IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: SiFi Networks America, LLC, Debtor.[1]	Chapter 11 Case No. 26-10912 (___)

DEBTOR'S MOTION
FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO
(A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE
CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION
TO THE PREPETITION SECURED NOTEHOLDER, (III) MODIFYING
THE AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF

SiFi Networks America, LLC, the debtor and debtor in possession in the above-captioned case (the "Debtor"), hereby moves (this "Motion") the Court for entry of an interim order substantially in the form attached as **Exhibit A** hereto (the "Interim Order"), and a final order (the "Final Order" and together with the Interim Order the "Orders"),[2] granting the relief described below. In support of this Motion, the Debtor refers to the *Declaration of Jacen Dinoff, as Chief Restructuring Officer of the Debtor, in Support of Chapter 11 Petition and First Day Pleadings* (the "First Day Declaration")[3] and the *Declaration of Shareef El Attar in Support of Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to (A) Obtain Postpetition Financing and (b) Utilize Cash Collateral, and (II) Granting Adequate Protection to the*

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[1] The Debtor in this chapter 11 case and the last four digits of its federal tax identification number are SiFi Networks America, LLC (7990). The Debtor's service address in this chapter 11 case is 103 Foulk Road, Suite 500, Wilmington, DE 19803.

[2] The proposed Final Order shall be substantially the same as the Interim Order except that (i) those provisions in the Interim Order that are subject to the entry of the Final Order shall be included in the Final Order without such qualification, and (ii) where appropriate, references to the Interim Order shall be changed to references to the Final Order.

[3] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Interim Order or DIP Note Documents (defined below), and if not therein, the First Day Declaration.

Prepetition Secured Noteholder, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief (the "El Attar Declaration"), each of which is filed concurrently herewith and incorporated herein by reference. In further support of the Motion, the Debtor respectfully states as follows:

PRELIMINARY STATEMENT[4]

1. As set forth in the First Day Declaration, after facing a series of financial and operational difficulties placing the Debtor's continued existence at risk, the Debtor commenced this case to preserve the value of its assets and conduct a value-maximizing bankruptcy sale process for the benefit of all its stakeholders. To that end, subject to this Court's approval, the Debtor entered into a pospetition financing facility (the "DIP Facility") with its prepetition lender, ArcLink Fiber LLC ("ArcLink," and in its capacity as the holder of the Prepetition Secured Note, the "Prepetition Secured Noteholder," and in its capacity as the lender under the proposed DIP Facility, the "DIP Lender"), which will provide financing to fund the Chapter 11 Case and preserve the value of the Debtor's assets as it works expeditiously toward a sale of its assets.

2. The proposed DIP Facility contemplates the issuance of a senior secured, superpriority loan, in the form of a delayed draw term loan promissory note, consisting of a New Money DIP Loan in the maximum principal amount of $3,130,000 and Roll-Up of the Debtor's outstanding indebtedness to ArcLink under the Prepetition Secured Note in the amount of $2,223,039 (plus any accrued and unpaid interest under the Prepetition Secured Note from the Petition Date through the date of the Interim Roll-Up and Final Roll-Up, as applicable). The DIP Lender's obligation to fund the DIP Loan is conditioned on, among other things, the Debtor's satisfaction of certain case milestones described below, which provide the Debtor with sufficient runway to complete a robust bankruptcy sale process, the marketing for which is being led by

[4] Undefined capitalized terms in this Preliminary Statement are defined in the succeeding text.

Sherwood Partners, Inc. ("Sherwood"), the Debtor's proposed sales agent, and was commenced prior to the Petition Date.

3. As set forth in the First Day Declaration and El Attar Declaration and discussed below, the DIP Facility is the best (and only) source of debtor-in-possession financing available to the Debtor following a DIP marketing process that revealed no viable alternatives. The DIP Facility was evaluated by the Debtor and its professionals and was thoroughly negotiated at arm's length between the Debtor and the DIP Lender. The Debtor believes that the terms of the DIP Facility, including the Roll-Up, are competitive and reasonable under the circumstances. Moreover, access to the DIP Facility is necessary to avoid the immediate and irreparable harm that would otherwise result if the Debtor was denied this financing. Without the DIP Facility, the Debtor will have insufficient cash to pay its ordinary course obligations and its administrative expenses as they come due during the pendency of the Chapter 11 Case. The proposed financing will facilitate the Debtor's efforts to maximize value for all parties in interest and position the Debtor to successfully emerge from chapter 11.

4. Accordingly, by this Motion, the Debtor seeks authorization to access the DIP Facility and use Cash Collateral, each of which is critical to the (i) continued, uninterrupted operation of the Debtor's business in chapter 11 while a court approved sale is pursued; (ii) payment of necessary expenses associated with administering the Chapter 11 Case; and (iii) Debtor's ability to continue meeting the needs of its contract counterparties, compensating its employees, and otherwise managing its business as close to the ordinary course as possible.

5. Under the circumstances, the Debtor believes that the DIP Facility is the most favorable form of financing available and should be approved.

RELIEF REQUESTED

6. By this Motion, pursuant to sections 105, 361, 362, 363, 364, 503, and 507 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 4001-2 and 9013-1(m) of the Local Rules of the United States Bankruptcy Court for District of Delaware (the "Local Rules"), the Debtor seeks entry of the Interim Order and a Final Order providing for the following relief:

> (i) authorization for the Debtor, pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of the Bankruptcy Code, to (i) use cash collateral, as such term is defined in section 363(a) of the Bankruptcy Code ("Cash Collateral"), and all other Prepetition Collateral (as defined herein), solely in accordance with the terms of the Orders and the DIP Note Documents, (ii) use the proceeds of the DIP Facility, solely in accordance with the terms of the Orders and the DIP Note Documents (as defined herein), and (iii) provide adequate protection to the Prepetition Secured Noteholder;
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> (ii) authorization for the Debtor to obtain postpetition financing on a secured superpriority basis, consisting of (i) a new money loan pursuant to a term promissory note (the "New Money DIP Loan") in an aggregate principal amount of $3,130,000, of which (x) $1,135,000 shall be available to the Debtor upon entry of the Interim Order, and (y) $1,995,000 shall be available to the Debtor upon entry of the Final Order; and (ii) a roll-up, subject to entry of this Interim Order (the "Interim Roll-Up"), by the DIP Lender of the Prepetition Secured Indebtedness equal to $1,135,000, and (iii) a roll-up, subject to entry of the Final Order (the "Final Roll-Up," and together with the Interim Roll-Up, the "Roll-Up," and together with the New Money DIP Loan, the "DIP Loan"), by the DIP Lender of the Prepetition Secured Indebtedness equal to $1,088,039 *plus* (a) accrued and unpaid interest under the Prepetition Secured Note (as defined herein), including accrued and unpaid postpetition interest at the non-default rate specified in the Prepetition Secured Note from the Petition Date (as defined herein) through and including the date that such obligations are rolled up, plus (b) any and all unreimbursed costs, fees and expenses of the Prepetition Secured Noteholder, in each case, pursuant to the terms and conditions set forth in the Orders and that certain Debtor-in-Possession Delayed Draw Term Loan Promissory Note annexed to the Interim Order as **Exhibit 2** (as may be amended, restated, supplemented, waived, or otherwise modified from time to time in accordance with the terms hereof and thereof, the "DIP Note"), executed by Debtor and the DIP Lender, along with any other agreements, instruments, pledge agreements, guarantees, security agreements, intellectual property security agreements, control agreements, escrow agreements, instruments, notes, and documents executed in accordance and connection therewith; each as amended, restated, supplemented, waived, or otherwise modified from time to time in accordance with the terms hereof and thereof, and collectively with the DIP Note (the "DIP Note Documents");

(iii) authorizing the Debtor to incur the principal, interest, costs, expenses, obligations (whether contingent or otherwise), and all other amounts (including, without limitation, all Obligations (as defined in the DIP Note)), as and when due and payable under and in accordance with each of the DIP Note Documents (collectively, the "DIP Obligations");

(iv) authorizing the Debtor to execute, deliver, and perform under the DIP Note and all other DIP Note Documents, and to perform such other and further acts as may be necessary or desirable in connection with the Orders, the DIP Note Documents, and the transactions contemplated thereby;

(v) granting to the DIP Lender, and authorizing the Debtor to incur, the DIP Liens (as defined herein), as applicable, in all DIP Collateral (as defined herein), subject to the Carve-Out (as defined herein), which DIP Liens shall have the priority set forth in the Orders;

(vi) granting to the DIP Lender, and authorizing the Debtor to incur, allowed superpriority administrative expense claims against the Debtor in respect of all DIP Obligations in accordance with and subject to the Carve-Out and the terms of the Orders;

(vii) authorizing the Debtor to grant the Prepetition Secured Noteholder, solely to the extent of any diminution in the value of the Prepetition Collateral, adequate protection in the form of: (i) Adequate Protection Liens (as defined herein), subject to any Permitted Prior Liens (as defined in the DIP Note) and (ii) Adequate Protection Superpriority Claims (as defined herein);

(viii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Orders and the DIP Note Documents;

(ix) waiving any applicable stay with respect to the effectiveness and enforceability of the Orders (including a waiver pursuant to Bankruptcy Rules 6003(b) and 6004(h));

(x) subject to entry of a Final Order, waiving certain of the Debtor's and the estate's right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code; and

(xi) subject to entry of a Final Order, providing that the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable.

7. For the reasons set forth herein, the Debtor submits that the relief requested is in the best interests of the Debtor, its estate, creditors, and other parties in interest, and therefore should be granted.

JURISDICTION, VENUE, AND PREDICATES FOR RELIEF

8. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference*, dated February 29, 2012 (Sleet, C.J.). This is a core proceeding under 28 U.S.C. § 157(b). Venue of the Chapter 11 Case and this Motion is proper in this District under 28 U.S.C. §§ 1408 and 1409.

9. The predicates for the relief requested by this Motion are sections 105, 361, 362, 363, 364, 506, and 507 of the Bankruptcy Code, and Rules 2002, 4001, 6003, 6004, and 9014 of the Bankruptcy Rules, and Local Rules 2002-1, 4001-2, and 9013-1.

10. Pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final judgment or order with respect to this Motion if it is determined that this Court lacks authority to enter such final order or judgment consistent with Article III of the Constitution absent consent of the parties.

BACKGROUND

I. The Chapter 11 Case

11. On the date hereof (the "Petition Date"), the Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (the "Chapter 11 Case"). The factual background regarding the Debtor, including its business operations, capital and debt structure, and the events leading to the commencement of the Chapter 11 Case, is set forth in the First Day Declaration.

12. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

13. To date, no creditors' committee has been appointed by the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee"), nor has a trustee or examiner been appointed in the Chapter 11 Case.

II. The Debtor's Prepetition Secured Indebtedness

14. Historically, all of the Debtor's working capital was funded by its Parent, SNA Ltd. Recently, on May 6, 2026, ArcLink, an affiliate of PATRIZIA, provided a $2.2 million loan (the "Prepetition Loan") to the Debtor pursuant to that certain Secured Promissory Term Note (the "Prepetition Secured Note"). The Prepetition Secured Note bears interest at thirteen percent (13%) per annum, which is increased by five percent (5%) upon the occurrence and during the continuance of an event of default. The Prepetition Secured Note matures on August 6, 2026. Pursuant to the Prepetition Secured Note, together with all other related documents executed in connection therewith (the "Prepetition Secured Note Documents"), the Prepetition Secured Noteholder has a first priority lien on substantially all of the Debtor's assets (the "Prepetition Liens," and the collateral encumbered thereby, the "Prepetition Collateral").

III. The Debtor's Immediate Need for Postpetition Financing and Access to Cash Collateral

15. The Debtor requires access to the DIP Facility and authority to use Cash Collateral to operate its business and administer its estate during the Chapter 11 Case. Access to the DIP Facility will (a) provide the Debtor with critical working capital for its business; (b) fund other general corporate purposes; (c) fund the payments authorized by the Court pursuant to the "first-day motions" filed contemporaneously herewith; (d) satisfy administrative costs and expenses incurred in the Chapter 11 Case, and, notably; (e) provide the Debtor with runway necessary to consummate a value-maximizing sale transaction under section 363 of the Bankruptcy Code.

16. As set forth in the First Day Declaration and El Attar Declaration, the Debtor has insufficient cash to fund its operations during the Chapter 11 Case. Absent authority to enter into and access the DIP Facility, the Debtor will be unable to continue operating its business, pursue a

value-maximizing sale process, or administer the Chapter 11 Case. Thus, denial of this Motion would result in a deterioration of value and immediate and irreparable harm to the Debtor's estate.

17. The Debtor has worked closely with its advisors to evaluate its cash requirements for its business. As part of such evaluation, the Debtor and its advisors reviewed and analyzed the Debtor's near-term weekly and long-term cash flow forecasts and prepared a 13-week budget (the "Budget"), which has been reviewed and approved by the DIP Lender. These forecasts take into account anticipated disbursements during the projected periods. The Debtor believes that the Budget provides an accurate reflection of the Debtor's funding requirements over the identified period and is reasonable and appropriate under the circumstances.

18. The DIP Lender is willing to provide liquidity solely on the terms provided in the DIP Note Documents and the Orders. The Debtor believes that the liquidity to be provided by the DIP Facility, together with the use of Cash Collateral, will enable it to fund its operations during the course of the Chapter 11 Case and preserve value for its estate.

IV. The Debtor's Prepetition Efforts to Obtain DIP Financing.

19. As described in the El Attar Declaration, the DIP Facility is the best (and only) source of debtor-in-possession financing available to the Debtor following a DIP marketing process that revealed no viable alternatives.

20. In the weeks leading up to the Petition Date, the Debtor, through Sherwood, conducted a marketing process to determine the availability of third-party financing sources that were willing to provide financing to the Debtor in its current financial situation. Sherwood solicited ten potential DIP lenders, directing its outreach toward alternative lenders focused on distressed and special situations financing. As more particularly detailed in the El Attar Declaration, eight of the ten prospective lenders declined the opportunity (including one that executed an non-disclosure agreement and conducted due diligence regarding the opportunity),

each citing various reasons (including, for example, the inability to obtain senior secured status, lack of sufficient downside collateral coverage, concerns regarding the level of cash burn required to complete a sale process, and the lack of a positive EBITDA). Two of the potential DIP lenders did not respond to Sherwood's solicitations. Ultimately, no party other than the DIP Lender was willing to provide postpetition financing.

21. Furthermore, as set forth in the First Day Declaration and El Attar Declaration, the economic terms of the DIP Facility are fair and reasonable in light of the current market conditions and the Roll-Up is justified under the circumstances. The DIP Lender required the Roll-Up in the context of its commitment to provide the DIP Facility on the terms described herein. The Debtor, on the one hand, and the DIP Lender, on the other, engaged in arms' length negotiations and ultimately agreed to the Roll-Up as consideration for, among other things, the DIP Lender's making available additional new money to fund the Chapter 11 Case. Without the Roll-Up, the DIP Lender would not have agreed to provide debtor-in-possession financing.

22. Based on the terms and conditions of the DIP Loan, the Debtor determined that entry into the DIP Facility is reasonable, fair, and in the best interests of the Debtor and its estate.

CONCISE SUMMARY OF TERMS OF THE DIP FACILITY[5]

23. Under the disclosure requirements of Bankruptcy Rule 4001(b), (c), and (d) and Local Rule 4001-2(a)(i) and (ii), the following table concisely summarizes the significant terms of the DIP Facility and the Interim Order.

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
Parties to the DIP Facility Bankruptcy Rule 4001(c)(1)(B)	**Borrower**: SiFi Networks America, LLC (*i.e.*, the Debtor). **DIP Lender**: ArcLink Fiber LLC.	DIP Note, opening Recital and signature block.
Amount and Facility Limits Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)	A senior secured, superpriority loan, in the form of a delayed draw term loan promissory note, consisting of (i) a New Money DIP Loan in an aggregate principal maximum amount of $3,130,000.00, of which (x) $1,135,000.00 shall be available to the Debtor upon entry of the Interim Order, and (y) $1,995,000.00 shall be available to the Debtor upon entry of the Final Order; and (ii) an Interim Roll-Up, subject to entry of this Interim Order, by the DIP Lender of the Prepetition Secured Indebtedness equal to $1,135,000.00, and (iii) a Final Roll-Up, subject to entry of the Final Order, by the DIP Lender of the Prepetition Secured Indebtedness equal to $1,088,039.00 plus (a) accrued and unpaid interest under the Prepetition Secured Note, including accrued and unpaid postpetition interest at the non-default rate specified in the Prepetition Secured Note from the Petition Date through and including the date that such obligations are rolled up, plus (b) any and all unreimbursed costs, and expenses of the Prepetition Secured Noteholder.	Interim Order, recital (a) and ¶¶ 2(c), 8; DIP Note, ¶¶ 1(a) and 1(b).
Fees Local Rule 4001-2(a)(i)(B)	Not applicable. There are no funding fees being charged in connection with the DIP Facility.	
Reimbursement of Lender's Fees and Expenses	Paragraph 33 of the Interim Order provides: Professionals for the DIP Lender (Clifford Chance US LLP and Young Conaway Stargatt & Taylor, LLP) (the "DIP Lender's Professionals," and each a "DIP Lender's Professional") shall be entitled to reimbursement of the reasonable fees and expenses of their counsel (the "Lender's	Interim Order, ¶ 33; DIP Note, ¶ 6.

[5] This summary does not contain all material terms and conditions and is qualified in its entirety, including the defined terms it uses (whether or not defined within the summary), by the provisions of the Interim Order and the DIP Note Documents, as applicable. To the extent that there are any conflicts between any of these summaries, on the one hand, and the Interim Order or any DIP Note Documents, as applicable, on the other hand, the terms of such Interim Order and DIP Note Documents, as applicable, shall govern.

[6] Capitalized terms used but not otherwise defined in this summary or the Motion shall have the meanings ascribed to them in the Interim Order and DIP Note Documents, as applicable.

