIP Financing Documents.

B. **Power to Waive Rights; Duties to Third Parties**. The DIP Lender shall have the right, in its sole discretion, to waive any of the terms, rights, and remedies provided or acknowledged in this Interim Order ("Lender Rights"), and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any Lender Right(s). Any waiver by any of the DIP Lender of any Lender Rights must be in writing and shall apply solely to such party and to the Lender Right so waived and shall not be or constitute a continuing waiver. Any delay in or failure to exercise or enforce any Lender Right shall neither constitute a waiver of such Lender Right, nor cause or enable any other party to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtor to the DIP Lender.

C. **Reservation of Rights**. The terms, conditions, and provisions of this Interim Order are in addition to and without prejudice to the rights of the DIP Lender to pursue any and all rights

and remedies under the Bankruptcy Code, the DIP Financing Documents, or any other applicable agreement or law, including, without limitation, rights to seek either or both adequate protection and additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose the granting of any interest in the Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for either or both allowance and payment of compensation of Professionals or other parties seeking compensation or reimbursement from the estate.

D. **Modification of the Automatic Stay**. The automatic stay under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order and the DIP Financing Documents, including, without limitation, the authorization to make payments, granting of liens, and perfection of liens.

E. **Binding Effect**.

(1) The provisions of this Interim Order, the DIP Financing Documents, the DIP Superpriority Claims, the DIP Liens, and any and all rights, remedies, privileges, and benefits in favor of the DIP Lender, provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order pursuant to Bankruptcy Rules 6004(g) and 7062, shall continue in full force and effect, and shall survive entry of any such other order, including, without limitation, any order which may be entered confirming any plan of reorganization, converting this chapter 11 case to any other chapter under the Bankruptcy Code, or dismissing the chapter 11 case.

(2) Any order dismissing this chapter 11 case under Bankruptcy Code section 1112 or otherwise shall be deemed to provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the DIP Lender's liens on and security interests in the Collateral shall

continue in full force and effect notwithstanding such dismissal until the obligations owed to the DIP Lender are indefeasibly paid and satisfied in full, and (ii) this Court shall retain jurisdiction, to the extent permissible under applicable law, notwithstanding such dismissal, for the purposes of enforcing the rights granted herein.

(3) In the event this Court modifies any of the provisions of this Interim Order or the DIP Financing Documents following a Final Hearing, this Interim Order shall remain in full force and effect except as expressly amended or modified at such Final Hearing.

(4) This Interim Order shall be binding upon the Debtor, its estate, all parties in interest in this chapter 11 case, and their respective successors and assigns, including any trustee or other fiduciary appointed in this chapter 11 case or any successor case of the Debtor and shall inure to the benefit of the DIP Lender, the Debtor, and their respective successors and assigns.

F. **Marshalling**. Subject to the entry of a Final Order, in no event shall the DIP Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Collateral.

G. **Proofs of Claim**. Notwithstanding the entry of an order establishing a bar date in this chapter 11 case, or the conversion of this chapter 11 case to a case under chapter 7 of the Bankruptcy Code, the DIP Lender shall not be required to file proofs of claim in this chapter 11 case or successor case with respect to any of the amounts set forth in the Obligations, the DIP Superpriority Claims, DIP Liens, or any other claims or liens granted hereunder or created hereby. The DIP Lender is hereby authorized and entitled, in its sole and absolute discretion, to file (and amend and/or supplement, as it sees fit) proofs of claim in this chapter 11 case if it so chooses.

H. **Waiver of Bankruptcy Rule 6003(b), 6004(a), and 6004(h)**. The 21-day provision of Bankruptcy Rule 6003(b), the notice requirements of Bankruptcy Rule 6004(a), and

the 14-day stay of 6004(h) are hereby waived.

I. **Order Controls**. Unless this Interim Order specifically provides otherwise, in the event of a conflict between (a) the terms and provisions of the DIP Financing Documents, and (b) the terms and provisions of this Interim Order, then in each case the terms and provisions of this Interim Order shall govern.