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
Local Rule 4001-2(a)(i)(K)	Expenses"); *provided*, *however*, that copies of all invoices reflecting the Lender's Expenses shall be served by email on the Debtor, the U.S. Trustee, and counsel to the Committee (if any) (collectively the "Fee Notice Parties"), who shall have ten (10) business days to review and to assert any objections thereto. Such invoices shall include a general description of the nature of the matters worked on (but shall not be required to include individual time entries), a list of professionals who worked on the matter, their hourly rate (if such professionals bill at an hourly rate), the number of hours each professional billed and, with respect to the invoices of law firms, the year of law school graduation for each attorney; *provided*, *however*, that the U.S. Trustee reserves the right to seek copies of invoices containing the detailed time entries of any professional. The U.S. Trustee reserves his right to seek to obtain unredacted copies of such invoices. Any expenses sought to be reimbursed shall be specified and broken out by type of expense. The provision of such invoices shall not constitute a waiver of the attorney-client privilege or any benefits of the attorney work product doctrine. If no objection to the payment of the Lender Expenses is made in writing by the Fee Notice Parties within ten (10) calendar days after delivery of such invoices, then, without further order of, or application to, the Court or notice to any other party, such Lender Expenses shall be promptly paid by the Debtor. If an objection is made by any of the Fee Notice Parties within the ten-day objection period to the payment of the Lender Expenses, then the disputed portion of such Lender Expenses shall not be paid until the objection is resolved by the applicable parties in good faith or by order of the Court, and the undisputed portion shall be promptly paid by the Debtor. Upon the maturity of the DIP Facility, if the DIP Lender is not the successful bidder for the Debtor's assets or the sale of the assets to the DIP Lender is not consummated, the Debtor shall promptly pay in full in cash all such invoiced fees and expenses if no objection to the payment of the Lender Expenses is made in writing by the Fee Notice Parties within ten (10) calendar days after delivery of such invoice. Furthermore, paragraph 6 of the DIP Note provides: Borrower shall reimburse Lender for all reasonable and documented out-of-pocket expenses incurred in connection with the negotiation and preparation of the Loan Documents and the obtaining of approval of the Loan Documents by the Bankruptcy Court (including the reasonable and documented fees and expenses of Clifford Chance US LLP ("Clifford") and Young Conaway Stargatt & Taylor, LLP ("YCST" and together with Clifford, "Lender's Counsel"), counsel for the Lender, all of the Lender's special counsel, advisors, consultants, and auditors retained in connection with the preparation and negotiation of the Loan Documents and advice in connection therewith) regardless of whether such fees and expenses were incurred before or after the commencement of the Chapter 11 Case. In addition, Borrower shall reimburse Lender for all reasonable fees, costs, and expenses of Lender's Counsel or other advisors for advice, assistance, or other representation in connection with: (1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the Loan Documents or advice in	

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
	connection with the administration of the Loans made pursuant hereto or Lender's rights hereunder or thereunder; (2) the review of pleadings and documents related to the Chapter 11 Case and any subsequent Chapter 7 case, attendance at meetings or hearings related to the Chapter 11 Case and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Case and any subsequent Chapter 7 case solely as they relate to the Loans made hereunder; (3) any litigation, contest, dispute, suit, proceeding, or action (whether instituted by Lender, Borrower, or any other Person, and whether as a party, witness, or otherwise) in any way relating to the Collateral, any of the Loan Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding, or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to Lender by virtue of the Loan Documents, including any such litigation, contest, dispute, suit, proceeding, or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; (4) any attempt to enforce any remedies of Lender against Borrower or any other Person that may be obligated to Lender by virtue of any of the Loan Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans during the pendency of one or more Events of Default; (5) any work-out or restructuring of the Loans during the pendency of one or more Events of Default; and (6) solely as they relate to the Loans made hereunder, any efforts to (i) monitor the Loans or any of the other Obligations, (ii) evaluate, observe or assess the Borrower or Borrower's respective affairs, and (iii) verify, protect, evaluate, assess, appraise, collect, sell, liquidate, or otherwise dispose of any of the Collateral; including, as to each of clauses (1) through (6) above, all documented and reasonable attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges, and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 6(a), all of which shall be payable, on demand, by Borrower to Lender. Without limiting the generality of the foregoing, such documented and reasonable expenses, costs, charges, and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management, and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs, and expenses; long distance telephone charges; air express charges; facsimile charges; secretarial overtime charges; and expenses for travel, lodging, and food paid or incurred in connection with the performance of such legal or other	

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
	advisory services. For the avoidance of doubt, all of the foregoing fees, costs, and expenses shall be Obligations under the Note	
DIP Budget Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(iii)	The Debtor's use and access of the DIP Loan proceeds and Cash Collateral is subject to the Budget. The Debtor believes the Budget will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period covered by the financing and the budget. A copy of the Initial Budget is attached as Exhibit 2 to the Interim Order. On or before Wednesday of each calendar week commencing on the first full week after the Petition Date (or if such date is not a Business Day, the next Business Day), the Debtor will provide a rolling 13-week cash flow forecast for the following 13-week period (the "Budget Update") to the DIP Lender, which shall be in form and substance acceptable to the DIP Lender. Within three (3) Business Days of the DIP Lender's receipt of the Budget Update (or on such more frequent days as may be requested by the DIP Lender), the Debtor and its advisors will attend a teleconference with the DIP Lender to update it regarding compliance with the Budget Update and any other matters reasonably requested by the DIP Lender. The Debtor must seek and obtain the written consent (email being sufficient) of the DIP Lender in its sole discretion to the Budget Update (the "Budget Approval"). If the Budget Update receives the written consent of the DIP Lender, then such Budget Update shall become the "Approved Budget" then in effect. In the event the Debtor does not obtain the consent of the DIP Lender with respect to the Budget Approval, the Approved Budget (which may be the Initial Budget) for the then-existing Testing Period (as defined below) shall apply for the immediately following Testing Period, and any Testing Period thereafter, unless the Bankruptcy Court orders alternative relief upon a motion filed by the Debtor after notice and a hearing. If the DIP Lender does not respond to the Debtor's request for DIP Lender's consent to a Budget Update within three (3) days, such Budget Update shall become an "Approved Budget." Beginning on the second full calendar week following the Petition Date (the "First Variance Testing Date") on or before 5:00 p.m. prevailing Eastern Time on Wednesday of each week (each such date, a "Variance Testing Date"), the Debtor will provide to the DIP Lender a variance report tested for the period following the first full two calendar weeks after entry of this Interim Order, and following the First Variance Testing Date, a variance report tested weekly with each subsequent calendar week thereafter (each, a "Variance Testing Date") added for a cumulative basis (e.g., full calendar weeks 1 through 2 following entry of this Interim Order shall be the first period, and each successive one week will be added as a cumulative test and each such period, a "Testing Period" and each such report, a "Variance Report"), in form and substance satisfactory to the DIP Lender setting forth in reasonable detail actual operating receipts and operating disbursements for the applicable Testing Period and all variances, in each case, on both an individual line item basis and an aggregate basis, as compared to the projected amounts	Interim Order at ¶ 9 and Ex. 2.

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
	therefor set forth in the then applicable Approved Budget, in each case of the foregoing clauses, with a detailed explanation of any such variance. As of the Variance Testing Date, the Debtor shall not permit the percentage variance for the actual total disbursements to be greater than 110% of what was projected for the total operating disbursements in the Initial Approved Budget for the applicable Testing Period ("Variance Limit"); *provided, however*, that in any prior Testing Period that actual operating disbursements are less than the budgeted amount for such period ("Positive Budget Variance"), the Positive Budget Variance may be carried forward and added to the subsequent period. The covenant described in this paragraph 0 shall be referred to herein as the "Budget Covenant" and failure to comply with the Budget Covenant shall constitute an event of default (the "Budget Covenant Default"). A Budget Covenant Default will constitute an event of default under the DIP Note Documents.	
Use of Proceeds Bankruptcy Rule 4001(c)(1)(B)	The DIP Loan proceeds shall be used solely in accordance with the terms and conditions of the Interim Order, and the DIP Note Documents, and the Approved Budget (subject to permitted variances) and as follows: (1) to provide ongoing operations and working capital for the Debtor and to pay budgeted expenses of the Debtor during the Case, (2) to provide for other general corporate purposes of the Debtor during the Case, (3) to pay transaction fees and expenses, (4) to pay the costs of administration of the Case, including prior to the delivery of a Carve-Out Trigger Notice (as defined below), to fund the Carve-Out (as defined below), and after the delivery of a Carve-Out Trigger Notice, to fund the aggregate amount of Allowed Professional Fees incurred prior to the delivery of the Carve-Out Trigger Notice plus the Post-Trigger Notice Carve Out Amount (as defined below), including, in each case, through deposits into the Professional Fee Escrow Account and (5) as otherwise contemplated in the Approved Budget or permitted by the DIP Lender, and for no other purpose.	Interim Order, Recital (M); DIP Note, opening recital.
Maturity Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)	The earliest of: (i) Stated Maturity Date; (ii) the date on which the Obligations are declared to be, or otherwise become, due and payable in full due to the occurrence of an Event of Default; and (iii) the date of delivery of a Termination Notice. The Stated Maturity Date is the first Business Day that is one-hundred and twenty (120) days after the Petition Date or such later date agreed to by Lender in its sole discretion.	DIP Note, ¶ 18 (Definitions of "Maturity Date" and "Stated Maturity Date")
Security and Priority Bankruptcy Rule 4001(c)(1)(B)(i); Local Rule 4001-2(a)(i)(G)	**DIP Collateral** The "DIP Collateral" includes all assets and properties of the Debtor of any kind or nature whatsoever, whether tangible or intangible, real, personal or mixed, whether now owned by or owing to, or hereafter acquired by, or arising in favor of, the Debtor, whether prior to or after the Petition Date, whether owned by or to, or leased from or to, the Debtor, and wherever located, including, without limitation, the Debtor's	Interim Order, ¶¶ 5, 6, and 7; DIP Note at ¶¶ 9 and 10.

BANKRUPTCY RULES	SUMMARY OF MATERIAL TERMS[6]	REFERENCE
	rights, title and interests in (i) all Prepetition Collateral, (ii) all "DIP Collateral" as defined in the DIP Note Documents, (iii) actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral; (iv) subject to and upon entry of the Final Order, the proceeds of any avoidance actions (such actions, "Avoidance Actions") brought pursuant to chapter 5 of the Bankruptcy Code or section 724(a) of the Bankruptcy Code or any other Avoidance Actions under the Bankruptcy Code or applicable state law or foreign law equivalents (collectively, the "Avoidance Actions Proceeds"); and (v) all proceeds, products, offspring, and profits of each of the foregoing and all accessions to, substitutions, and replacements for, each of the foregoing, including any and all proceeds of any insurance, indemnity, warranty, or guaranty payable to the Debtor from time to time with respect to any of the foregoing. **DIP Liens** As security for the DIP Obligations, effective immediately upon and effective as of the date of this Interim Order, the DIP Lender shall be granted, on a final basis, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected liens and security interests (collectively, the "DIP Liens") in the DIP Collateral, as follows: *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable, automatically, and fully perfected first priority liens on and security interests in all DIP Collateral that is not otherwise subject to any valid, enforceable, and non-avoidable liens on and security interests, subject and subordinate only to (a) the Permitted Prior Liens and (b) the Carve-Out; *Priming DIP Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected first priority senior priming liens and security interests in all DIP Collateral, regardless of where located, which senior priming liens and security interests in favor of the DIP Lender shall be senior to the Prepetition Liens, subject and subordinate only to (a) Permitted Prior Liens (as defined below, solely to the extent such liens are expressly permitted to be senior to the respective DIP Liens under the DIP Note Documents) and (b) the Carve-Out. For the avoidance of doubt, as a result of the priming of the Prepetition Liens pursuant to this Interim Order, the DIP Lender shall have a first priority senior priming lien on all DIP Collateral, including but not limited to the Prepetition Collateral; and *Liens Junior to Certain Other Liens*. Pursuant to section 364(c)(3) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected liens in all DIP Collateral (other than as set forth in clauses (1) and (2)) junior only to the valid, enforceable and non-avoidable (i) prepetition liens (if any) which are senior to the Prepetition Secured Noteholder's liens or security interests as of the Petition Date, (ii) prepetition claims for set off and recoupment (if any) which are senior to the Prepetition Loan Party's liens or security interests as of the Petition Date, and (iii) liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as	

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	permitted by section 546(b) of the Bankruptcy Code and that are senior to the Prepetition Loan Party's liens or security interests as of the Petition Date and that are permitted under the Prepetition Secured Note Agreement (if any) (the liens and claims in clauses (i), (ii), and (iii) above respectively, the "<u>Permitted Prior Liens</u>"). **<u>Priority</u>** Except as set forth in paragraph **Error! Reference source not found.** of the Interim Order, the DIP Liens (i) shall not be made subject to or *pari passu* with (A) any lien or security interest heretofore or hereinafter granted in the Case or any Successor Case, and shall be valid and enforceable against the Debtor, its estate, any trustee, or any other estate representative appointed or elected in the Case or any Successor Case and/or upon the dismissal of the Case or any Successor Case, (B) any lien that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or otherwise, or (C) any intercompany or affiliate lien, and (ii) shall not be subject to sections 506(c) (subject to and pending entry of the Final Order granting such relief), 510, 549, 550, or 551 of the Bankruptcy Code **<u>DIP Superpriority Claims</u>** Subject to the Carve-Out, effective immediately upon entry of the Interim Order, the DIP Lender shall be granted, pursuant to section 364(c)(1) and 364(e) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Case and any Successor Case thereof on account of the DIP Obligations, with 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) (subject to entry of the Final Order granting such relief), 507(a), 507(b), 546(c), 1113, 1114, or any other provisions of the Bankruptcy Code and any other claims against the Debtor (the "<u>DIP Superpriority Claims</u>"). The DIP Superpriority Claims shall, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code. The DIP Superpriority Claims shall have recourse against the Debtor.	
Interest Rate and Default Interest Bankruptcy Rule 4001(c)(1)(B)	The unpaid principal amount of the DIP Loans shall bear interest from the date when made until paid in full at a rate equal to ten percent (10%) per annum, payable on each applicable Interest Payment Date. All payments of interest shall be made by adding the amount of interest payable on any Interest Payment Date to the outstanding principal amount of Loans, and such amount shall thereafter constitute principal amount of Loans bearing interest in accordance herewith. The "Interest Payment Date" is the first Business Day of each month to occur while any Loans are outstanding; <u>provided</u> <u>that</u>, in addition to the foregoing, each of (x) the date upon which all of the Loans have been paid in full and (y) the Maturity Date shall be deemed to be an "Interest	DIP Note, ¶¶ 4 and 18 (definition of "Interest Payment Date")

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	Payment Date" with respect to any interest that has then accrued hereunder. So long as an Event of Default shall have occurred and be continuing, and at the election of Lender confirmed by written notice from Lender to Borrower, the interest rate applicable to the Obligations shall be increased by five (5) percentage points (5.00%); per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be payable upon demand.	
Events of Default Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(M)	**Events of Default and Remedies under the DIP Note** Pursuant to Paragraph 16 of the DIP Note, "[i]f any Event of Default shall have occurred and be continuing, then Lender may, upon written notice (the "Termination Notice") to Borrower subject to the terms of the Interim Order or Final Order (as applicable): (i) terminate this Note and the DIP Facility contemplated hereby with respect to further Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Loan, to be forthwith due and payable; (iii) revoke Borrower's rights to use cash collateral in which Lender has an interest; and (iv) exercise any rights and remedies under the Loan Documents, the Interim Order or the Final Order (as applicable), or at law or in equity." Paragraph 15 of the DIP Note sets forth the "Events of Default," as follows: Notwithstanding the provisions of section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, but subject to the provisions of the Interim Order or the Final Order (as applicable), the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder: (a) Borrower (i) shall fail to make any payment of principal or interest on the Loans or any of the other Obligations within two (2) Business Days of when due and payable, or (ii) shall fail to pay or reimburse Lender for any expense reimbursable hereunder or under any other Loan Document in accordance with the Interim Order or Final Order (as applicable). (b) Any representation or warranty herein or in any other Loan Document or in any written statement, report, financial statement, or certificate made or delivered to Lender by Borrower is untrue or incorrect in any material respect as of the date when made or deemed made. (c) Any provision of any Loan Document shall for any reason cease to be valid, binding, and enforceable in accordance with its terms (or Borrower shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any Loan Document has ceased to be or otherwise is	Interim Order, ¶¶ 15 and 16; DIP Note, ¶¶ 15, 16

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	not valid, binding and enforceable in accordance with its terms), or any Lien created under any Loan Document shall cease to be a valid and perfected first priority Lien (except as otherwise permitted herein or therein) in any of the Collateral purported to be covered thereby. (d) There shall be a change in the business, assets, operations, or financial condition of Borrower that results in a Material Adverse Effect, other than those customarily caused by commencing a case under chapter 11 of the Bankruptcy Code and other than a sale pursuant to the terms of the Stalking Horse APA which results in the indefeasible payment in full in cash of the Obligations. (e) A deviation in actual cash disbursements from the Approved Budget in excess of such line item's Permitted Variance shall occur. (f) Any event constituting an event of default or termination event as set forth in the Interim Order or Final Order (as applicable) (each, a "<u>Termination Event</u>") shall occur. For the avoidance of doubt, any event constituting a Cash Collateral Termination Event under the Interim Order shall constitute a Termination Event. (g) Any of the following shall occur: (1) Any Milestone set forth in the Interim Order or in the Final Order, as applicable, shall not have been satisfied. (2) The Stalking Horse APA is terminated; *provided*, *however*, that it shall not constitute an Event of Default if Debtor exercises Debtor's fiduciary duty and accepts an alternative bid at an auction in accordance with the Sale Order where such alternative bid includes cash consideration sufficient to satisfy the full amount of the obligations under the DIP Facility and the Prepetition Secured Indebtedness. (3) A motion or other pleading is filed in the Chapter 11 Case to dismiss or convert such Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, which motion or pleading is not withdrawn within five (5) calendar days, or otherwise overruled or dismissed by the Bankruptcy Court within fourteen (14) calendar days. (4) A motion or other pleading is filed in the Chapter 11 Case for entry of an order authorizing the appointment of an interim or permanent trustee in such Chapter 11 Case or the appointment of an examiner (other than a fee examiner) in such Chapter 11 Case, which motion or pleading is not withdrawn within five (5) calendar days, or otherwise overruled or dismissed by the Bankruptcy Court within fourteen (14) calendar days. (5) Borrower moves in the Chapter 11 Case (or fails to contest in good faith a motion brought by any other Person) to approve a sale or other disposition of substantially all of Debtor's assets that (i) does not provide for the indefeasible payment in full in cash of the Obligations and (ii) is not satisfactory to Lender, in its sole discretion, and termination of	

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	commitment of Lender to make Loans without the consent of Lender in its sole discretion. (6) Borrower moves for (or fails to contest in good faith a motion brought by any other Person), or the Bankruptcy Court enters, an order confirming a chapter 11 plan, which plan is not in form and substance acceptable to Lender in its reasonable discretion. (7) Borrower moves in the Chapter 11 Case (or fails to contest in good faith a motion brought by any other Person or such motion succeeds): (i) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral other than in connection with any replacement credit facility that provides for payment in full of all Obligations; (ii) to recover from any portion of the Collateral any costs or expenses of preserving or disposing of such Collateral under section 506(c) of the Bankruptcy Code; or (iii) to authorize any other action or actions adverse to Lender, or its rights and remedies hereunder or its interests in the Collateral, that would, individually or in the aggregate, have a Material Adverse Effect. (8) The allowance of any claim or claims under section 506(c) of the Bankruptcy Code against or with respect to any Collateral. (9) The Interim or Final Order is reversed, vacated, revoked, stayed, amended, supplemented, or otherwise modified in any manner without the prior written consent of Lender in its reasonable discretion. (10) The occurrence of any post-petition judgments, liabilities or events that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. (11) The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Case or the appointment of an examiner (other than a fee examiner) in the Chapter 11 Case. (12) The Chapter 11 Case shall be dismissed or converted from a case under Chapter 11 to a case under Chapter 7 of the Bankruptcy Code without the consent of Lender. (13) The entry of an order in the Chapter 11 Case avoiding or requiring repayment of any portion of the payments made to Lender on account of the Obligations owing under this Note or the other Loan Documents. (14) The entry of an order in the Chapter 11 Case granting any other superpriority administrative claim or Lien equal to or superior to that granted to Lender, unless consented to by Lender in its sole discretion. (15) The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code (i) to allow any creditor (other than Lender) to execute upon or enforce a Lien on any Collateral, or (ii) with respect to any Lien of or the granting of any Lien on any Collateral to any state or local environmental	

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	or regulatory agency or authority that could reasonably be expected to have a Material Adverse Effect. (16) There shall commence any suit or action against Lender by or on behalf of (i) Borrower or (ii) the Committee, in each case, that constitutes a challenge or that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of Lender and, if such suit or action is commenced by any Person other than Borrower, such suit or action shall not have been dismissed or stayed within ten (10) calendar days after service thereof on Lender, and, if stayed, such stay shall have been lifted. (h) Borrower shall fail or neglect to perform, keep or observe any of the provisions of this Note that is not the subject of any other clause of this Section 15, and such failure remains uncured for five (5) Business Days after notice. **<u>Cash Collateral Termination Events under the Interim Order</u>** Under the Interim Order, "<u>Cash Collateral Termination Events</u>" include the following: (a) the Debtor's case is dismissed or converted to a case under chapter 7 of the Bankruptcy Code, or a trustee under chapter 11 of the Bankruptcy Code or an examiner with expanded powers is appointed in the Debtor's case, or the Debtor seeks entry of an order accomplishing any of the foregoing, in each case without the prior written consent of the DIP Lender; (b) the entry of an order in the Case granting relief from any stay or proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed with foreclosure against any material assets of the Debtor to which the fair market value of which exceeds $15,000; (c) the entry of an order (i) surcharging any of the DIP Collateral under sections 105, 506(c), or any other section of the Bankruptcy Code, (ii) allowing any administrative expense claim having priority over or ranking in parity with the DIP Superpriority Claims or the rights of the DIP Lender (subject to the Carve-Out and the Permitted Prior Liens), or (iii) otherwise materially adversely impacting the DIP Lender's liens and priority in the DIP Collateral as set forth in this Interim Order; (d) the entry of an order permitting the Debtor to obtain additional financing from a party other than the DIP Lender under section 364(d) of the Bankruptcy Code, except if such financing contemplates payment in full of the DIP Obligations, without the prior written consent of the DIP Lender; (e) the entry of an order by the Court terminating or modifying the exclusive right of the Debtor to file a chapter 11 plan pursuant to section 1121 of the Bankruptcy Code, without the prior written consent of the DIP Lender;	