J. **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.

K. **Objections Overruled**. All objections to the entry of this Interim Order are, to the extent not resolved or withdrawn, hereby overruled.

L. **Intercompany Settlement**. Prior to entry of the Intercompany Settlement Order, and in the event any party alleges a breach or seeks to terminate under the Intercompany Settlement (pursuant to Section 7.13 or otherwise under Intercompany Settlement), the DIP Lender shall have standing to seek relief from the Court only as to whether any alleged breach actually occurred or is continuing or any such termination was proper.

IX. Final Hearing and Response Dates. The Final Hearing on the Motion shall be held on **[●], 2026, at [●]:[●] a.m./p.m. (Eastern Time)**. The Debtor shall promptly transmit copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the Noticed Parties, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have filed a request for notice. Any party in interest objecting to the relief sought at the Final Hearing shall file and serve written objections, which objections shall be served upon (a) the Debtor, 33 Winfield Street, Norwalk, CT 06855 (Attn: Jeffrey Brohel, Esq.); (b) (i) proposed counsel for the Debtor,

Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Heather Lennox, Esq. and T. Daniel Reynolds, Esq.) and (ii) proposed co-counsel for the Debtor, Bond, Schoeneck & King PLLC, One Lincoln Center, 110 West Fayette Street, Syracuse, NY 13202 (Attn: Stephen A. Donato, Esq., Charles J. Sullivan, Esq. and Grayson T. Walter, Esq.); (c) counsel for the DIP Lender, McDonald Hopkins LLC, 300 N LaSalle, Suite 1400, Chicago, IL 60654 (Attn: David Agay, Esq. and Joshua Gadharf, Esq.); (d) co-counsel for the DIP Lender, Barclay Damon LLP, 125 East Jefferson Street, Syracuse, NY 13202 (Attn: Jeffrey A. Dove, Esp.); (e) counsel to any Committee; and (f) the U.S. Trustee; and shall be filed with the Clerk of the United States Bankruptcy Court for the Northern District of New York, in each case to allow actual receipt by the foregoing by no later than **[●], 2026 at 5:00 p.m. (Eastern Time)**.

Exhibit 1

Approved Budget

Exhibit 2

DIP Credit Agreement

EXHIBIT D

FORM OF NOTE

NOTE

$_____ _____, _____

FOR VALUE RECEIVED, the undersigned promises to pay to [_____], or its registered assigns (hereinafter, with any subsequent holders, the "Holder"), the principal sum of ($[_____]), or, if less, the aggregate unpaid principal balance of Loans made by the Holder to or for the account of the Borrower pursuant to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), each Lender from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as Agent (the "Agent"), with interest at the rate and payable in the manner stated therein.

This is a "Note" to which reference is made in the Credit Agreement and is subject to all terms and provisions thereof. The principal of, and interest on, this Note shall be payable in Dollars and in immediately available funds to the Agent for the benefit of the Holder at the Agent's Office and shall otherwise be payable at the times, in the manner, and in the amounts as provided in the Credit Agreement, and shall be subject to prepayment and acceleration as provided therein. Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Agent's books and records concerning the Loans, the accrual of interest thereon, and the repayment of such Loans, shall be prima facie evidence of the indebtedness to the Holder hereunder.

No delay or omission by any Agent or the Holder in exercising or enforcing any of such Agent's or the Holder's powers, rights, privileges, remedies, or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any Event of Default shall operate as a waiver of any other Event of Default, nor as a continuing waiver of any such Event of Default.

The Borrower waives presentment, demand, notice, and protest, and also waives any delay on the part of the holder hereof. The Borrower assents to any extension or other indulgence (including, without limitation, the release or substitution of Collateral) permitted by the Agent and/or the Holder with respect to this Note and/or any Collateral or any extension or other indulgence with respect to any other liability or any collateral given to secure any other liability of the Borrower or any other Person obligated on account of this Note.