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	(f) the Debtor commences any proceeding, or supports any other person's motion, seeking or otherwise consenting to (i) the disallowance in whole or in part of the DIP Obligations, (ii) the invalidation, subordination, or other challenge to the validity and enforceability of the DIP Liens, or (iii) the contest of any material provision of any DIP Note Document, or the Debtor files a motion, pleading, or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the DIP Lender; (g) the Debtor commences any proceeding, or supports any other person's motion, seeking or otherwise consenting to (i) the disallowance in whole or in part of the Prepetition Secured Indebtedness, (ii) the invalidation, subordination, or other challenge to the Prepetition Secured Indebtedness, Prepetition Liens, Adequate Protection Liens, or Adequate Protection Superpriority Claims, or (iii) any relief under section 506(c) of the Bankruptcy Code with respect to any Prepetition Collateral, including the Cash Collateral, or the Debtor files a motion, pleading, or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the Prepetition Secured Noteholder; (h) the Debtor files a plan of reorganization or liquidation that is not in form and substance satisfactory to the DIP Lender, it being understood that a plan will be satisfactory to the DIP Lender if it provides for the payment in full of the DIP Obligations pursuant to a signed commitment to lend from a recognized lender or another source of funding sufficient to allow for the indefeasible payment in cash of the full amount of the outstanding DIP Obligations; (i) the Debtor files a motion seeking to settle a controversy or claim on account of the DIP Collateral without the prior written consent of the DIP Lender; (j) the Debtor files a motion for the Court to approve a sale of the DIP Collateral pursuant to section 363 of the Bankruptcy Code which proposed sale is not acceptable to the DIP Lender; (k) the Debtor shall fail to execute and deliver to the DIP Lender any agreement, financing statement, trademark filing, copyright filing, notices of lien or similar instruments or other documents that the DIP Lender may reasonably request from time to time to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens created in favor of the DIP Lender; (l) the Debtor fails to provide the DIP Lender with draft copies of all motions, notices, statements, schedules, applications, reports, and other papers the Debtor intends to file with the Court in connection with any plan or sale process within a reasonable period of time prior to the date the Debtor intends to file any of the foregoing, and fails to consult in advance in good faith with the DIP Lender regarding the form and substance of any such proposed filing; (m) the imposition of any material award, claim, fine, penalty, or other monetary judgment by any governmental entity, including the Court,	

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	against the Debtor that would not be dischargeable pursuant to the Bankruptcy Code, any order confirming a plan of reorganization, or any other order of the Court; (n) the bringing of a motion or the taking of any action in the Case by the Debtor, or the entry of a judgment or order by the Court, that in any way seeks to challenge, prevent, or otherwise interfere with the DIP Lender's right to credit bid all or any portion of the DIP Obligations against the DIP Collateral and the Prepetition Secured Noteholder's right to credit bid all or any portion of the Prepetition Secured Indebtedness at any sale thereof conducted under the provisions of the Bankruptcy Code, including under section 363 of the Bankruptcy Code, section 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or under any similar provisions of applicable law; (o) an order is entered (i) granting another claim or lien pari passu with or senior to the Prepetition Liens, Adequate Protection Liens, or Adequate Protection Superpriority Claims, under this Interim Order or (ii) reversing, staying for a period in excess of ten (10) business days, vacating or otherwise amending, supplementing, or modifying this Interim Order in a manner not acceptable to the DIP Lender; (p) the entry of an order granting relief from the automatic stay imposed by section 362 of the Bankruptcy Code to any entity other than the Prepetition Secured Noteholder with respect to the Prepetition Collateral without the prior written consent of the Prepetition Secured Noteholder; (q) the reversal or modification of the Roll-Up by the Bankruptcy Court without the consent of the Prepetition Secured Noteholder or the Bankruptcy Court does not approve the Roll-Up ; (r) the effective date of any confirmed chapter 11 plan for the Debtor; (s) the date of dismissal of the Case; (t) the entry of a subsequent order of the Court (i) terminating the use of Cash Collateral or (ii) authorizing the use of Cash Collateral by any person other than the Debtor; (u) the failure by the Debtor to make any payment required pursuant to this Interim Order when due; (v) the failure by the Debtor to deliver to the DIP Lender any of the documents or other information required to be delivered pursuant to this Interim Order when due, or any such documents or other information shall contain a material misrepresentation; (w) the occurrence of any Budget Covenant Default;	

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	(x) failure of the Debtor to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to variances permitted hereunder) and this Interim Order; (y) the failure of the Debtor to observe or perform any of the material terms or material provisions contained in this Interim Order or in the DIP Note Documents; (z) the designation by the Debtor of a successful bidder for all or substantially all of its assets to a person or entity other than the DIP Lender or its designee; (aa) the entry of an order of this Court approving the terms of any debtor in possession financing for the Debtor other than the DIP Facility; or (bb) the Debtor shall fail to meet any of the Milestones (as defined herein), unless such Milestone is waived or extended by the DIP Lender in writing. **<u>DIP Termination Events Under the Interim Order</u>** Under the Interim Order, a "DIP Termination Event" is defined as the occurrence and continuance of any "Event of Default" under the DIP Note Documents, unless waived in writing by the DIP Lender. "On the DIP Termination Date, (a) the maturity of the DIP Facility shall be accelerated to the DIP Termination Date (provided that payments to the DIP Facility shall remain subject to the payment subordination provisions set forth herein with respect to the Prepetition Secured Noteholder) and (b) subject to the Carve-Out, the Debtor's right to use the Cash Collateral pursuant to this Interim Order shall automatically terminate."	
Conditions Precedent to Borrowing /Lending Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(E)	Pursuant to paragraph 2 of the DIP Note, the DIP Lender shall not be obligated to fund any Loan if, as of the date thereof: (a) Borrower has not paid any amount then payable hereunder or under any other Loan Document or shall not have performed any of its obligations hereunder or under any other Loan Document; (b) Borrower has not duly executed and delivered this Note; (c) Borrower has not delivered corporate resolutions, incumbency certificates, and similar documents, in form and substance satisfactory to Lender in its reasonable discretion, with respect to this Note and the other Loan Documents and the transactions contemplated hereby and thereby; (d) Borrower has not (i) duly paid any and all costs and expenses then payable hereunder or under any other Loan Documents (including, without limitation, the reasonable and documented fees, costs, and	DIP Note, ¶ 2.

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	expenses of counsel to Lender) and (ii) fully performed all of its obligations hereunder or under any other Loan Documents; (e) the Bankruptcy Court has not entered the Interim Order by no later than four (4) days after the Petition Date; (f) (i) the Bankruptcy Court has not entered the Final Order by no later than twenty-seven (27) days after the Petition Date, or (ii) the Final Order has been stayed, vacated, reversed, modified, or amended without Lender's consent in its reasonable discretion; (g) (i) the Bankruptcy Court has not entered an order approving the Bidding Procedures by no later than twenty-seven (27) days after the Petition Date, or (ii) such an order has been stayed, vacated, reversed, modified, or amended without Lender's consent in its reasonable discretion; (h) Borrower has not delivered to Lender the Approved Budget that is in form and substance satisfactory in Lender's reasonable discretion, or shall not have updated the Approved Budget in accordance with this Note; (i) the Bankruptcy Court order has been entered (i) authorizing Borrower to obtain financing or credit pursuant to section 364 of the Bankruptcy Code from any Person other than Lender; or (ii) providing adequate protection to any Person under sections 361 through 364 of the Bankruptcy Code other than as authorized pursuant to the Interim Order or with the consent and approval of Lender; (j) any representation or warranty by Borrower contained herein or in any other Loan Documents shall be untrue or incorrect as of such date in any material respect; (k) (i) any Event of Default shall have occurred and be continuing or would result after giving effect to any requested Loan; or (ii) any Default shall have occurred and be continuing or would result after giving effect to any requested Loan, and Lender in its sole discretion shall have determined not to make any Loan so long as such Default is continuing; (l) except as occasioned by the commencement of the Chapter 11 Case and the actions, proceedings, investigations, and other matters related thereto, any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof and the Lender shall have determined not to make any Loan so long as such Material Adverse Effect is continuing; (m) Debtor shall not have filed the Sale Motion in form and substance reasonably acceptable to Lender by the Petition Date; (n) the Sale Motion has been withdrawn or an order approving the Sale Motion (which order must be in form and substance reasonably	

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	acceptable to Lender) has not been entered by the date set forth in the Interim Order; (o) (i) the Bankruptcy Court has not entered the Sale Order by no later than fifty four (54) days after the Petition Date, or (ii) if on any date after the Sale Order has been entered, the Sale Order is vacated, reversed, modified (without Lender's consent), or successfully appealed; or (p) after giving effect to any Loan, the outstanding principal amount of all Loans would exceed the lesser of (i) the Commitment, (ii) the amount then authorized by the Interim Order, and (iii) the amount permitted to be borrowed for the applicable period as set forth in the Approved Budget, subject to Permitted Variances. The request and acceptance by Borrower of the proceeds of any Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by Borrower of the granting and continuance of the Lender's Liens, pursuant to the Collateral Documents.	
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	Pursuant to paragraph 7 of the DIP Note: Borrower shall indemnify and hold harmless Lender and its respective affiliates, members, officers, directors, employees, attorneys, agents, and representatives, solely in such capacity (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended, or terminated under this Note and the other Loan Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between or among any parties to any of the Loan Documents (collectively, "Indemnified Liabilities"); provided that, Borrower shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability, or expense results solely from that Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE, OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED, OR TERMINATED UNDER ANY LOAN DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR	DIP Note, ¶ 7

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	THEREUNDER. For the avoidance of doubt, Borrower's obligations under this paragraph shall be an Obligation under this Note.	
506(c) and 552(b) Waiver Bankruptcy Rule 4001(c)(1)(B)(x); Local Rule 4001-2(a)(i)(V) and 2(a)(i)(W)	Pursuant to paragraph 21 of the Interim Order: "Subject to entry of the Final Order granting such relief, all rights to surcharge the interests of the Prepetition Secured Noteholder in any Prepetition Collateral under section 506(c) of the Bankruptcy Code or any other applicable principle of equity or law shall be and are hereby finally and irrevocably waived, and such waiver shall be binding upon the Debtor and all parties in interest in the Case." Pursuant to paragraph 30 of the Interim Order: "Subject to entry of the Final Order granting such relief, the Prepetition Secured Noteholder shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Noteholder with respect to proceeds, products, offspring or profits of any of the Prepetition Collateral."	Interim Order at ¶¶ 21, 30.
Marshalling Local Rule 4001-2(a)(i)(X)	Pursuant to paragraph 31 of the Interim Order: "Subject to entry of the Final Order granting such relief, neither of the Prepetition Secured Noteholder or the DIP Lender shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral or the DIP Collateral except as expressly provided herein, as applicable."	Interim Order, ¶ 31
Carve Out Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(F)	The "<u>Carve-Out</u>" provisions are set forth in paragraph 12 of the Interim Order, which provides as follows: (a) As used in this Interim Order, the "Carve-Out" means the sum of: (i) unpaid fees and expenses required to be paid by the Debtor to the Clerk of the Court or to the U.S. Trustee under 28 U.S.C. § 1930(a)(6); (ii) reasonable fees and expenses incurred by a trustee in any Successor Case under section 726(b) of the Bankruptcy Code in an aggregate cumulative amount not to exceed $10,000.00; (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the "<u>Allowed Professional Fees</u>") incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "<u>Debtor Professionals</u>"), and by persons or firms retained by any Committee (the "<u>Allowed Committee Fees</u>" and, together with the Allowed Professional Fees, the "<u>Estate Professional Fees</u>") pursuant to section 328 or 1103 of the Bankruptcy Code (the "<u>Committee Professionals</u>" and, together with the Debtor Professionals, the "<u>Professional Persons</u>") at any time before or on the first business day following delivery by the DIP Lender of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice (the "<u>Pre-Trigger Notice Fees</u>"), subject to and not to exceed the Approved Budget and any limits by this Interim Order; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed $50,000 incurred after the first business day following delivery by the DIP Lender of the Carve-Out Trigger Notice, to the extent allowed at any	Interim Order, ¶ 12.

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	time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "Post-Carve Out Trigger Notice Cap"). (b) For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Lender to the Debtor, its lead restructuring counsel, the U.S. Trustee, and counsel to any Committee (collectively, the "Carve-Out Notice Parties") which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve-Out Trigger Notice Cap has been invoked. The DIP Liens, the Prepetition Liens, the Adequate Protection Liens, and the DIP Superpriority Claims shall be subject to the Carve-Out only if, and to the limited extent that, sufficient unencumbered cash on hand is not available in the estate to pay any of the administrative priority expenses specified above in paragraph 12(a) as and when such amounts become due (in which case they shall be paid from such unencumbered cash). (c) Nothing contained in this Interim Order shall be construed: (i) to exempt those persons seeking Estate Professional Fees who may receive interim compensation payments or reimbursement of expenses pursuant to any Court-approved procedure, from all provisions of bankruptcy law otherwise applicable, including, without limitation, any requirements that such compensation or reimbursement be allowed on a final basis after the filing of appropriate final fee applications, and, if applicable, any subsequent order of this Court requiring that such payments be disgorged, or (ii) as consent to the allowance of any fees and expenses referred to above; and shall not affect any right of the DIP Lender to object to the reasonableness of such amounts or to object on any other basis. (d) The Debtor shall be authorized and permitted to establish an escrow account, to be held by a qualified institutional escrow agent to be agreed upon by the Debtor and the DIP Lender (the "Escrow Holder"), for the benefit of the Professional Persons and to fund by wire transfer such escrow on a weekly basis, in each case as provided herein and in the DIP Note Documents (including the DIP Note) (such account, to the extent of such deposited amounts, the "Professional Fee Reserve Account"), in an amount equal to, but not to exceed, the professional fees and costs set forth in the DIP Budget line item for Professional Persons for such week. The Professional Fee Reserve Account shall be funded on a weekly basis in accordance with the DIP Budget and ending on the date upon which a Carve-Out Trigger Notice is delivered, plus any amounts provided for in the DIP Budget, if any, since the most recent funding of the Professional Fee Reserve Account through the delivery of the Carve-Out Trigger Notice, in accordance with the DIP Budget. After the delivery of a Carve-Out Trigger Notice, notwithstanding anything herein to the contrary, the Debtor shall be authorized to deposit any cash on hand into the Professional Fee Reserve Account up to the amount of any remaining unpaid professional fees for each of the Professional Persons set forth in the DIP Budget for the	

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	period until delivery of the Carve-Out Trigger Notice plus an amount equal to the Post Carve-Out Trigger Notice Cap. (e) From the funds held in the Professional Fee Reserve Account, the Escrow Holder shall release to the Professional Persons solely such amounts as are payable from time to time pursuant to the DIP Budget and an applicable order of the Bankruptcy Court, including an order approving interim compensation procedures in the Case and any order granting interim or final fee applications for such Professional Persons (each, a "Fee Order"). For the avoidance of doubt, (a) in making payments from the Professional Fee Reserve Account, Escrow Holder shall be entitled to rely upon written certifications of each Professional Person as to the amount such Professional Person is authorized pursuant to the DIP Budget and an applicable order of the Bankruptcy Court to be paid at such time from the Professional Fee Reserve Account; and (b) in no circumstances shall the Escrow Holder be obligated to pay any Professional Person other than from the funds held, from time to time, in the Professional Fee Reserve Account in accordance with the DIP Budget and an applicable order of the Bankruptcy Court. Funds held in the Professional Fee Reserve Account shall be applied to Allowed Professional Fees that have been incurred following the Petition Date in accordance with procedures to be established in the Case. Payments and reimbursements made to a Professional Person prior to delivery of the Carve-Out Trigger Notice shall reduce the amounts available to such Professional under section 12(a) of the Carve-Out, and neither the Professional Fee Reserve Account nor payments therefrom shall in any way increase the Carve-Out. All Allowed Professional Fees payable to Professionals Persons shall be paid first from funds in the Professional Fee Reserve Account, if any, and, upon exhaustion thereof, from the Carve-Out (less any amounts previously funded into the Professional Fee Reserve Account). For the avoidance of doubt the DIP Liens, Prepetition Liens, and Adequate Protection Liens shall attach to, and shall have a residual right to and lien on, any excess funds in the Professional Fee Reserve Account after satisfaction of the Carve-Out in respect of Allowed Professional Fees, which excess funds shall then be used to satisfy amounts due under the DIP Facility, the Prepetition Secured Indebtedness, and the Adequate Protection Payments, as applicable, in accordance with their rights and priorities as of the Petition Date and under this Interim Order, in each case, until paid in full in cash. (f) For the avoidance of doubt, the delivery and effectiveness of a Carve-Out Trigger Notice shall not limit or impair the Escrow Holder's right and obligation to release funds in the Professional Fee Reserve Account to pay allowed Estate Professional Fees. Once all payments are made from the Professional Fee Reserve Account after the Court rules on final fee applications, any remaining amounts shall be either (a) returned to the Debtor prior to the conclusion of this Case or (b) to the extent purchased pursuant to a sale authorized by the Court, paid in accordance with the terms of that sale order. (g) Prior to or in accordance with the effective date of any plan, entry of any order dismissing the Case or converting the Case to a case under	

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	chapter 7 of the Bankruptcy Code, each professional that incurs Estate Professional Fees shall have an opportunity to seek allowance of all Estate Professional Fees incurred by such professional at a final fee application hearing.	
Debtor's Stipulations Bankruptcy Rule 4001(c)(1)(B)(iii)	Pursuant to the Interim DIP Order, the Debtor, for itself, its estate, and all representatives of such estate, makes the stipulations set forth in paragraphs D, E, F, and G of the Interim Order.	Interim Order, ¶¶ D, E, F, and G
Releases Local Rule 4001-2(a)(ii)	Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), the Debtor hereby forever waives and releases any and all Claims (as defined in section 101(5) of the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights against the Prepetition Secured Noteholder arising prior to the date of the entry of this Interim Order, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law. Subject to paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), the foregoing release shall be binding on the Debtor's estate, the Committee, if any, all parties in interest, and any successor-in-interest to any Debtor or the Debtor's estate, including, but not limited to any chapter 7 or chapter 11 trustee or examiner.	Interim Order, ¶ H
Challenge Period Local Rule 4001-2(a)(i)(Q)	Paragraph 26 of the Interim Order provides as follows: (a) The Debtor's admissions, stipulations and releases contained in this Interim Order shall be binding upon the Debtor for all purposes and shall be binding upon all other parties in interest, including, upon entry of the Final Order, any Committee and any chapter 7 trustee, for all purposes unless, and solely to the extent that, (i) a party in interest that has sought and obtained standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtor, as to which any Challenge is irrevocably waived and relinquished) has properly filed appropriate pleadings and commenced the appropriate proceeding required under Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules, seeking to avoid, object to or otherwise challenge the Debtor's admissions, stipulations and releases including (x) challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Secured Indebtedness and/or the Prepetition Liens, or (y) otherwise asserting or prosecuting any action for preference, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests and defenses against the Prepetition Secured Noteholder on behalf of the Debtor's estate (each, a "Challenge," and collectively, "Challenges") by the date that is the earlier of (x) one Business Day before the hearing approving the sale of substantially all of the Debtor's assets and (y)	Interim Order, ¶ 26

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	seventy-five (75) calendar days from the entry of this Interim Order (the "Challenge Deadline") and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal. Nothing herein shall limit the Committee's (or other party in interest's) ability to (x) file a motion in respect of any timely Challenge for which it may not be able to obtain standing as a matter of law because the applicable Debtor is a limited liability company (an "LLC Challenge Motion"), and (y) seek pursuant to such LLC Challenge Motion a mechanism by which to prosecute such Challenge. In the event a Committee or other party in interest files an LLC Challenge Motion for which it may not be able to obtain standing, the expiration of the Challenge Period solely for the specific Challenge set forth in the LLC Challenge Motion shall be tolled pending further order of the Court, and applicable parties shall meet and confer with respect to an appropriate process for the prosecution of any such Challenge. If timely notified of a Challenge for which the Committee or other party in interest may not be able to gain standing because the applicable Debtor is a limited liability company, the Debtor (or a designated representative) shall retain the authority to prosecute such Challenge in the exercise of their business judgment and subject to any applicable further order of the Court. (b) If no such Challenge is properly filed as of such dates or the plaintiff's claims are dismissed or denied by final and unappealable order in any such proceeding or matter, then: (i) the Debtor's admissions, stipulations and releases contained in this Interim Order shall be binding on all parties in interest, including any Committee; (ii) the obligations of the Debtor under the Prepetition Secured Note Documents shall constitute allowed claims for all purposes in the Case or any Successor Case; (iii) the Prepetition Secured Noteholder's security interests in and liens upon the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, first priority security interests and liens, subject only to Permitted Prior Liens, and not subject to recharacterization, subordination or otherwise avoidable; and (iv) the Prepetition Secured Indebtedness and the Prepetition Liens on the Prepetition Collateral and the Collateral shall not be subject to any other or further challenge by the Committee or any other party in interest seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor thereto. (c) If a Challenge is properly filed as of the Challenge Deadline, the Debtor's admissions, stipulations and releases contained in this Interim Order shall nonetheless remain binding and preclusive on all parties in interest, including any Committee, except to the extent that such admissions, stipulations and releases were expressly challenged in such Challenge; provided, that the timely filing of a motion seeking standing to file a Challenge before the expiration of the Challenge Period, which attaches a draft complaint setting forth the legal and factual bases of the proposed Challenge, shall toll the Challenge Period only as to the party that timely filed such standing motion until such motion is resolved or adjudicated by the Court. If a chapter 7 trustee or a chapter 11 trustee is appointed or elected during the Challenge Period, then the Challenge	

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	Deadline with respect to such trustee only, shall be the later of (i) the last day of the Challenge Period and (ii) the date that is twenty (20) calendar days after the date on which such trustee is appointed or elected. Nothing contained in this Interim Order shall be deemed to grant standing or authority to any Committee or any other party to commence a Challenge.	
Use of Funds to Investigate Prepetition Liens Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(L)	Paragraph 27 of the Interim Order provides as follows: Except as otherwise permitted in this Interim Order and the Approved Budget, the DIP Facility, the DIP Collateral, the Prepetition Collateral, the Cash Collateral, and the Carve-Out may not be used, directly or indirectly, by any of the Debtor, the Committee, if any, or any trustee or other estate representative appointed in the Case (or any Successor Case) or any other person or entity (or to pay any professional fees, disbursements, costs or expenses incurred in connection therewith) in connection with (a) preventing, hindering, or delaying any of the DIP Lender's and/or Prepetition Secured Noteholder's enforcement or realization upon any of the DIP Collateral or Prepetition Collateral; (b) using or seeking to use Cash Collateral without the permission of the Prepetition Secured Noteholder or selling or otherwise disposing of DIP Collateral without the consent of the DIP Lender or as permitted by the DIP Note Documents; (c) using or seeking to use any insurance proceeds constituting DIP Collateral or Prepetition Collateral without the consent of the DIP Lender or the Prepetition Secured Noteholder; (d) seeking to amend or modify any of the rights granted to the DIP Lender or the Prepetition Secured Noteholder under this Interim Order, the DIP Note Documents, or the Prepetition Secured Note Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (e) litigating, objecting to, challenging or contesting in any manner in any way the DIP Liens, DIP Obligations, DIP Superpriority Claims, the Prepetition Secured Indebtedness, the Prepetition Liens, DIP Collateral (including Cash Collateral) or, as the case may be, the Prepetition Collateral, or any other claims held by or on behalf of any of the DIP Lender or the Prepetition Secured Noteholder, respectively; (f) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, Avoidance Actions or applicable state law equivalents or actions to recover or disgorge payments, against any of the DIP Lender, Prepetition Secured Noteholder, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (g) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Secured Indebtedness, the Prepetition Liens, or any other liens or interests of any of the DIP Lender or the Prepetition Secured Noteholder; or (h) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations or the Prepetition Secured Indebtedness; provided, however, that the Carve-Out and such collateral proceeds and loans under the DIP Note Documents may be used for allowed fees and expenses, in an amount not to exceed $25,000 in the aggregate (the "<u>Investigation Budget Amount</u>"), incurred solely by the Committee (if appointed) or chapter 7 or 11 trustee appointed or elected in the Case, in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition	Interim Order, ¶ 27

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	Liens within seventy-five (75) days after entry of this Interim Order. For the avoidance of doubt, no portion of the DIP Facility, the DIP Collateral, the Prepetition Collateral, the Cash Collateral, or the Carve-Out may be used, directly or indirectly, by the Debtor or the Committee (if appointed), or any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, any creditors, or parties in interest to investigate or Challenge any of the Prepetition Liens or Prepetition Secured Indebtedness as they relate to the DIP Lender.	
Adequate Protection Bankruptcy Rule 4001(b)(l)(B)(iv), 4001(c)(1)(B)(ii)	Pursuant to paragraph 10 of the Interim Order: In addition to all the existing security interests and liens granted to or for the benefit of the Prepetition Secured Noteholder in and with respect to their respective Prepetition Collateral, including the Cash Collateral, as adequate protection for, and to secure payment of an amount equal to, the Collateral Diminution, resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, the Carve Out, the Debtor's use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Secured Noteholder is hereby granted the following adequate protection to the extent of any Collateral Diminution: (a) *Adequate Protection Liens*. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, effective as of the Petition Date and in each case perfected without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or by possession or control, the Prepetition Secured Noteholder is hereby granted, to secure payment of an amount equal to the Collateral Diminution, a valid, binding, continuing, enforceable, fully-perfected first priority senior (except as otherwise provided in this paragraph 10(a)) security interest in and lien on (all such liens and security interests, the "<u>Adequate Protection Liens</u>") the DIP Collateral, subject and subordinated only to the Carve Out, the DIP Liens and the Permitted Prior Liens. (b) *Adequate Protection Superpriority Claims*. Effective as of the Petition Date, and subject to the Carve-Out and the DIP Superpriority Claims, the Prepetition Secured Noteholder is hereby granted, in the amount of any Collateral Diminution arising pursuant to section 507(b) of the Bankruptcy Code an allowed administrative expense claim with priority over all other administrative claims in the Case (subject only to the Carve-Out and the DIP Superpriority Claims), including all claims of the kind specified under sections 503(b) and 507(b) of the Bankruptcy Code (the "<u>Adequate Protection Superpriority Claims</u>"), subject and subordinated only to the Carve-Out and the DIP Superpriority Claims. Pursuant to paragraph 11 of the Interim Order: Except as expressly provided in paragraph 10 of this Interim Order and subject to the Permitted Prior Liens, the Adequate Protection Liens and Adequate Protection Superpriority Claims granted to the Prepetition	Interim Order, ¶¶ 10, 11.

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	Secured Noteholder pursuant to paragraph 10 of this Interim Order shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code and shall not be subordinated to or made *pari passu* with any lien, security interest or administrative claim under section 364 of the Bankruptcy Code or otherwise.	
Milestones Bankruptcy Rule 4001(c)(1)(B)(v) and (vi); Local Rule 4001-2(a)(H)	Paragraph 17 of the Interim Order establishes certain case milestones as condition to the DIP Facility as follows: As a condition to the DIP Facility and the use of Cash Collateral, the Debtor has agreed to the following milestones (the "<u>Milestones</u>"). For the avoidance of doubt, unless waived by the DIP Lender, or otherwise ordered by the Court, the failure of the Debtor to meet any Milestone by the applicable specified deadline set forth therefor shall constitute an Event of Default under the DIP Note Documents and a DIP Termination Event. (a) no later than four (4) days after the Petition Date, the Debtor shall have obtained entry by the Court of this Interim Order, in form and substance acceptable to the DIP Lender; (b) no later than the Petition Date, the Debtor shall file with the Court a motion seeking approval of bidding procedures (the "<u>Bidding Procedures</u>"), in form and substance acceptable to the DIP Lender; (c) no later than twenty-seven (27) days after the Petition Date, the Debtor shall obtain entry by the Court of the (i) Final Order and (ii) an order approving the Bidding Procedures, each in form and substance acceptable to the DIP Lender; and (d) no later than fifty-four (54) days after the Petition Date, the Debtor shall have obtained from the Court an order approving the sale of substantially all of the Debtor's assets and/or equity, in form and substance acceptable to the DIP Lender.	Interim Order, ¶ 17; *see also* DIP Note, ¶ 2.
Automatic Stay Waiver/ Modification/ Emergency Default Hearing Bankruptcy Rule 4001(c)(1)(B)(iv); Local Rule 4001-2(a)(i)(T)	**Remedies After a DIP Termination Date**. The DIP Lender shall deliver notice of a DIP Termination Event, in each case, to counsel for the Debtor, the U.S. Trustee, and any Committee. Following notice of a DIP Termination Event, any party in interest may file a motion with the Court and request an emergency hearing on the same (the "<u>Emergency Default Hearing</u>"). The Court shall conduct the Emergency Default Hearing within the Remedies Notice Period (as defined below). Nothing herein shall alter the rights or burden of proof with respect to any request by the Debtor or other party in interest to, after the Remedies Notice Period, re-impose or continue the automatic stay under section 362(a) of the Bankruptcy Code, use Cash Collateral, or to obtain any other injunctive relief. The Debtor hereby waives any right to seek relief, including without limitation under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) set forth in this Interim Order; *provided*, that the foregoing does not modify the	Interim Order, ¶ 18.

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	Remedies Notice Period. After five (5) business days following the delivery of a written notice of the occurrence of and during the continuance of a DIP Termination Event or such later time at the Court may order, during such five (5) business day period (the "Remedies Notice Period"), and absent authority to use Cash Collateral without the consent of the Prepetition Secured Noteholder, the automatic stay shall be deemed automatically lifted with respect to the Prepetition Collateral, the Cash Collateral, and the DIP Collateral and the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) shall have the right to exercise any other remedies customary for secured lenders, including set-off and foreclosure, in connection with the Prepetition Secured Note Documents and the DIP Note Documents, respectively. In addition, after the DIP Lender delivers notice of a DIP Termination Event, but prior to the Emergency Default Hearing, except as may be otherwise ordered by the Court, the Debtor shall not use any Cash Collateral to pay any expenses except those which are necessary to preserve the Debtor's going concern value (not to exceed the Approved Budget under any circumstances absent the consent of the DIP Lender). Notwithstanding anything in this paragraph to the contrary, after notice and hearing, the Court may order such relief as it determines is appropriate following a DIP Termination Event. Any delay or failure of the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) to exercise rights under the Prepetition Secured Note Documents, the DIP Note Documents, or this Interim Order shall not constitute a waiver of their respective rights hereunder, thereunder or otherwise.	
Liens on Avoidance Actions Bankruptcy Rule 4001(c)(1)(B)(xi); Local Rule 4001-2(a)(i)(D)	Subject to entry of a Final Order, the DIP Collateral shall include (a) actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral and (b) the proceeds of any avoidance actions brought pursuant to chapter 5 of the Bankruptcy Code.	Interim Order, ¶ 5.

24. Local Rule 4001-2(a)(i) requires a debtor to recite whether the proposed form of postpetition financing order contains certain provisions of the type enumerated in such rule, identify the location of such provisions in the proposed order, and justify the inclusion of such provisions in the proposed order. The Debtor hereby discloses the below provisions contained in the proposed Interim Order:

- **Cross-Collateralization Provisions (Local Rule 4001-2(a)(i)(N))**: Neither the Interim Order nor the Final Order provides for cross collateralization, but as discussed herein, they provide for the Roll-Up of the Prepetition Secured Indebtedness.

- **Provisions Authorizing "Roll Up" or Repayment of Prepetition Debt (Local Rule 4001-2(a)(i)(O))**:

  Pursuant to paragraphs 8 of the Interim Order:

  "Upon entry of the Interim Order, the Prepetition Secured Indebtedness in an aggregate amount of the Interim Roll-Up, and subject to entry of the Final Order granting such relief, the Prepetition Secured Indebtedness in an aggregate amount of the Final Roll-Up, shall each respectively be automatically deemed funded pursuant to the DIP Note Documents on a cashless basis and shall constitute DIP Obligations, without any further action by the Debtor or any other party, and shall satisfy and discharge an equal amount of Prepetition Secured Indebtedness obligations as if a payment in such amount had been made under the Prepetition Secured Note Documents on such date, as applicable. The Roll-Up shall be deemed to be made by the DIP Lender and the outstanding aggregate amount of the Prepetition Secured Indebtedness held by the DIP Lender shall be automatically and irrevocably deemed reduced by (i) upon entry of the Interim Order, the amount of the Interim Roll-Up, and (ii) upon entry of the Final Order granting such relief, the amount of the Final Roll-Up."

  As discussed herein, the Roll-Up was required by the DIP Lender as a condition to providing the DIP Facility and is justified under the circumstances.

- **Nonconsensual Priming of Prepetition Liens (Local Rule 4001-2(a)(i)(P))**: Pursuant to paragraph 6(a)(2) of the Interim Order, upon enter of the Interim Order, the DIP Lender shall be granted, on a final basis, priming DIP Liens on all DIP Collateral and Prepetition Collateral, subject and subordinate only (a) Permitted Prior Liens and (b) the Carve-Out. However, the Interim Order does not (and the Final Order will not) provide for the non-consensual priming of prepetition liens, as the Debtor is not aware of any liens senior to that of the Secured Prepetition Noteholder. The DIP Lender is the Prepetition Secured Noteholder and, thus, is simply priming itself.

- **Findings of Fact (Local Rule 4001-2(a)(i)(Q))**: Pursuant to paragraphs D, E, F, and G of the Interim Order, the Debtor has provided certain agreements and stipulations concerning the Prepetition Secured Indebtedness. These stipulations and findings of fact were required by the DIP Lender in exchange for providing the DIP Facility and are reasonable under the circumstances discussed in this Motion. Moreover, the stipulations are subject to challenge by a Committee (if any) or any other party in interest (subject to the limitations set forth in paragraphs 26 and 27 of the Interim Order) and will not be binding upon a Committee (if any) or any other party in interest until after the Challenge Deadline. The Challenge Deadline is the earlier of (x) one business day before the hearing to approve the sale of substantially all of the Debtor's assets and (y) seventy-five (75) calendar days after the entry of the Interim Order for any party in interest with requisite standing. *See* Interim Order, ¶ 26.

- **Immediate Grant of Liens on Avoidance Actions (Local Rule 4001-2(a)(i)(U))**: Pursuant to paragraph 5 of the Interim Order, the Debtor is seeking approval of DIP Liens on the proceeds of Avoidance Actions, but not the Avoidance Actions themselves (except with respect to actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral). Furthermore, as indicated above, pursuant to paragraph 6(a)(2) of the Interim Order, upon enter of the Interim Order, the DIP Lender shall be granted, on a final basis, priming DIP Liens on all DIP Collateral. Liens on the Avoidance Action proceeds were required by the DIP Lender in exchange for providing the DIP Facility.

- **506(c) Waiver (Local Rule 4001-2(a)(i)(V))**: Subject to the entry of a Final Order, no costs or expenses of administration of the Chapter 11 Case shall be charged against or recovered from or against ArcLink (as Prepetition Secured Noteholder and DIP Lender) or the Prepetition Collateral and the DIP Collateral, in each case pursuant to section 506(c) of the Bankruptcy Code or otherwise. This waiver was required by the DIP Lender in exchange for providing the DIP Facility and is reasonable under the circumstances discussed in this Motion. As such relief is only being requested in connection with the Final Order, parties will have notice of (and an opportunity to object to) the Debtor's proposed waiver. *See* Interim Order, ¶ 21.

- **552(b) Waiver (Local Rule 4001-2(a)(i)(W))**: Pursuant to 30 of the Interim Order, the Debtor is seeking approval for the Prepetition Secured Noteholder to be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and for the "equities of the case" exception under section 552(b) of the Bankruptcy Code to not apply to the Prepetition Secured Noteholder with respect to proceeds, products, offspring, or profits of any of the Prepetition Collateral. Because it is not requested until the Final Order, parties will have notice of (and an opportunity to object to) the Debtor's proposed waiver. *See* Interim Order, ¶ 30.

- **Marshaling (Local Rule 4001-2(a)(i)(X))**: Pursuant to 31 of the Interim Order, subject to entry of the Final Order granting such relief, neither of the Prepetition Secured Noteholder or the DIP Lender shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral or the DIP Collateral. Because it is not requested until the Final Order, parties will have notice of (and an opportunity to object to) the Debtor's proposed waiver. *See* Interim Order, ¶ 31.

BASIS FOR RELIEF

I. Entry Into the DIP Facility is an Exercise of Sound Business Judgment

25. The Court should authorize the Debtor, as an exercise of its sound business judgment, to enter into the DIP Facility.

26. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority postpetition financing. Courts grant considerable deference to debtors in acting in accordance with their business judgment in obtaining postpetition financing, so long as the

agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g.*, *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *In re Dura Auto Sys. Inc.*, No. 06-11202 (KJC), 2007 Bankr. LEXIS 2764, at *272 (Bankr. D. Del. Aug. 15, 2007) ("To determine if the business judgement [sic] test is met, the court 'is required to examine whether a reasonable business person would make a similar decision under similar circumstances.'") (citation omitted); *In re Barbara K. Enters., Inc.*, No. 08-11474 (MG), 2008 Bankr. LEXIS 1917, at *40 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest."); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

27. To determine whether the business judgment standard is met, the Court need only "examine whether a reasonable business person would make a similar decision under similar circumstances." *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code"). Bankruptcy courts will not generally second-guess a debtor's business decisions when those decisions involve "a business judgment made in good faith, upon a

reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code." *In re Curlew Valley Assocs.*, 14 B.R. 506, 513 (Bankr. D. Utah 1981) (footnote omitted). The Court should evaluate the soundness of a debtor's business judgment, "in context, and considering the relative circumstances of the parties." *In re Farmland Indus.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003) ("Viewed in isolation, several of the terms of the [postpetition financing] might appear to be extreme or even unreasonable. Certainly, many of them favor the DIP Lenders. But, taken in context, and considering the relative circumstances of the parties, the Court does not believe that the terms are unreasonable."); *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Trust Co. (In re Elingsen McLean Oil Co., Inc.)*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing that a debtor may have to enter into "hard bargains" to acquire funds for its reorganization).

28. Here, the Debtor's determination to enter into the DIP Facility was a business decision guided by the Debtor's financial and restructuring needs. Specifically, based on cash projections, the Debtor and its advisors determined that the Debtor will require financing to fund the Chapter 11 Case and to continue operating while it pursues a value-maximizing transaction. To maximize value for the Debtor's estate, the Debtor's advisors went to market in an attempt to find any other lender who was willing to provide financing on more favorable terms. After finding none, the Debtor ultimately determined the DIP Facility offered by the DIP Lender was the best (and only) option under the circumstances.

29. Accordingly, the Debtor submits that entry into the DIP Facility is in the best interests of the Debtor's creditors, is necessary to preserve the value of estate assets, and is an exercise of the Debtor's sound and reasonable business judgment.

II. The Debtor Should be Authorized to Obtain Postpetition Financing On a Secured and Superpriority Basis

30. The Debtor meets the requirements of section 364(c) of the Bankruptcy Code, which authorizes a debtor to incur secured or superpriority debt under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that

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

11 U.S.C. § 364(c).

31. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Savs. & Loan Ass'n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986) ("The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable."); *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001) (superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be able and willing to extend the necessary credit to a 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 sub nom.*, *Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n. 4 (N.D. Ga. 1989);

see also Ames Dep't Stores, 115 B.R. at 40 (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

32. The Debtor easily satisfies the standard. Despite its significant efforts to obtain DIP financing proposals from third parties outside the capital structure, the Debtor was unable to obtain any competing financing proposals on any terms. In this process, Sherwood contacted a number of financial institutions in an effort to procure DIP financing. After reviewing its options, the Debtor determined the DIP Lender's proposal was the best and only option available under the circumstances to the Debtor and that it could not obtain postpetition financing without granting the liens and claims in the priorities set forth in the DIP Note Documents and described herein. Absent the DIP Facility, which will provide sufficient liquidity to administer this Chapter 11 Case, the value of the Debtor's estate would be significantly impaired to the detriment of all stakeholders. The Debtor believes that the terms of the DIP Facility, including the Roll-Up and other economic provisions of the DIP Facility, are reasonable under the circumstances. For these reasons, the Debtor has met the standard for obtaining postpetition financing under section 364 of the Bankruptcy Code.

33. The Debtor also meets the requirements for relief under section 364(d) of the Bankruptcy Code, which permits a debtor (with court authorization) to obtain postpetition financing secured by liens that are senior to prepetition liens. Specifically, section 364(d) of the Bankruptcy Code provides as follows:

> (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:
>
> (A) the trustee is unable to obtain such credit otherwise; and

> (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.
>
> (2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

11 U.S.C. § 364(d).

34. Here, the Debtor may incur "priming" liens under the DIP Facility because the Prepetition Secured Noteholder has consented – the DIP Lender is priming itself. Therefore, the Debtor submits that the requirements of section 364 of the Bankruptcy Code are satisfied.