This Note shall be binding upon the Borrower and upon its successors, assigns, and representatives, and shall inure to the benefit of the Holder and its successors, endorsees, and assigns.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

THE BORROWER 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, THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND ANY FEDERAL COURT SITTING THEREIN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS

NOTE OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND THE BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. THE BORROWER 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 NOTE OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE AGENT OR THE HOLDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS NOTE OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS NOTE OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO ABOVE. THE BORROWER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

The Borrower makes the following waiver knowingly, voluntarily, and intentionally, and understands that the Agent and the Holder, in the establishment and maintenance of their respective relationship with the Borrower contemplated by this Note, are each relying thereon. THE BORROWER BY ITS ACCEPTANCE HEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS NOTE OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE BORROWER (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT THE AGENTS AND THE HOLDER HAVE BEEN INDUCED TO ENTER INTO THE CREDIT AGREEMENT AND THIS NOTE BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS HEREIN.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed as of the date set forth above.

BORROWER:

VANDERBILT MINERALS, LLC

By: _____
Name: _____
Title: _____

EXHIBIT E-1

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), each Lender from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent").

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Borrower and the Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT E-2

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), each Lender from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent").

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT E-3

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), each Lender from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent").

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT E-4

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), each Lender from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent").

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Borrower and the Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____ __, 20[ ]

EXHIBIT F

FORM OF VARIANCE REPORT[1]

To: COMMODORE MATERIAL FUNDING, LLC, as Agent Date: _____
[__]

Re: Senior Secured Debtor-In-Possession Term Loan Agreement, dated as of February 15, 2026 (as amended, amended and restated, modified, supplemented or restated hereafter, the "Credit Agreement") by and among Vanderbilt Minerals, LLC, a Delaware limited liability company (the "Borrower"), the Lenders from time to time party thereto and Commodore Material Funding, LLC, a Delaware limited liability company, as administrative agent and collateral agent (the "Agent"). All capitalized terms used herein and not otherwise defined shall have the same meaning herein as in the Credit Agreement.

The undersigned, the duly authorized and acting Chief Restructuring Officer of the Borrower in its capacity as such and not in his/her individual capacity, hereby certifies as follows:

1. This report relates to the Testing Period commencing on [_____], 2026[2] and ending on [_____], 2026 (the "Subject Testing Period").

2. The aggregate cumulative cash disbursements set forth in the Approved Budget for the Subject Testing Period (the "Projected Disbursements") and the aggregate cumulative actual cash disbursements for the Subject Testing Period were as set forth on Annex I hereto.

3. The actual aggregate amount of all cash disbursements in the Approved Budget [is][is not] within the maximum 115% of the projected aggregate cash disbursements in such Approved Budget during such Subject Testing Period as permitted under Section 7.16 of the Credit Agreement.[3][4]

[1] The first Variance Report Date shall be no later than 5:00 p.m. New York City time on the Thursday after the second full calendar week following the Petition Date and for each calendar week thereafter, by no later than 5:00 p.m. New York City time on the Thursday of such calendar week.

[2] The Testing Period shall be (i) the two previous full weeks prior to the applicable Variance Report Date until the third calendar week after the Petition Date and (ii) the three previous full weeks prior to the applicable Variance Report Date until the fourth calendar week after the Petition Date, after which the Testing Period shall mean the four full weeks prior to the applicable Variance Report Date.

[3] Actual and projected disbursements with respect to Chapter 11 expenses, professional fees and expenses and debt service shall not be included in calculating compliance with Section 7.16.

[4] A reasonably detailed explanation should accompany any material variances.

IN WITNESS WHEREOF, I have executed this certificate as of the date first written above.

VANDERBILT MINERALS, LLC

By: _____
Name: _____
Title: Chief Restructuring Officer

ANNEX 1

CALCULATION OF DISBURSEMENT VARIANCES

Approved Budget	Projected Disbursements	Actual Disbursements	Disbursement Variance