III. The Roll-Up is Necessary and Appropriate

35. As set forth herein, the DIP Facility contemplates a Roll-Up, which in effect is a complete refinancing the Prepetition Secured Indebtedness outstanding as of the Petition Date. The Roll-Up of the Prepetition Secured Indebtedness increases the DIP Loan on a dollar-for-dollar basis. The DIP Lender required inclusion of the Roll-Up as part of any DIP Facility. Given that Sherwood's DIP marketing process yielded no other alternatives, and the Debtor's assessment, along with its advisors, that there were no better alternatives under the circumstances, agreeing to the Roll-Up was a reasonable exercise of the Debtor's business judgment.

36. Courts in this jurisdiction have approved similar features in debtor-in-possession financing packages, including on an interim basis. *See, e.g.*, *In re Molecular Templates, Inc.*, Case No. 25-10739 (BLS) (Bankr. D. Del. April 28, 2025) (authorizing $500,000 in new money and a roll-up of $6 million pursuant to interim order); *In re PetroQuest Energy, Inc.*, No. 24-12609 (CTG) (Bankr. D. Del. Nov. 15, 2024) [Docket No. 46] (authorizing DIP facility comprised of approximately $1,695,000 in new money and approximately 12.5 million roll-up); *In re Never Slip Holdings, Inc.*, No. 24-10663 (LSS) (Bankr. D. Del. Apr. 26, 2024) [Docket No. 133] (authorizing $120.8 million DIP facility comprised of $30.8 million of new money and a $90 million roll-up);

In re Sientra, Inc., No. 24-10245 (JTD) (Bankr. D. Del. Mar. 11, 2024) [Docket No. 168] (authorizing $90 million DIP facility comprised of $22.5 million of new money and a $67.5 million roll-up); *In re Vesta Holdings, LLC*, No. 22-11019 (LSS) (Bankr. D. Del. Dec. 2, 2022) [Docket No. 141] (authorizing $37.87 million DIP facility comprised of $12.62 of new money and a $25.25 million roll-up). Accordingly, the Court should approve the Roll Up.

IV. The Debtor Should be Authorized to Use Cash Collateral

37. Section 363 of the Bankruptcy Code governs the Debtor's use of Cash Collateral. Under section 363(c)(2), a debtor may not use cash collateral unless "(A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes the use, sale or lease in accordance with the provisions of this section." 11 U.S.C. § 363(c)(2).

38. Here, the Debtor seeks authority to use the Cash Collateral pursuant to the Budget and has sought approval of various forms of adequate protection in favor of the Prepetition Secured Noteholder, including adequate protection liens and superpriority claims to the extent of any diminution in value of the Prepetition Collateral. Importantly, ArcLink, as Prepetition Secured Noteholder, consents to the use of Cash Collateral on the terms set forth in the Interim Order and the DIP Note Documents.

39. The Prepetition Secured Noteholder's Cash Collateral will be used to sustain the Debtor's business operations, run an expedited sale process, and administer this Chapter 11 Case, which will allow the Debtor to maximize value of its estate. If the Debtor is unable to use Cash Collateral, it will be unable to fund payroll obligations, procure goods and services from vendors, run the necessary sale process, or administer this Chapter 11 Case, thereby dissipating value to the detriment of the Debtor's estate and its stakeholders.

40. Accordingly, the Debtor respectfully requests that the Court authorize the Debtor's proposed use of Cash Collateral to which the Prepetition Secured Noteholder has consented,

subject to the adequate protection package afforded to the Prepetition Secured Noteholder under the Interim Order.

V. The DIP Lender Should Be Deemed a Good Faith Lender

41. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such lien is later reversed or modified on appeal. 11 U.S.C. § 364(e). Section 364(e) of the Bankruptcy Code provides that:

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

42. Here, the DIP Facility is the result of the Debtor's reasonable and informed determination that the DIP Lender offered the most favorable terms on which to obtain necessary postpetition financing. The Debtor submits that the terms and conditions of the proposed DIP Facility are reasonable and appropriate under the circumstances, and the proceeds of the DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code. Further, the terms and conditions of the DIP Facility were negotiated in good faith and at arms' length with all parties represented by experienced counsel. Accordingly, the Court should find that the obligations arising under the DIP Facility and other financial accommodations made to the Debtor have been extended by the DIP Lender in "good faith" within the meaning of section 364(e) of the Bankruptcy Code, and therefore, the DIP Lender is entitled to all of the protections afforded thereby.

VI. The Carve-Out is Necessary and Appropriate

43. The DIP Liens are subject to the Carve-Out. Without the Carve-Out, the Debtor and other parties-in-interest may be deprived of certain rights and powers because the services for which professionals may be paid in this Chapter 11 Case would be restricted. *See In re Ames Dep't Stores*, 115 B.R. at 40 (observing that courts insist on carve-outs for professionals representing parties-in-interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve-Out does not directly or indirectly deprive the Debtor's estate or other parties-in-interest of possible rights and powers. Additionally, the Carve-Out ensures that assets will be available for the payment of fees of the Clerk of the Court or the U.S. Trustee and professional fees of the Debtor and an unsecured creditors committee, if one is appointed. Accordingly, the Carve-Out is necessary and appropriate, and should be approved.

VII. Modification of the Automatic Stay is Warranted

44. The Debtor is requesting modification of the automatic stay (to the extent applicable) as necessary to, *inter alia*, (i) implement the terms of the Orders; (ii) permit the Debtor to grant the security interests and liens under the DIP Facility and to perform such acts as may be requested to assure the perfection and priority of such security interests and liens, and (ii) permit the DIP Lender to exercise certain remedies upon the occurrence of an event of default under the DIP Note Documents—subject to the procedures set forth in the Orders. The Debtor believes that these provisions are required for the Debtor to obtain the DIP Facility and use Cash Collateral as provided in the Interim Order.

45. Stay modification provisions of this kind are ordinary and standard terms of postpetition use of collateral by debtors-in-possession, and, in the Debtor's business judgment, are reasonable and necessary under the present circumstances. *See, e.g.*, *In re Express, Inc.*, No. 24-

10831 (KBO) (Bankr. D. Del. April 24, 2024) [Docket No. 85] (modifying automatic stay as necessary to effectuate the terms of the order and following occurrence of an event of default); *In re Sientra, Inc.*, No. 24-10245 (JTD) (Bankr. D. Del. Feb. 14, 2024) [Docket No. 61] (same); *In re PGX Holdings, Inc.*, No. 23-10718 (CTG) (Bankr. D. Del. Jun. 6, 2023) [Docket No. 70] (same); *In re SiO2 Medical Prods., Inc.*, No. 23-10366 (JTD) (Bankr. D. Del. Mar. 30, 2023) [Docket No. 76] (same); *In re Carestream Health, Inc.*, No. 22-10778 (JKS) (Bankr. D. Del. Aug. 24, 2022) [Docket No. 65] (same).

VIII. Interim Approval of the DIP Facility is Necessary and Appropriate

46. Bankruptcy Rule 4001(b) and (c) provide that a final hearing on a motion to use cash collateral pursuant to section 363 of the Bankruptcy Code or to obtain credit pursuant to section 364 of the Bankruptcy Code may not be commenced earlier than fourteen days after the service of such motion. Fed. R. Bankr. P. 4001(b) and (c). Upon request, however, the Court may conduct a preliminary, expedited hearing on the motion and authorize the use of cash collateral and the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to the debtor's estate.

47. As described above and in the First Day Declaration and El Attar Declaration, denial of immediate use of Cash Collateral and access to the DIP Facility will cause immediate and irreparable harm to the Debtor and its estate to the detriment of its creditors and other stakeholders. Accordingly, the Debtor respectfully requests that the Court conduct a preliminary hearing on the Motion and approve the proposed Interim Order.

IMMEDIATE RELIEF IS NECESSARY TO
AVOID IMMEDIATE AND IRREPARABLE HARM

48. Bankruptcy Rule 6003 provides that the relief requested in this Motion may be granted if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P.

6003. The Third Circuit has interpreted the language "immediate and irreparable harm" in the context of preliminary injunctions. In that context, the court has instructed that irreparable harm is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation. *See, e.g., Norfolk S. Ry. Co. v. City of Pittsburgh*, 235 Fed. App'x 907, 910 (3d Cir. 2007) (citing *Glasco v. Hills*, 558 F.2d 179, 181 (3d Cir. 1977)). Furthermore, the harm must be shown to be actual and imminent, not speculative or unsubstantiated. *See, e.g.*, *Acierno v. New Castle County*, 40 F.3d 645, 653-55 (3d Cir. 1994). The Debtor submits that for the reasons set forth herein, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtor and, accordingly, should be granted on an interim basis.

WAIVER OF NOTICE AND STAY UNDER BANKRUPTCY RULE 6004

49. To the extent that Bankruptcy Rule 6004(a) applies, the Debtor respectfully requests a waiver of such notice requirement in order to implement the foregoing requested relief. The Debtor also requests that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtor seeks in this Motion is necessary for the Debtor to operate its businesses without interruption and to preserve value for its estate. Accordingly, the Debtor respectfully requests that the Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

50. The Debtor reserves all its rights. Without limiting the generality of the foregoing, except as set forth specifically in the Interim Order or the Final Order, nothing contained herein is

or should be construed as: (a) an admission as to the validity, extent, perfection, priority, allowability, enforceability, or character of any claim or any security interest which purportedly secures such claim or other asserted right or obligation, or a waiver or other limitation on the Debtor's ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (b) a waiver of the Debtor's or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtor; (c) a promise to pay any claim; (d) a waiver of any claims or causes of action which may exist against any creditor or interest holder; (e) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and nothing herein otherwise affects the Debtor's rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease with any party subject to this Motion; (f) granting third-party beneficiary status or bestowing any additional rights on any third party; or (g) being otherwise enforceable by any third party.

NOTICE

51. Notice of this Motion will be provided to: (a) the U.S. Trustee; (b) counsel to the Debtor's prepetition and DIP lender; (c) the parties listed on the Debtor's list of its thirty (30) largest unsecured creditors; (d) the offices of the attorney general for each of the states in which the Debtor operates; (e) the United States Securities and Exchange Commission; (f) the Internal Revenue Service; (g) the Office of the United States Attorney for the District of Delaware; (h) Delaware State Treasury; (i) Delaware Secretary of State; and (j) all parties that have requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking "first day" relief, the Debtor will serve this Motion and any order entered with respect to this Motion as required by Local Rule 9013-1(m). The Debtor submits that no other or further notice is required under the circumstances.

NO PRIOR REQUEST

52. No previous request for the relief sought herein has been made by the Debtor to this or any other Court.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court grant the relief requested in this Motion, the Interim Order, the Final Order, and such other and further relief as is just and proper.

Dated: June 5, 2026
Wilmington, Delaware

COLE SCHOTZ P.C.

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Proposed Counsel for Debtor and Debtor in Possession

Exhibit A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: SiFi Networks America, LLC, Debtor.[1]	Chapter 11 Case No. 26-10912 (___)

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED NOTEHOLDER, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF

Upon the motion [Docket No. __] (the "Motion")[2] of the above-referenced debtor, as debtor in possession (the "Debtor") in the above-captioned case (the "Case"), pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§101-1532 (the "Bankruptcy Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 4001-2 and 9013-1(m) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), seeking, among other things,

a. authorization for the Debtor, pursuant to sections 105, 361, 362, 363, 364, 503 and 507 of the Bankruptcy Code, to (i) use cash collateral, as such term is defined in section 363(a) of the Bankruptcy Code ("Cash Collateral"), and all other Prepetition Collateral (as defined herein), solely in accordance with the terms of this interim order (this "Interim Order"), (ii) use the proceeds of the DIP Facility (as defined herein), solely in accordance with the terms of this Interim Order, and (iii) provide adequate protection to the Prepetition Secured Noteholder (as defined herein);

[1] The Debtor in this chapter 11 case and the last four digits of its federal tax identification number are SiFi Networks America, LLC (7990). The Debtor's service address in this chapter 11 case is 103 Foulk Road, Suite 500, Wilmington, DE 19803.

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

b. authorization for the Debtor to obtain postpetition financing on a secured superpriority basis, consisting of (i) a new money loan pursuant to a term promissory note (the "DIP Facility" and the loans thereunder, the "New Money DIP Loan") in an aggregate principal amount of $3,130,000.00, of which (x) $1,135,000.00 shall be available to the Debtor upon entry of this Interim Order, and (y) $1,995,000 shall be available to the Debtor upon entry of a final order granting the relief requested in the Motion on a final basis (the "Final Order") and (ii) a roll-up, subject to entry of this Interim Order (the "Interim Roll-Up"), by the DIP Lender of the Prepetition Secured Indebtedness (as defined herein) equal to $1,135,000.00, *and* (iii) a roll-up subject to entry of the Final Order (the "Final Roll-Up," and together with the Interim Roll-Up, the "Roll-Up," and together with the New Money DIP Loan, the "DIP Loan"), by the DIP Lender of the Prepetition Secured Indebtedness (as defined herein) equal to $1,088,039.00 *plus* (a) accrued and unpaid interest under the Prepetition Secured Note Agreement (as defined herein), including accrued and unpaid postpetition interest at the non-default rate specified in the Prepetition Secured Note Agreement (as defined herein) from the Petition Date through and including the date that such obligations are rolled up, *plus* (b) any and all unreimbursed costs, fees and expenses of the Prepetition Secured Noteholder (as defined herein), in each case, pursuant to the terms and conditions set forth in this Interim Order and that certain Debtor-in-Possession Delayed Draw Term Loan Promissory Note annexed hereto as **Exhibit 1** (as may be amended, restated, supplemented, waived, or otherwise modified from time to time in accordance with the terms hereof and thereof, the "DIP Note"), executed by the Debtor and ArcLink Fiber LLC (the "DIP Lender"), along with any other agreements, instruments, pledge agreements, guarantees, security agreements, intellectual property security agreements, control agreements, escrow agreements, instruments, notes, and documents executed in accordance and connection therewith; each as amended, restated, supplemented, waived, or otherwise modified from time to time in accordance with the terms hereof and thereof, and collectively with the DIP Note (the "DIP Note Documents");

c. authorizing the Debtor to incur the principal, interest, costs, expenses, obligations (whether contingent or otherwise), and all other amounts (including, without limitation, all Obligations (as defined in the DIP Note)), as and when due and payable under and in accordance with each of the DIP Note Documents (collectively, the "DIP Obligations");

d. authorizing the Debtor to execute, deliver, and perform under the DIP Note and all other DIP Note Documents, and to perform such other and further acts as may be necessary or desirable in connection with this Interim Order, the DIP Note Documents, and the transactions contemplated thereby;

e. granting to the DIP Lender, and authorizing the Debtor to incur, the DIP Liens (as defined herein), as applicable, in all DIP Collateral (as defined herein), subject to the Carve-Out (as defined herein), which DIP Liens shall have the priority set forth in this Interim Order;

f. granting to the DIP Lender, and authorizing the Debtor to incur, allowed superpriority administrative expense claims against the Debtor in respect of all DIP Obligations in accordance with and subject to the Carve-Out and the terms of this Interim Order;

g. authorizing the Debtor to grant the Prepetition Secured Noteholder, solely to the extent of any diminution in the value of, the Prepetition Collateral adequate protection in the form of: (i) Adequate Protection Liens (as defined herein), subject to any Permitted Prior Liens and (ii) Adequate Protection Superpriority Claims (as defined herein);

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

i. waiving any applicable stay with respect to the effectiveness and enforceability of this Interim Order (including a waiver pursuant to Bankruptcy Rules 6003(b) and 6004(h);

j. subject to entry of a Final Order, granting such relief and to the extent set forth herein, waiving certain of the Debtor's and the estate's right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code;

k. subject to entry of a Final Order granting such relief and to the extent set forth herein, for the "equities of the case" exception under section 552(b) of the Bankruptcy Code to not apply to such parties with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable;

and an interim hearing (the "Interim Hearing") having been held by the Court on [•], 2026; and a final hearing (the "Final Hearing") having been scheduled by the Court for [•], 2026 pursuant to Bankruptcy Rule 4001 and Local Rule 4001-2, and notice of the Motion and the relief sought therein having been given by the Debtor as set forth in this Interim Order; and the Court having considered the evidence adduced, and the statements of counsel at the Interim Hearing; and it appearing to the Court that granting the relief sought in the Motion on the terms and conditions herein contained is necessary and essential to enable the Debtor to preserve the value of the Debtor's business and assets and that such relief is fair and reasonable and that entry of this Interim Order is in the best interest of the Debtor and its estate and creditors; and due deliberation and good cause having been shown to grant the relief sought in the Motion,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Petition Date. On June 5, 2026 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware. The Debtor has continued with the management and operation of its business and properties as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Case. To date, the Office of the United States Trustee (the "U.S. Trustee") has not appointed an official committee of unsecured creditors in this Case (if any, the "Committee").

B. Jurisdiction and Venue. Consideration of the Motion constitutes a "core proceeding" as defined in 28 U.S.C. § 157(b)(2). This Court has jurisdiction over the Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. § 1334. Venue for the Case and the proceeding on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Prepetition Secured Note Agreement. Prior to the Petition Date, the Prepetition Secured Noteholder (as defined below) made certain loans and advances pursuant to and in accordance with the terms and conditions of that certain Secured Promissory Term Note, dated as of May 6, 2026 (as heretofore amended, restated, or otherwise modified from time to time, the "Prepetition Secured Note Agreement," and together with all other documentation executed in connection therewith, the "Prepetition Secured Note Documents"), among Sifi Networks America, LLC, as the borrower (in such capacity, the "Prepetition Loan Party") and ArcLink Fiber LLC as the noteholder (in such capacity, the "Prepetition Secured Noteholder").

D. Debtor's Admissions With Respect to the Prepetition Secured Indebtedness. Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), in exchange for and as a material inducement for the Prepetition Secured Noteholder to agree to the relief sought herein, after consultation with its attorneys and financial advisors, the Debtor admits, stipulates, and agrees that:

i. As of the Petition Date, the Prepetition Loan Party was justly and lawfully indebted and liable, without defense, counterclaim, or offset of any kind, to the Prepetition Secured Noteholder in the aggregate principal amount of not less than $2,200,000.00 plus accrued but unpaid interest, fees, premiums, and other amounts (including any attorneys', accountants', appraisers' and financial advisors' fees, in each case, to the extent that they are chargeable or reimbursable under the Prepetition Secured Note Agreement), charges, indemnities and all other Obligations (as defined in the Prepetition Secured Note Agreement) incurred or accrued in connection therewith (whether arising before, on, or after the Petition Date) as provided in the Prepetition Secured Note Agreement (the "Prepetition Secured Indebtedness"). The Prepetition Secured Indebtedness includes any and all principal amounts owing or outstanding under the Prepetition Secured Note Agreement, interest on, fees and other costs, expenses, and charges owing in respect of, such amounts, and any and all obligations and liabilities, contingent or otherwise, outstanding thereunder. The Prepetition Secured Indebtedness, including the amounts specified in this paragraph, constitutes the legal, valid, and binding obligations of the Prepetition Loan Party, enforceable in accordance with its terms (other than in respect of the stay of enforcement arising under section 362 of the Bankruptcy Code), without objection, offset, defense, or counterclaim of any kind or nature to the Prepetition Secured Indebtedness. The Prepetition Loan Party does not have, nor shall it assert, any claim, counterclaim, setoff, or defense of any kind, nature, or description that would in any way affect the validity, enforceability, and non-avoidability of any of the Prepetition Secured Indebtedness. The Prepetition Secured Indebtedness and any amounts previously paid to the Prepetition Secured Noteholder pursuant to the terms of the Prepetition Secured Note Agreement, on account thereof, or with respect thereto are not subject to avoidance, reduction, disallowance, impairment, recharacterization, or subordination pursuant to the Bankruptcy Code or any other applicable non-bankruptcy law, except as provided in the Prepetition Secured Note Documents or this Interim Order.

E. Debtor's Admissions With Respect to Collateral and Liens. Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), in exchange for and as a material inducement for the Prepetition Secured Noteholder to agree to the relief sought herein, after consultation with its attorneys and financial advisors, the Debtor admits, stipulates, and agrees that:

i. Pursuant to (i) Section 4 of the Prepetition Secured Note Agreement, and (ii) the UCC-1 financing statement filed May 6, 2026, the Prepetition Loan Party granted valid, continuing, binding, enforceable and perfected first priority liens on the Collateral (as defined in the Prepetition Secured Note Agreement, the "Prepetition Collateral") to and/or for the benefit of the Prepetition Secured Noteholder (the "Prepetition Liens"), as more fully set out in the Prepetition Secured Note Documents.

ii. The Prepetition Secured Note Documents are valid and binding agreements and obligations of the Prepetition Loan Party, and the Prepetition Liens constitute valid, binding, enforceable, and perfected first priority security interests and liens, which are not subject to avoidance, recharacterization, recovery, reduction, disallowance, impairment, or subordination pursuant to the Bankruptcy Code or any other applicable non-bankruptcy law, except as provided in this Interim Order.

F. Debtor's Admissions With Respect to Roll-Up. The DIP Lender's willingness to make the DIP Loan is conditioned upon the Prepetition Secured Indebtedness being rolled up through the Interim Roll-Up and the Final Roll-Up.

G. Debtor's Admissions With Respect to Cash Collateral. Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), in exchange for and as a material inducement for the Prepetition Secured Noteholder to agree to the relief sought herein, after consultation with its attorneys and financial advisors, the Debtor admits, stipulates, and agrees all of the Prepetition Loan Party's cash, including all cash proceeds of the Prepetition Collateral, the Prepetition Loan Party's banking, checking or other deposit accounts with financial institutions (in each case, other than trust, escrow and custodial funds held as of the Petition Date) as of the Petition Date or deposited into the Prepetition Loan Party's banking, checking or other deposit accounts with financial institutions after the Petition Date that is property of the Prepetition Loan Party constitutes Cash Collateral of the Prepetition Secured Noteholder within the meaning of section 363(a) of the Bankruptcy Code. The Prepetition Secured Noteholder is entitled, pursuant to sections 105, 361, 362 and 363(e) of the Bankruptcy Code, to adequate protection of its interests in the Prepetition

Collateral, including the Cash Collateral, to the extent of any diminution in value of its interests in the Prepetition Collateral as of the Petition Date resulting from the use of Cash Collateral, the postpetition use, sale or lease of the Prepetition Collateral and/or the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code.

H. Releases; Investigation. Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), the Debtor hereby forever waives and releases any and all Claims (as defined in section 101(5) of the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights against the Prepetition Secured Noteholder arising prior to the date of the entry of this Interim Order, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law. Subject to paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), the foregoing release shall be binding on the Debtor's estate, the Committee, if any, all parties in interest, and any successor-in-interest to any Debtor or the Debtor's estate, including, but not limited to any chapter 7 or chapter 11 trustee or examiner.

I. Corporate Authority. Subject to entry of this Interim Order, the Debtor has all requisite power and authority to execute and deliver the DIP Note Documents to which it is a party and to perform its obligations thereunder.

J. Need for Postpetition Financing and Use of Cash Collateral. The Debtor has requested entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Rule 4001-2 and has an immediate need to enter into the DIP Facility and obtain use of Prepetition Collateral, including the Cash Collateral (in the amount and in the manner set forth in the Approved Budget (as defined herein) and this Interim Order) in order to, among other things, preserve and maintain the value of its assets and business and maximize the return to all creditors. An immediate and critical need exists for the Debtor to use the Cash Collateral, consistent with the Approved Budget and this Interim Order, for working capital purposes, to pay costs under the DIP Facility and this Interim Order, for other general corporate purposes, and the satisfaction of costs and expenses of administering the Case. The ability of the Debtor to obtain liquidity through the use of the proceeds of the DIP Facility and the Cash Collateral is vital to the Debtor and its efforts to maximize the value of its assets. Absent entry of this Interim Order, the Debtor's estate and reorganization efforts will be immediately and irreparably harmed. The terms of the proposed DIP Facility pursuant to the DIP Note Documents and this Interim Order are fair and reasonable, reflect the Debtor's exercise of its prudent business judgment, and are supported by reasonably equivalent value and fair consideration.

K. No Credit Available on More Favorable Terms. The Debtor and its advisors have solicited and contacted third-party lenders regarding the provision of postpetition financing and have been unable to obtain financing and other financial accommodations from sources other than the DIP Lender and no such third-party lender was willing to provide financing on terms more favorable than those provided under the DIP Facility and the DIP Note Documents. The Debtor has been unable to obtain adequate unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code. The Debtor also has been unable to obtain adequate credit for money borrowed (a) having priority over administrative expenses of the kind specified in sections 503(b), 507(a), and 507(b) of the Bankruptcy Code or (b) secured only by a lien on property of the Debtor and its estate that is not otherwise subject to a lien. Postpetition financing is not otherwise available without granting the DIP Lender (subject to the Carve-Out) (a) the DIP Liens on all DIP Collateral, as set forth herein, (b) the DIP Superpriority Claims (as defined herein), and (c) the other protections set forth in this Interim Order. After considering all alternatives, the

Debtor has properly concluded, in the exercise of its sound business judgment, that the DIP Facility represents the best financing available to it at this time, and is in the best interests of all of its stakeholders.

L. Roll-Up. The Roll-Up shall be authorized as compensation for, in consideration for, and solely on account of, the agreement of the DIP Lender, to fund amounts and provide other consideration to the Debtor under the DIP Facility and not as payments under, adequate protection for, or otherwise on account of any of the Prepetition Secured Indebtedness. The Prepetition Secured Noteholder would not otherwise consent to the use of its Cash Collateral and would not (in its capacity as the DIP Lender) be willing to provide the DIP Facility or extend credit to the Debtor thereunder, without the inclusion of (a) the Interim Roll-Up, upon entry of the Interim Order, and (b) the Final Roll-Up, upon entry of the Final Order granting such relief. The Roll-Up of the Prepetition Secured Indebtedness into DIP Obligations will enable the Debtor to obtain the necessary financing to administer this Case to fund its operations and maximize value for all parties in interest.

M. Use of Proceeds of the DIP Facility and Cash Collateral. The DIP Facility and the DIP Note Documents were negotiated in good faith and at arm's length between the Debtor and the DIP Lender, with the Debtor and DIP Lender's respective independent advisors. The DIP Lender did not control, direct, or otherwise influence the Debtor's decision to commence the Case or the Debtor's decision-making process with respect thereto, and the Debtor exercised its independent business judgment in determining to file the Case and to enter into the DIP Facility. The Debtor, after consultation with its independent advisors and a thorough evaluation of all reasonably available alternatives, has determined that it had no viable alternative source of financing or liquidity sufficient to fund its operations and preserve the value of its estate other than the DIP Facility. As a condition to entry into the DIP Note Documents, the extension of credit and other financial accommodations made under the DIP Facility and the consent to use Cash Collateral (including, without limitation, the proceeds of the DIP Facility), the Debtor and the DIP Lender have agreed that Cash Collateral, the proceeds of the DIP Facility, and all other cash or funds of the Debtor, shall be used solely in accordance with the terms and conditions of this Interim Order, and the DIP Note Documents, and the Approved Budget (as defined below) (subject to permitted variances pursuant to paragraph 9 of this Interim Order) as provided for hereunder and as follows: (1) to provide ongoing operations and working capital for the Debtor and to pay budgeted expenses of the Debtor during the Case, (2) to provide for other general corporate purposes of the Debtor during the Case, (3) to pay transaction fees and expenses, (4) to pay the costs of administration of the Case, including prior to the delivery of a Carve-Out Trigger Notice (as defined below), to fund the Carve-Out (as defined below), and after the delivery of a Carve-Out Trigger Notice, to fund the aggregate amount of Allowed Professional Fees incurred prior to the delivery of the Carve-Out Trigger Notice plus the Post-Carve Out Trigger Notice Cap (as defined below), including, in each case, through deposits into the Professional Fee Reserve Account and (5) as otherwise contemplated in the Approved Budget or permitted by the DIP Lender, and for no other purpose.

N. Business Judgment and Good Faith Pursuant to Section 364(e). Based on the Motion, the First Day Declaration, the El Attar Declaration, and the record presented to the Court at the Interim Hearing, (i) the extension of credit and other financial accommodations made under the DIP Facility and the DIP Note Documents, (ii) the terms of the DIP Facility, (iii) the amounts paid and to be paid thereunder, (iv) the terms of adequate protection granted to the Prepetition Secured Noteholder, (v) the terms on which the Debtor may continue to use Prepetition Collateral (including Cash Collateral), and (vi) the Cash Collateral arrangements described therein and herein, in each case, pursuant to this Interim Order and the DIP Note Documents: (a) are fair, reasonable, and the best available to the Debtor under the circumstances; (b) reflect the Debtor's exercise of prudent business judgment consistent; (c) are supported by reasonably equivalent value and fair consideration; and (d) represent the best financing available under the circumstances. The DIP Facility and the use of Prepetition Collateral (including Cash Collateral) were negotiated in good faith and at arm's length among the Debtor and the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder). The use of Prepetition Collateral (including Cash Collateral) and the credit to be extended under the DIP Facility shall be deemed to have been so allowed, advanced, made, used, and/or extended in good faith, and for valid business purposes and uses, within the meaning of section 364(e) of the Bankruptcy Code, and the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) is therefore entitled to the protection and benefits of section 364(e) of the Bankruptcy Code and this Interim Order.

O. **Notice.** Notice of the requested relief sought at the Interim Hearing was provided by the Debtor to: (i) the U.S. Trustee; (ii) the holders of the thirty (30) largest unsecured claims against the Debtor; (iii) counsel to the Prepetition Secured Noteholder and the DIP Lender; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the District of Delaware; (vi) the Securities and Exchange Commission; (vii) the Delaware Secretary of State; (viii) the Delaware State Treasury; and (ix) any party that has requested notice pursuant to Bankruptcy Rule 2002. Given the nature of the relief sought, the foregoing notice of the Interim Hearing was, in the Debtor's good faith belief, the best available under the circumstances and complies with Bankruptcy Rules 2002, 4001(b) and (d) and 9014, section 102(1) of the Bankruptcy Code as required by sections 361, 363 and 364 of the Bankruptcy Code, and Local Rule 9013-1(m). No further notice of, or hearing on, the relief sought at the Interim Hearing and the relief granted herein is necessary or required.

P. **Consent by Prepetition Secured Noteholder.** The Prepetition Secured Noteholder consents to the Prepetition Loan Party's use of Cash Collateral and the entry into the DIP Facility and the DIP Note Documents, solely in accordance with and subject to the terms and conditions provided for in this Interim Order. Absent the DIP Facility, the Debtor would imminently exhaust all available liquidity, suffer immediate and irreparable harm to its business operations and estate, and experience a significant destruction of value to the detriment of all stakeholders, including the Debtor's creditors and other parties in interest.

NOW, THEREFORE, UPON THE RECORD OF THE PROCEEDINGS HERETOFORE HELD BEFORE THIS COURT WITH RESPECT TO THE MOTION, THE EVIDENCE ADDUCED AT THE INTERIM HEARING, AND THE STATEMENTS OF COUNSEL THEREAT, IT IS HEREBY ORDERED THAT:

1. **Motion Granted.** The Motion is granted on an interim basis in accordance with the terms of this Interim Order. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or settled and all reservations of rights included therein, are hereby denied and overruled with prejudice. This Interim Order shall become effective immediately upon its entry.

2. **Authorization of DIP Facility.**

(a) Subject to the terms and conditions of this Interim Order, the DIP Lender is hereby authorized to execute, enter into, and perform all obligations under the DIP Facility and the DIP Note Documents to which it is party. The DIP Note Documents and this Interim Order govern the financial and credit accommodations to be provided to the Debtor by the DIP Lender in connection with the DIP Facility.

(b) The Debtor is authorized to enter into the DIP Note Documents.

(c) From the entry of this Interim Order through the entry of the Final Order, the Debtor is authorized to incur all of its DIP Obligations on account of such incurrence under the DIP Facility, up to an aggregate principal amount of $3,130,000.00 in New Money DIP Loans on an interim basis, together with applicable interest, protective advances, expenses, and other charges payable in connection with the DIP Facility and the Interim Roll-Up (the "Interim Financing"), as applicable, in each case, subject to the terms and conditions set forth in this Interim Order and the DIP Note Documents.

(d) Without limiting the foregoing, and without the need for further approval of this Court, the Debtor is authorized to perform all acts to make, execute, and deliver all instruments and documents (including, without limitation, the execution or recordation of pledge and security agreements, mortgages or deeds of trust, and financing statements), and to pay all expenses that may be required, necessary, or desirable for the Debtor to implement the terms of, performance of its obligations under, or effectuate the purposes of and transactions contemplated by this Interim Order, the DIP Facility, and the DIP Note Documents (as applicable) in accordance herewith and therewith, including, without limitation:

(1) the execution and delivery of, and performance under, the DIP Note Documents;

(2) the execution and delivery of, and performance under, one or more amendments, waivers, consents, or other modifications to and under the DIP Note Documents, in each case, as the Debtor and the DIP Lender (in accordance with and subject to the terms of the applicable DIP Note Documents) may agree, it being understood that no further approval of the Court shall be required for non-material authorizations, amendments, waivers, consents, or other modifications to and under the DIP Note Documents (and any fees and other expenses (including any attorneys', accountants', appraisers', and financial advisors' fees), amounts, charges, costs, indemnities, and other obligations paid in accordance and connection therewith);

(3) the non-refundable and irrevocable payment of any and all fees, costs, and expenses payable pursuant to the DIP Note Documents, including, without limitation, the reasonable and documented invoiced out-of-pocket fees, costs, and expenses as may be due from time to time of the DIP Lender, including, without limitation, the documented fees and expenses of Clifford Chance US LLP and Young Conaway Stargatt & Taylor, LLP pursuant to paragraph 33;

(4) subject to the Carve-Out, the granting and perfection of the DIP Liens (as defined below), and the granting of the DIP Superpriority Claims (as defined below), in each case, as set forth herein and in the DIP Note Documents; and

(5) the performance of all other acts necessary, required, or desirable to implement the DIP Facility and to facilitate the transactions contemplated by the DIP Note Documents and this Interim Order in accordance therewith and herewith.

(e) The DIP Lender shall not have any obligation or responsibility to monitor the Debtor's use of the DIP Facility, and the DIP Lender may rely upon the Debtor's representations that the amount of the DIP Facility requested at any time and the use thereof are in accordance with the requirements of this Interim Order, the DIP Note Documents, and Bankruptcy Rule 4001(c)(2).

3. **DIP Obligations.** Subject only to the rights of parties in interest specifically set forth in paragraph 26 of this Interim Order (and subject to the limitations thereon contained in such paragraph), upon entry of this Interim Order and execution and delivery of the DIP Note Documents, the DIP Note Documents shall constitute valid, binding, enforceable, and non-avoidable obligations of the Debtor, and shall be fully enforceable against the Debtor, its estate, and any successors thereto, including, without limitation, any estate representative or trustee appointed in the Case, or in any other proceedings superseding or relating to any of the foregoing and/or upon the dismissal of the Case (collectively, the "Successor Cases"), and its creditors and other parties in interest, in each case, in accordance with the terms thereof and this Interim Order. Upon execution and delivery of the DIP Note Documents, the DIP Obligations will include all loans and any other indebtedness or obligations, contingent or absolute, now existing or hereafter arising, which may from time to time be or become owing by the Debtor to the DIP Lender, under, or secured by, and in accordance with, the DIP Note Documents or this Interim Order, including all principal, interest, costs, expenses, and other amounts under the DIP Note Documents (including this Interim Order). Subject to paragraph 18 of this Interim Order, the DIP Obligations shall be due and payable, without notice or demand, and the use of Cash Collateral shall automatically cease during the continuation of a DIP Termination Event (as defined herein) or the occurrence and continuance of any event or condition set forth in paragraph 18 of this Interim Order. No obligation,

payment, transfer, or grant of security under the DIP Note Documents or this Interim Order (including any DIP Obligations or DIP Liens) to the DIP Lender shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 362, 502(d), 544, 547-550 of the Bankruptcy Code, any applicable Uniform Voidable Transfer Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or other similar state statute or common law), or subject to any defense, reduction, recoupment, recharacterization, subordination, disallowance, impairment, cross-claim, claim, counterclaim, offset, or any other challenge under the Bankruptcy Code or any applicable law unless in accordance with paragraph 18 of this Interim Order.

4. **No Obligation to Extend Credit.** The DIP Lender shall have no obligation to make any loan or advance under the applicable DIP Note Documents unless all of the conditions precedent to the making of such extension of credit by the DIP Lender under the DIP Note Documents and this Interim Order have been satisfied in full or waived in accordance with the terms of the DIP Note Documents.

5. **DIP Collateral**. The term "DIP Collateral" shall include all assets and properties of the Debtor of any kind or nature whatsoever, whether tangible or intangible, real, personal or mixed, whether now owned by or owing to, or hereafter acquired by, or arising in favor of, the Debtor, whether prior to or after the Petition Date, whether owned by or to, or leased from or to, the Debtor, and wherever located, including, without limitation, the Debtor's rights, title and interests in (i) all Prepetition Collateral, (ii) all "DIP Collateral" as defined in the DIP Note Documents, (iii) actions brought under section 549 of the Bankruptcy Code to recover any postpetition transfer of DIP Collateral; (iv) subject to and upon entry of the Final Order, the proceeds of any avoidance actions (such actions, "<u>Avoidance Actions</u>") brought pursuant to chapter 5 of the Bankruptcy Code or section 724(a) of the Bankruptcy Code or any other Avoidance

Actions under the Bankruptcy Code or applicable state law or foreign law equivalents (collectively, the "Avoidance Actions Proceeds"); and (v) all proceeds, products, offspring, and profits of each of the foregoing and all accessions to, substitutions, and replacements for, each of the foregoing, including any and all proceeds of any insurance, indemnity, warranty, or guaranty payable to the Debtor from time to time with respect to any of the foregoing.

6. **DIP Liens**.

(a) As security for the DIP Obligations, effective immediately upon and effective as of the date of this Interim Order, as set forth more fully in this Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3) and 364(d), the DIP Lender is hereby granted (without the necessity of the execution by the Debtor or the filing or recordation of mortgages, security agreements, lockbox or control agreements, financing statements, or any other instruments or otherwise by the DIP Lender) on a final basis, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected liens and security interests (collectively, the "DIP Liens") in the DIP Collateral (as defined herein), as follows:

(1) *Liens on Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable, automatically, and fully perfected first priority liens on and security interests in all DIP Collateral that is not otherwise subject to any valid, enforceable, and non-avoidable liens on and security interests, subject and subordinate only to (a) the Permitted Prior Liens and (b) the Carve-Out;

(2) *Priming DIP Liens*. Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected first priority senior priming liens and security interests in all DIP Collateral, regardless of where located, which senior priming liens and security interests in favor of the DIP Lender shall be senior to the Prepetition Liens, subject and subordinate only to (a) Permitted Prior Liens (as defined below, solely to the extent such liens are expressly permitted to be senior to the respective DIP Liens under the DIP Note Documents) and (b) the Carve-Out. For the avoidance of doubt, as a result of the priming of the Prepetition Liens pursuant to this Interim Order, the DIP Lender shall have a first priority senior priming lien on all DIP Collateral, including but not limited to the Prepetition Collateral; and

(3) *Liens Junior to Certain Other Liens*. Pursuant to section 364(c)(3) of the Bankruptcy Code, valid, binding, continuing, enforceable, non-avoidable automatically and fully perfected liens in all DIP Collateral (other than as set forth in clauses (1) and (2)) junior only to the valid, enforceable and non-avoidable (i) prepetition liens (if any) which are senior to the Prepetition Noteholder's liens or security interests as of the Petition Date, (ii) prepetition claims for set off and recoupment (if any) which are senior to the Prepetition Loan Party's liens or security interests as of the Petition Date, and (iii) liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code and that are senior to the Prepetition Loan Party's liens or security interests as of the Petition Date and that are permitted under the Prepetition Secured Note Agreement (if any) (the liens and claims in clauses (i), (ii), and (iii) above respectively, the "Permitted Prior Liens").

(b) Except as set forth in paragraph 6(a) of this Interim Order, the DIP Liens (i) shall not be made subject to or *pari passu* with (A) any lien or security interest heretofore or hereinafter granted in the Case or any Successor Case, and shall be valid and enforceable against the Debtor, its estate, any trustee, or any other estate representative appointed or elected in the Case or any Successor Case and/or upon the dismissal of the Case or any Successor Case, (B) any lien that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or otherwise, or (C) any intercompany or affiliate lien, and (ii) shall not be subject to sections 506(c) (subject to and pending entry of the Final Order granting such relief), 510, 549, 550, or 551 of the Bankruptcy Code.

(c) Subject to entry of a Final Order granting such relief, any provision of any lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent, or the payment of any fees or obligations to, any governmental entity or non-governmental entity in order for the Debtor to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest in any property or the proceeds thereof, is and shall hereby be deemed to be inconsistent with the provisions of the Bankruptcy Code, and shall have no force or effect with respect to the DIP Liens or Adequate Protection Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of any assignment and/or sale thereof by the Debtor, in favor of the DIP Lender or the Prepetition Secured Noteholder in accordance with the terms of the DIP Note Documents and this Interim Order.

7. **DIP Superpriority Claims.** Subject to the Carve-Out, effective immediately upon entry of this Interim Order, the DIP Lender is hereby granted, pursuant to section 364(c)(1) and 364(e) of the Bankruptcy Code, an allowed superpriority administrative expense claim in the Case and any Successor Case thereof on account of the DIP Obligations, with 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) (subject to entry of the Final Order granting such relief), 507(a), 507(b), 546(c), 1113, 1114, or any other provisions of the Bankruptcy Code and any other claims against the Debtor (the "DIP Superpriority Claims"). The DIP Superpriority Claims shall, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code. The DIP Superpriority Claims shall have recourse against the Debtor.

8. **DIP Roll-Up Amounts.** Upon entry of the Interim Order, the Prepetition Secured Indebtedness in an aggregate amount of the Interim Roll-Up, and subject to entry of the Final Order granting such relief, the Prepetition Secured Indebtedness in an aggregate amount of the Final Roll-Up, shall each respectively be automatically deemed funded pursuant to the DIP Note Documents on a cashless basis and shall constitute DIP Obligations, without any further action by the Debtor or any other party, and shall satisfy and discharge an equal amount of Prepetition Secured Indebtedness obligations as if a payment in such amount had been made under the Prepetition Secured Note Documents on such date, as applicable. The Roll-Up shall be deemed to be made by the DIP Lender and the outstanding aggregate amount of the Prepetition Secured Indebtedness held by the DIP Lender shall be automatically and irrevocably deemed reduced by

(i) upon entry of the Interim Order, the amount of the Interim Roll-Up, and (ii) upon entry of the Final Order granting such relief, the amount of the Final Roll-Up.

9. **Authorization to Use Proceeds of the DIP Facility and Cash Collateral; Budget Testing**.

(a) As used in this Interim Order: (i) "Initial Budget" means the 13-week budget attached as **Exhibit 2** hereto and (ii) "Approved Budget" means the 13-week cash flow budget that is then in effect as set forth in paragraph 9(c) below, in the case of each of (i) and (ii), in form, substance and detail satisfactory to the DIP Lender in its sole discretion.

(b) On or before Wednesday of each calendar week commencing on the first full week after the Petition Date (or if such date is not a Business Day, the next Business Day), the Debtor will provide a rolling 13-week cash flow forecast for the following 13-week period (the "Budget Update") to the DIP Lender, which shall be in form and substance acceptable to the DIP Lender. Within three (3) Business Days of the DIP Lender's receipt of the Budget Update (or on such more frequent days as may be requested by the DIP Lender), the Debtor and its advisors will attend a teleconference with the DIP Lender to update it regarding compliance with the Budget Update and any other matters reasonably requested by the DIP Lender.

(c) The Debtor must seek and obtain the written consent (email being sufficient) of the DIP Lender in its sole discretion to the Budget Update (the "Budget Approval"). If the Budget Update receives the written consent of the DIP Lender, then such Budget Update shall become the "Approved Budget" then in effect. In the event the Debtor does not obtain the consent of the DIP Lender with respect to the Budget Approval, the Approved Budget (which may be the Initial Budget) for the then-existing Testing Period (as defined below) shall apply for the immediately following Testing Period, and any Testing Period thereafter, unless the Bankruptcy Court orders alternative relief upon a motion filed by the Debtor after notice and a hearing. If the

DIP Lender does not respond to the Debtor's request for DIP Lender's consent to a Budget Update within three (3) days, such Budget Update shall become an "Approved Budget."

(d) Beginning on the second full calendar week following the Petition Date (the "First Variance Testing Date") on or before 5:00 p.m. prevailing Eastern Time on Wednesday of each week (each such date, a "Variance Testing Date"), the Debtor will provide to the DIP Lender a variance report tested for the period following the first full two calendar weeks after entry of this Interim Order, and following the First Variance Testing Date, a variance report tested weekly with each subsequent calendar week thereafter added for a cumulative basis (e.g., full calendar weeks 1 through 2 following entry of this Interim Order shall be the first period, and each successive one week will be added as a cumulative test and each such period, a "Testing Period" and each such report, a "Variance Report"), in form and substance satisfactory to the DIP Lender setting forth in reasonable detail actual operating receipts and operating disbursements for the applicable Testing Period and all variances, in each case, on both an individual line item basis and an aggregate basis, as compared to the projected amounts therefor set forth in the then applicable Approved Budget, in each case of the foregoing clauses, with a detailed explanation of any such variance.

(e) As of the Variance Testing Date, the Debtor shall not permit the percentage variance for the actual total disbursements to be greater than 110% of what was projected for the total operating disbursements in the Initial Budget for the applicable Testing Period ("Variance Limit"); *provided, however*, that in any prior Testing Period that actual operating disbursements are less than the budgeted amount for such period ("Positive Budget Variance"), the Positive Budget Variance may be carried forward and added to the subsequent period. The covenant described in this paragraph 9(e) shall be referred to herein as the "Budget Covenant" and failure to comply with the Budget Covenant shall constitute an event of default (the "Budget Covenant

Default”). A Budget Covenant Default will constitute an event of default under the DIP Note Documents.

10. **Adequate Protection for the Prepetition Secured Noteholder.** In addition to all the existing security interests and liens granted to or for the benefit of the Prepetition Secured Noteholder in and with respect to their respective Prepetition Collateral, including the Cash Collateral, as adequate protection for, and to secure payment of an amount equal to, the Collateral Diminution,[3] resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, the Carve Out, the Debtor’s use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Secured Noteholder is hereby granted the following adequate protection to the extent of any Collateral Diminution:

(a) **Adequate Protection Liens.** Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, effective as of the Petition Date and in each case perfected without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or by possession or control, the Prepetition Secured Noteholder is hereby granted, to secure payment of an amount equal to the Collateral Diminution, a valid, binding, continuing, enforceable, fully-perfected first priority senior (except as otherwise provided in this paragraph 10(a)) security interest in and lien on (all such liens and security interests, the “Adequate Protection Liens”) the DIP Collateral, subject and subordinated only to the Carve Out, the DIP Liens and the Permitted Prior Liens.

3 For purposes of this Interim Order, “Collateral Diminution” shall mean an amount equal to the diminution of the value from and after the Petition Date of the Prepetition Loan Party’s interests in the Prepetition Collateral upon which the Prepetition Loan Party has a valid, perfected, enforceable and non-avoidable liens or security interests, resulting from the use, sale, or lease of the Prepetition Collateral, including Cash Collateral (whether in accordance with the terms and conditions of this Interim Order or otherwise), or the imposition of the automatic stay.

(b) **Adequate Protection Superpriority Claims.** Effective as of the Petition Date, and subject to the Carve-Out and the DIP Superpriority Claims, the Prepetition Secured Noteholder is hereby granted, in the amount of any Collateral Diminution arising pursuant to section 507(b) of the Bankruptcy Code an allowed administrative expense claim with priority over all other administrative claims in the Case (subject only to the Carve-Out and the DIP Superpriority Claims), including all claims of the kind specified under sections 503(b) and 507(b) of the Bankruptcy Code (the "Adequate Protection Superpriority Claims"), subject and subordinated only to the Carve-Out and the DIP Superpriority Claims.

11. **Priority of Adequate Protection Liens and Adequate Protection Superpriority Claims**. Except as expressly provided in paragraph 10 of this Interim Order and subject to the Permitted Prior Liens, the Adequate Protection Liens and Adequate Protection Superpriority Claims granted to the Prepetition Secured Noteholder pursuant to paragraph 10 of this Interim Order shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code and shall not be subordinated to or made *pari passu* with any lien, security interest or administrative claim under section 364 of the Bankruptcy Code or otherwise.

12. **Carve-Out**.

(a) As used in this Interim Order, the "Carve-Out" means the sum of: (i) unpaid fees and expenses required to be paid by the Debtor to the Clerk of the Court or to the U.S. Trustee under 28 U.S.C. § 1930(a)(6); (ii) reasonable fees and expenses incurred by a trustee in any Successor Case under section 726(b) of the Bankruptcy Code in an aggregate cumulative amount not to exceed $10,000.00; (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the "Allowed Professional Fees") incurred by persons or firms retained by the Debtor pursuant to section 327, 328, or 363 of the

Bankruptcy Code (the "Debtor Professionals"), and by persons or firms retained by any Committee (the "Allowed Committee Fees" and, together with the Allowed Professional Fees, the "Estate Professional Fees") pursuant to section 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Debtor Professionals, the "Professional Persons") at any time before or on the first business day following delivery by the DIP Lender of a Carve-Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice (the "Pre-Trigger Notice Fees"), subject to and not to exceed the Approved Budget and any limits by this Interim Order; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed $50,000 incurred after the first business day following delivery by the DIP Lender of the Carve-Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "Post-Carve Out Trigger Notice Cap").

(b) For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Lender to the Debtor, its lead restructuring counsel, the U.S. Trustee, and counsel to any Committee (collectively, the "Carve-Out Notice Parties") which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve-Out Trigger Notice Cap has been invoked. The DIP Liens, the Prepetition Liens, the Adequate Protection Liens, and the DIP Superpriority Claims shall be subject to the Carve-Out only if, and to the limited extent that, sufficient unencumbered cash on hand is not available in the estate to pay any of the administrative priority expenses specified above in paragraph 12(a) as and when such amounts become due (in which case they shall be paid from such unencumbered cash).

(c) Nothing contained in this Interim Order shall be construed: (i) to exempt those persons seeking Estate Professional Fees who may receive interim compensation payments or reimbursement of expenses pursuant to any Court-approved procedure, from all provisions of bankruptcy law otherwise applicable, including, without limitation, any requirements that such compensation or reimbursement be allowed on a final basis after the filing of appropriate final fee applications, and, if applicable, any subsequent order of this Court requiring that such payments be disgorged, or (ii) as consent to the allowance of any fees and expenses referred to above; and shall not affect any right of the DIP Lender to object to the reasonableness of such amounts or to object on any other basis.

(d) The Debtor shall be authorized and permitted to establish an escrow account, to be held by a qualified institutional escrow agent to be agreed upon by the Debtor and the DIP Lender (the "Escrow Holder"), for the benefit of the Professional Persons and to fund by wire transfer such escrow on a weekly basis, in each case as provided herein and in the DIP Note Documents (including the DIP Note) (such account, to the extent of such deposited amounts, the "Professional Fee Reserve Account"), in an amount equal to, but not to exceed, the professional fees and costs set forth in the Approved Budget line item for Professional Persons for such week. The Professional Fee Reserve Account shall be funded on a weekly basis in accordance with the Approved Budget and ending on the date upon which a Carve-Out Trigger Notice is delivered and notice of the amounts funded into the Professional Fee Reserve Account shall be delivered to counsel to the DIP Lender on a weekly basis. After the delivery of a Carve-Out Trigger Notice, notwithstanding anything herein to the contrary, the Debtor shall be authorized to deposit any cash on hand into the Professional Fee Reserve Account up to the amount of any remaining unpaid professional fees for each of the Professional Persons set forth in the Approved Budget for the period until delivery of the Carve-Out Trigger Notice plus an amount equal to the Post Carve-Out Trigger Notice Cap.

(e) From the funds held in the Professional Fee Reserve Account, the Escrow Holder shall release to the Professional Persons solely such amounts as are payable from time to time pursuant to the Approved Budget and an applicable order of the Bankruptcy Court, including an order approving interim compensation procedures in the Case and any order granting interim or final fee applications for such Professional Persons (each, a "Fee Order"). For the avoidance of doubt, (a) in making payments from the Professional Fee Reserve Account, the Escrow Holder shall be entitled to rely upon written certifications of each Debtor Professional as to the amount each Professional Person is authorized pursuant to the DIP Budget and an applicable Fee Order of the Bankruptcy Court to be paid at such time from the Professional Fee Reserve Account; and (b) in no circumstances shall the Escrow Holder be obligated to pay any Professional Person other than from the funds held, from time to time, in the Professional Fee Reserve Account in accordance with the Approved Budget and an applicable Fee Order of the Bankruptcy Court. Funds held in the Professional Fee Reserve Account shall be applied to Allowed Professional Fees that have been incurred following the Petition Date in accordance with procedures to be established in the Case, any Fee Order, and the Approved Budget. Payments and reimbursements made to a Professional Person prior to delivery of the Carve-Out Trigger Notice shall reduce the amounts available to such Professional under section 12(a) of the Carve-Out, and neither the Professional Fee Reserve Account nor payments therefrom shall in any way increase the Carve-Out. All Allowed Professional Fees payable to Professionals Persons shall be paid first from funds in the Professional Fee Reserve Account, if any, and, upon exhaustion thereof, from the Carve-Out (less any amounts previously funded into the Professional Fee Reserve Account). For the avoidance of doubt, the DIP Liens, Prepetition Liens, and Adequate Protection Liens shall attach to, and shall have a residual right to and lien on, any excess funds in the Professional Fee Reserve Account after satisfaction of the Carve-Out in respect of Allowed Professional Fees, which excess funds shall then be used to satisfy amounts due under the DIP Facility, the Prepetition Secured Indebtedness, and the Adequate Protection Payments, as applicable, in accordance with their rights and priorities as of the Petition Date and under this Interim Order, in each case, until paid in full in cash.

(f) For the avoidance of doubt, the delivery and effectiveness of a Carve-Out Trigger Notice shall not limit or impair the Escrow Holder's right and obligation to release funds in the Professional Fee Reserve Account to pay allowed Estate Professional Fees. Once all payments are made from the Professional Fee Reserve Account after the Court rules on final fee applications, any remaining amounts shall be either (a) returned to the Debtor prior to the conclusion of this Case or (b) to the extent purchased pursuant to a sale authorized by the Court, paid in accordance with the terms of that sale order. Further, the DIP Lender shall not have any responsibility, liability, or obligation whatsoever to fund, direct payment or reimbursement of any fees or disbursements, or otherwise ensure that the Debtor funds the Professional Fee Account or that the Professional Fee Account has funds equal to the aggregate amount of professional fees for each of the Professional Persons set forth in the Approved Budget for any applicable period.

(g) Prior to or in accordance with the effective date of any plan, entry of any order dismissing the Case or converting the Case to a case under chapter 7 of the Bankruptcy Code, each professional that incurs Estate Professional Fees shall have an opportunity to seek allowance of all Estate Professional Fees incurred by such professional at a final fee application hearing.

13. **Perfection of DIP Liens and Adequate Protection Liens**. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, deed of trust, notice, or other

instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens and the Adequate Protection Liens or to entitle the DIP Lender and the Prepetition Secured Noteholder to the priorities granted herein. Notwithstanding the foregoing, the DIP Lender and the Prepetition Secured Noteholder are authorized, but not required, to file, as each deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; provided, however, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Adequate Protection Liens. The DIP Lender and the Prepetition Secured Noteholder may each, in its discretion, file an electronic copy or photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office in addition to or in lieu of such financing statements, notices of lien or similar instruments.

14. **Inspection Rights**. In addition to, and without limiting, whatever rights to access the Prepetition Noteholder has under the Prepetition Secured Note Agreement, upon reasonable prior written notice (including via acknowledged electronic mail) during normal business hours, the Debtor shall permit representatives, agents and employees of the Prepetition Secured Noteholder and/or the DIP Lender to (i) have reasonable access to and inspect and copy the Debtor’s books and records (subject to all privileges), including all records and files of the Debtor pertaining to the Prepetition Collateral and the DIP Collateral, (ii) have reasonable access

to and inspect the Debtor's property and (iii) discuss the Debtor's affairs, finances, and condition with the Debtor's officers and advisors.

15. **Cash Collateral Termination Events**. The Debtor's right to use the Cash Collateral pursuant to this Interim Order shall automatically terminate (the date of such termination, the "Cash Collateral Termination Date") without further proceedings on the earliest to occur of any of the events set forth in clauses (a) through (aa) (collectively, the "Cash Collateral Termination Events")

(a) the Debtor's case is dismissed or converted to a case under chapter 7 of the Bankruptcy Code, or a trustee under chapter 11 of the Bankruptcy Code or an examiner with expanded powers is appointed in the Debtor's case, or the Debtor seeks entry of an order accomplishing any of the foregoing, in each case without the prior written consent of the DIP Lender;

(b) the entry of an order in the Case granting relief from any stay or proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed with foreclosure against any material assets of the Debtor to which the fair market value of which exceeds $15,000;

(c) the entry of an order (i) surcharging any of the DIP Collateral under sections 105, 506(c), or any other section of the Bankruptcy Code, (ii) allowing any administrative expense claim having priority over or ranking in parity with the DIP Superpriority Claims or the rights of the DIP Lender (subject to the Carve-Out and the Permitted Prior Liens), or (iii) otherwise materially adversely impacting the DIP Lender's liens and priority in the DIP Collateral as set forth in this Interim Order;

(d) the entry of an order permitting the Debtor to obtain additional financing from a party other than the DIP Lender under section 364(d) of the Bankruptcy Code, except if such financing contemplates payment in full of the DIP Obligations, without the prior written consent of the DIP Lender;

(e) the entry of an order by the Court terminating or modifying the exclusive right of the Debtor to file a chapter 11 plan pursuant to section 1121 of the Bankruptcy Code, without the prior written consent of the DIP Lender;

(f) the Debtor commences any proceeding, or supports any other person's motion, seeking or otherwise consenting to (i) the disallowance in whole or in part of the DIP Obligations, (ii) the invalidation, subordination, or other challenge to the validity and enforceability of the DIP Liens, or (iii) the contest of any material provision of any DIP Note Document, or the Debtor files a motion, pleading, or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the DIP Lender;

(g) the Debtor commences any proceeding, or supports any other person's motion, seeking or otherwise consenting to (i) the disallowance in whole or in part of the Prepetition Secured Indebtedness, (ii) the invalidation, subordination, or other challenge to the Prepetition Secured Indebtedness, Prepetition Liens, Adequate Protection Liens, or Adequate Protection Superpriority Claims, or (iii) any relief under section 506(c) of the Bankruptcy Code with respect to any Prepetition Collateral, including the Cash Collateral, or the Debtor files a motion, pleading, or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the Prepetition Secured Noteholder;

(h) the Debtor files a plan of reorganization or liquidation that is not in form and substance satisfactory to the DIP Lender, it being understood that a plan will be satisfactory to the DIP Lender if it provides for the payment in full of the DIP Obligations pursuant to a signed commitment to lend from a recognized lender or another source of funding sufficient to allow for the indefeasible payment in cash of the full amount of the outstanding DIP Obligations;

(i) the Debtor files a motion seeking to settle a controversy or claim on account of the DIP Collateral without the prior written consent of the DIP Lender;

(j) the Debtor files a motion for the Court to approve a sale of the DIP Collateral pursuant to section 363 of the Bankruptcy Code which proposed sale is not acceptable to the DIP Lender;

(k) the Debtor shall fail to execute and deliver to the DIP Lender any agreement, financing statement, trademark filing, copyright filing, notices of lien or similar instruments or other documents that the DIP Lender may reasonably request from time to time to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens created in favor of the DIP Lender;

(l) the Debtor fails to provide the DIP Lender with draft copies of all motions, notices, statements, schedules, applications, reports, and other papers the Debtor intends to file with the Court in connection with any plan, sale process, or any other material filing within a reasonable period of time prior to the date the Debtor intends to file any of the foregoing, and fails to consult in advance in good faith with the DIP Lender regarding the form and substance of any such proposed filing;

(m) the imposition of any material award, claim, fine, penalty, or other monetary judgment by any governmental entity, including the Court, against the Debtor that would not be dischargeable pursuant to the Bankruptcy Code, any order confirming a plan of reorganization, or any other order of the Court;

(n) the bringing of a motion or the taking of any action in the Case by the Debtor, or the entry of a judgment or order by the Court, that in any way seeks to challenge, prevent, or otherwise interfere with the DIP Lender's right to credit bid all or any portion of the DIP Obligations against the DIP Collateral and the Prepetition Secured Noteholder's right to credit bid all or any portion of the Prepetition Secured Indebtedness at any sale thereof conducted under the provisions of the Bankruptcy Code, including under section 363 of the Bankruptcy Code, section 1129(b) of the Bankruptcy Code, by a chapter 7 trustee under section 725 of the Bankruptcy Code, or under any similar provisions of applicable law;

(o) an order is entered (i) granting another claim or lien *pari passu* with or senior to the Prepetition Liens, Adequate Protection Liens, or Adequate Protection Superpriority Claims, under this Interim Order or (ii) reversing, staying for a period in excess of five (5) business days, vacating or otherwise amending, supplementing, or modifying this Interim Order in a manner not acceptable to the DIP Lender;

(p) the entry of an order granting relief from the automatic stay imposed by section 362 of the Bankruptcy Code to any entity other than the Prepetition Secured Noteholder with respect to the Prepetition Collateral without the prior written consent of the Prepetition Secured Noteholder;

(q) the reversal or modification of the Roll-Up by the Bankruptcy Court without the consent of the Prepetition Secured Noteholder or the Bankruptcy Court does not approve the Roll-Up ;

(r) the effective date of any confirmed chapter 11 plan for the Debtor;

(s) the date of dismissal of the Case;

(t) the entry of a subsequent order of the Court (i) terminating the use of Cash Collateral or (ii) authorizing the use of Cash Collateral by any person other than the Debtor;

(u) the failure by the Debtor to make any payment required pursuant to this Interim Order when due;

(v) the failure by the Debtor to deliver to the DIP Lender any of the documents or other information required to be delivered pursuant to this Interim Order when due, or any such documents or other information shall contain a material misrepresentation;

(w) the occurrence of any Budget Covenant Default;

(x) failure of the Debtor to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to variances permitted hereunder) and this Interim Order;

(y) the failure of the Debtor to observe or perform any of the material terms or material provisions contained in this Interim Order or in the DIP Note Documents;

(z) the designation by the Debtor of a successful bidder for all or substantially all of its assets to a person or entity other than the DIP Lender or its designee;

(aa) the entry of an order of this Court approving the terms of any debtor in possession financing for the Debtor other than the DIP Facility; or

(bb) the Debtor shall fail to meet any of the Milestones (as defined herein), unless such Milestone is waived or extended by the DIP Lender in writing

16. **DIP Termination Event.** The occurrence and continuance of any "Event of Default" (as defined in the DIP Note Documents) under the DIP Note Documents shall constitute a "DIP Termination Event" under this Interim Order (the date upon which such DIP Termination Event occurs, the "DIP Termination Date") unless waived in writing by the DIP Lender. On the DIP Termination Date, (a) the maturity of the DIP Facility shall be accelerated to the DIP Termination Date (provided that payments to the DIP Facility shall remain subject to the payment subordination provisions set forth herein with respect to the Prepetition Secured Noteholder) and (b) subject to the Carve-Out, the Debtor's right to use the Cash Collateral pursuant to this Interim Order shall automatically terminate.

17. **Milestones**. As a condition to the DIP Facility and the use of Cash Collateral, the Debtor has agreed to the following milestones (the "Milestones"). For the avoidance of doubt, unless waived by the DIP Lender, or otherwise ordered by the Court, the failure of the Debtor to meet any Milestone by the applicable specified deadline set forth therefor shall constitute an Event of Default under the DIP Note Documents and a DIP Termination Event.

(a) no later than four (4) days after the Petition Date, the Debtor shall have obtained entry by the Court of this Interim Order, in form and substance acceptable to the DIP Lender;

(b) no later than the Petition Date , the Debtor shall file with the Court a motion seeking approval of bidding procedures (the "Bidding Procedures"), in form and substance acceptable to the DIP Lender;

(c) no later than twenty-seven (27) days after the Petition Date, the Debtor shall obtain entry by the Court of the (i) Final Order and (ii) an order approving the Bidding Procedures, each in form and substance acceptable to the DIP Lender; and

(d) no later than fifty-four (54) days after the Petition Date, the Debtor shall have obtained from the Court an order approving the sale of substantially all of the Debtor's assets and/or equity, in form and substance acceptable to the DIP Lender.

18. **Remedies After a DIP Termination Date**. The DIP Lender shall deliver notice of a DIP Termination Event, in each case, to counsel for the Debtor, the U.S. Trustee, and any Committee. Following notice of a DIP Termination Event, any party in interest may file a motion with the Court and request an emergency hearing on the same (the "Emergency Default Hearing"). The Court shall conduct the Emergency Default Hearing within the Remedies Notice Period (as defined below). Nothing herein shall alter the rights or burden of proof with respect to any request by the Debtor or other party in interest to, after the Remedies Notice Period, re-impose

or continue the automatic stay under section 362(a) of the Bankruptcy Code, use Cash Collateral, or to obtain any other injunctive relief. The Debtor hereby waives any right to seek relief, including without limitation under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) set forth in this Interim Order; *provided*, that the foregoing does not modify the Remedies Notice Period. After five (5) business days following the delivery of a written notice of the occurrence of and during the continuance of a DIP Termination Event or such later time at the Court may order, during such five (5) business day period (the "Remedies Notice Period"), and absent authority to use Cash Collateral without the consent of the Prepetition Secured Noteholder, the automatic stay shall be deemed automatically lifted with respect to the Prepetition Collateral, the Cash Collateral, and the DIP Collateral and the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) shall have the right to exercise any other remedies customary for secured lenders, including set-off and foreclosure, in connection with the Prepetition Secured Note Documents and the DIP Note Documents, respectively. In addition, after the DIP Lender delivers notice of a DIP Termination Event, but prior to the Emergency Default Hearing, except as may be otherwise ordered by the Court, the Debtor shall not use any Cash Collateral to pay any expenses except those which are necessary to preserve the Debtor's going concern value (not to exceed the Approved Budget under any circumstances absent the consent of the DIP Lender). Notwithstanding anything in this paragraph to the contrary, after notice and hearing, the Court may order such relief as it determines is appropriate following a DIP Termination Event. Any delay or failure of the DIP Lender (in its capacities as DIP Lender and Prepetition Secured Noteholder) to exercise rights under the Prepetition Secured Note Documents, the DIP Note Documents, or this Interim Order shall not constitute a waiver of their respective rights hereunder, thereunder or otherwise.

19. **Wind-Down Account.** Notwithstanding anything to the contrary herein, following the closing of a sale of substantially all of the Debtor's assets (which sale shall be in form and substance acceptable to the DIP Lender), the Debtor is authorized and directed to direct funds to a segregated designated trust account (the "Wind-Down Account") an amount equal to (i) budgeted and accrued but unpaid expenses and (ii) the Post-Carve Out Trigger Notice Cap (the "Wind-Down Budget"). Except for permitting the funding of the Wind-Down Account in an amount equal to the Wind-Down Budget from the Prepetition Collateral or the DIP Collateral, as applicable, none of the Secured Parties shall have any responsibility, liability, or obligation whatsoever to fund, direct payment or reimbursement of any fees or disbursements, or otherwise ensure that the Debtor funds the Wind-Down Account or that the Wind-Down Account has funds equal to the aggregate amount set forth in the Wind-Down Budget. Any excess amounts in the Wind-Down Account after payment of all expenses in the Wind-Down Budget shall be subject in all respects to the Permitted Prior Liens, Prepetition Liens, DIP Liens, and the Adequate Protection Liens, and to the extent such excess amounts in the Wind-Down Account were purchased in accordance with a sale authorized by the Court, shall be paid by the Debtor in accordance with the terms of that sale.

20. **Payments Free and Clear.** Any and all payments or proceeds remitted to the Prepetition Secured Noteholder or to the DIP Lender pursuant to the provisions of this Interim Order or any subsequent order of this Court shall be irrevocable (subject to paragraph 25 of this Interim Order), received free and clear of any claim, charge, assessment or other liability, including without limitation, subject to entry of the Final Order granting such relief, any such claim or charge arising out of or based on, directly or indirectly, sections 506(c) (whether asserted or assessed by, through, or on behalf of the Debtor) or 552(b) of the Bankruptcy Code.

21. **Limitation on Charging Expenses Against Collateral**. Subject to entry of the Final Order granting such relief, all rights to surcharge the interests of the Prepetition Secured Noteholder in any Prepetition Collateral under section 506(c) of the Bankruptcy Code or any other applicable principle of equity or law shall be and are hereby finally and irrevocably waived, and such waiver shall be binding upon the Debtor and all parties in interest in the Case.

22. **Modification of Automatic Stay**. The Debtor is authorized and directed to perform all acts and to make, execute and deliver any and all instruments as may be reasonably necessary to implement the terms and conditions of this Interim Order and the transactions contemplated hereby, including (a) the granting of the DIP Liens and the DIP Superpriority Claims, and to perform such acts as the DIP Lender may reasonably request to assure the perfection and priority of the DIP Liens and the DIP Superpriority Claims, and (b) the Debtor incurring all liability and obligations, including all the DIP Obligations, to the DIP Lender as contemplated under this Interim Order and the DIP Note Documents, and to enter into and perform under the DIP Note Documents and any and all other instruments, certificates, agreements, and documents that may be reasonably required, necessary, or prudent for the performance by the Debtor under the DIP Note Documents and any transactions contemplated therein or in this Interim Order, in each case in accordance herewith or therewith. The stay of section 362 of the Bankruptcy Code is hereby modified to permit the parties to accomplish the transactions contemplated by this Interim Order.

23. **Survival of Interim Order**. The provisions of this Interim Order shall be binding upon any trustee appointed during the Case or any Successor Case, and any actions taken pursuant hereto shall survive entry of any order which may be entered converting the Case to a chapter 7 case or any other Successor Case, dismissing the Case under section 1112 of the Bankruptcy Code or otherwise, or confirming or consummating any plan(s) of reorganization or liquidation. The terms and provisions of this Interim Order, as well as the priorities in payments,

liens, and security interests granted pursuant to this Interim Order shall continue notwithstanding any conversion of the Case to a chapter 7 case or any other Successor Case under the Bankruptcy Code, dismissal of the Case or confirmation or consummation of any plan(s) of reorganization. The adequate protection payments made pursuant to this Interim Order shall not be subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance in the Case or any Successor Case (other than a defense that the payment has actually been made). The terms of this Interim Order shall be valid and binding upon the Debtor, all creditors of the Debtor and all other parties in interest from and after the entry of this Interim Order by this Court.

24. **No Liability to Third Parties**. With respect to the use of Cash Collateral, the entry into the DIP Facility or the providing of the DIP Loans, or any approval or disapproval of the Budget including, without limitation, any permitted variance allowed pursuant to paragraph 9 of this Interim Order, the DIP Lender shall not: (i) be deemed to be in "control" of the operations of the Debtor; (ii) owe any fiduciary duty to the Debtor, its creditors, shareholders or estate; or (iii) be deemed to be acting as a "Responsible Person" or "Owner" or "Operator" with respect to the operation or management of the Debtor (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980 or any similar federal or state statute).

25. **Good Faith under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Interim Order**. The DIP Lender and the Prepetition Secured Noteholder have acted in good faith in connection with the DIP Facility, the DIP Note Documents and this Interim Order, and their reliance on this Interim Order is in good faith. Based on the findings set forth in this Interim Order and the record made during the Interim Hearing, and in accordance with section 364(e) of the Bankruptcy Code, the DIP Lender and the Prepetition Secured Noteholder are entitled to the protections provided in section 364(e) of the Bankruptcy

Code, this Interim Order and the DIP Note Documents. If any or all of the provisions of this Interim Order are hereafter reversed or modified, such reversal or modification shall not affect the validity, priority, or enforceability of the DIP Obligations, the DIP Liens, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, the Prepetition Liens, or the Prepetition Secured Indebtedness. Notwithstanding any such reversal or modification of this Interim Order, any DIP Obligations, DIP Liens, or Adequate Protection Liens incurred by the Debtor to the DIP Lender or the Prepetition Secured Noteholder, as the case may be, prior to the actual receipt of written notice by the DIP Lender and the Prepetition Secured Noteholder of the effective date of such reversal or modification shall be governed in all respects by the original provisions of this Interim Order.

26. **Reservation of Certain Third-Party Rights and Bar of Challenge and Claims**.

(a) The Debtor's admissions, stipulations and releases contained in this Interim Order shall be binding upon the Debtor for all purposes and shall be binding upon all other parties in interest, including, upon entry of the Final Order, any Committee and any chapter 7 trustee, for all purposes unless, and solely to the extent that, (i) a party in interest that has sought and obtained standing and the requisite authority to commence a Challenge (as defined below) (other than the Debtor, as to which any Challenge is irrevocably waived and relinquished) has properly filed appropriate pleadings and commenced the appropriate proceeding required under Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules, seeking to avoid, object to or otherwise challenge the Debtor's admissions, stipulations and releases including (x) challenging the amount, validity, perfection, enforceability, priority or extent of the Prepetition Secured Indebtedness and/or the Prepetition Liens, or (y) otherwise asserting or prosecuting any action for preference, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests and defenses against the Prepetition Secured Noteholder on behalf of the Debtor's estate (each, a "Challenge," and collectively, "Challenges") by the date that is the earlier of (x) one Business Day before the hearing approving the sale of substantially all of the Debtor's assets and (y) seventy-five (75) calendar days from the entry of this Interim Order (the "Challenge Deadline") and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal. Nothing herein shall limit the Committee's (or other party in interest's) ability to (x) file a motion in respect of any timely Challenge for which it may not be able to obtain standing as a matter of law because the applicable Debtor is a limited liability company (an "**LLC Challenge Motion**"), and (y) seek pursuant to such LLC Challenge Motion a mechanism by which to prosecute such Challenge. In the event a Committee or other party in interest files an LLC Challenge Motion for which it may not be able to obtain standing, the expiration of the Challenge Period solely for the specific Challenge set forth in the LLC Challenge Motion shall be tolled pending further order of the Court, and applicable parties shall meet and confer with respect to an appropriate process for the prosecution of any such Challenge. If timely notified of a Challenge for which the Committee or other party in interest may not be able to gain standing because the applicable Debtor is a limited liability company, the Debtor (or a designated representative) shall retain the authority to prosecute such Challenge in the exercise of their business judgment and subject to any applicable further order of the Court.

(b) If no such Challenge is properly filed as of such dates or the plaintiff's claims are dismissed or denied by final and unappealable order in any such proceeding or matter, then: (i) the Debtor's admissions, stipulations and releases contained in this Interim Order shall be binding on all parties in interest, including any Committee; (ii) the obligations of the Debtor under the Prepetition Secured Note Documents shall constitute allowed claims for all purposes in the

Case or any Successor Case; (iii) the Prepetition Secured Noteholder's security interests in and liens upon the Prepetition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding, perfected, first priority security interests and liens, subject only to Permitted Prior Liens, and not subject to recharacterization, subordination or otherwise avoidable; and (iv) the Prepetition Secured Indebtedness and the Prepetition Liens on the Prepetition Collateral and the Collateral shall not be subject to any other or further challenge by the Committee or any other party in interest seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor thereto.

(c) If a Challenge is properly filed as of the Challenge Deadline, the Debtor's admissions, stipulations and releases contained in this Interim Order shall nonetheless remain binding and preclusive on all parties in interest, including any Committee, except to the extent that such admissions, stipulations and releases were expressly challenged in such Challenge; *provided*, that the timely filing of a motion seeking standing to file a Challenge before the expiration of the Challenge Period, which attaches a draft complaint setting forth the legal and factual bases of the proposed Challenge, shall toll the Challenge Period only as to the party that timely filed such standing motion until such motion is resolved or adjudicated by the Court. If a chapter 7 trustee or a chapter 11 trustee is appointed or elected during the Challenge Period, then the Challenge Deadline with respect to such trustee only, shall be the later of (i) the last day of the Challenge Period and (ii) the date that is twenty (20) calendar days after the date on which such trustee is appointed or elected. Nothing contained in this Interim Order shall be deemed to grant standing or authority to any Committee or any other party to commence a Challenge.

27. **Restrictions on Use of Prepetition Collateral, DIP Collateral, Cash Collateral and Carve-Out**. Except as otherwise permitted in this Interim Order and the Approved Budget, the DIP Facility, the DIP Collateral, the Prepetition Collateral, the Cash Collateral, and the

Carve-Out may not be used, directly or indirectly, by any of the Debtor, the Committee, if any, or any trustee or other estate representative appointed in the Case (or any Successor Case) or any other person or entity (or to pay any professional fees, disbursements, costs or expenses incurred in connection therewith) in connection with (a) preventing, hindering, or delaying any of the DIP Lender's and/or Prepetition Secured Noteholder's enforcement or realization upon any of the DIP Collateral or Prepetition Collateral; (b) using or seeking to use Cash Collateral without the permission of the Prepetition Secured Noteholder or selling or otherwise disposing of DIP Collateral without the consent of the DIP Lender or as permitted by the DIP Note Documents; (c) using or seeking to use any insurance proceeds constituting DIP Collateral or Prepetition Collateral without the consent of the DIP Lender or the Prepetition Secured Noteholder; (d) seeking to amend or modify any of the rights granted to the DIP Lender or the Prepetition Secured Noteholder under this Interim Order, the DIP Note Documents, or the Prepetition Secured Note Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (e) litigating, objecting to, challenging or contesting in any manner in any way the DIP Liens, DIP Obligations, DIP Superpriority Claims, the Prepetition Secured Indebtedness, the Prepetition Liens, DIP Collateral (including Cash Collateral) or, as the case may be, the Prepetition Collateral, or any other claims held by or on behalf of any of the DIP Lender or the Prepetition Secured Noteholder, respectively; (f) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, Avoidance Actions or applicable state law equivalents or actions to recover or disgorge payments, against any of the DIP Lender, Prepetition Secured Noteholder, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (g) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Secured Indebtedness, the Prepetition Liens, or any other liens or interests of any of the DIP Lender or the Prepetition Secured Noteholder; or (h) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations or the Prepetition Secured Indebtedness; *provided*, *however*, that the Carve-Out and such collateral proceeds and loans under the DIP Note Documents may be used for allowed fees and expenses, in an amount not to exceed $25,000 in the aggregate (the "Investigation Budget Amount"), incurred solely by the Committee (if appointed) or chapter 7 or 11 trustee appointed or elected in the Case, in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition Liens within seventy-five (75) days after entry of this Interim Order. For the avoidance of doubt, no portion of the DIP Facility, the DIP Collateral, the Prepetition Collateral, the Cash Collateral, or the Carve-Out may be used, directly or indirectly, by the Debtor or the Committee (if appointed), or any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, any creditors, or parties in interest to investigate or Challenge any of the Prepetition Liens or Prepetition Secured Indebtedness as they relate to the DIP Lender.

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

29. **Proofs of Claim**. Neither the Prepetition Secured Noteholder nor the DIP Lender will be required to file proofs of claim in the Case or any Successor Case, and the Debtor's stipulations herein and this Interim Order shall be deemed to constitute a timely filed proof of claim against the Debtor. Notwithstanding the foregoing, the Prepetition Secured Noteholder and the DIP

Lender are hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a master proof of claim for any claims, as applicable, arising from the Prepetition Secured Note Documents or DIP Note Documents.

30. **Section 552(b) of the Bankruptcy Code**. Subject to entry of the Final Order granting such relief, the Prepetition Secured Noteholder shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Noteholder with respect to proceeds, products, offspring or profits of any of the Prepetition Collateral.

31. **No Marshaling**. Subject to entry of the Final Order granting such relief, neither of the Prepetition Secured Noteholder or the DIP Lender shall be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition Collateral or the DIP Collateral except as expressly provided herein, as applicable.

32. **Right to Credit Bid.** Subject to section 363(k) of the Bankruptcy Code, (i) the DIP Lender may credit bid all or any portion of its claims, including, without limitation, the DIP Obligations and the DIP Superpriority Claims and (ii) the Prepetition Secured Noteholder may credit bid all or any portion of its claims, including, without limitation, the Prepetition Secured Indebtedness, in connection with any proposed sale of any, all, or substantially all of the Debtor’s assets, whether occurring pursuant to section 363 of the Bankruptcy Code or included as part of a reorganization plan under section 1123 of the Bankruptcy Code, including a plan subject to confirmation under section 1129(b)(2)(A)(ii) of the Bankruptcy Code, or a sale or disposition by a chapter 7 trustee for the Debtor under section 725 of the Bankruptcy Code. In connection with any such credit bid, the Debtor shall provide for the assignment of the right to purchase the acquired assets to one or more of the DIP Lender’s sub-agents or a newly formed acquisition vehicle.

33. **DIP Lender Professional Fees**. Professionals for the DIP Lender (Clifford Chance US LLP and Young Conaway Stargatt & Taylor, LLP) (the "DIP Lender's Professionals," and each a "DIP Lender's Professional") shall be entitled to reimbursement of the reasonable fees and expenses of their counsel (the "Lender's Expenses"); *provided, however,* that copies of all invoices reflecting the Lender's Expenses shall be served by email on the Debtor, the U.S. Trustee, and counsel to the Committee (if any) (collectively the "Fee Notice Parties"), who shall have ten (10) business days to review and to assert any objections thereto. Such invoices shall include a general description of the nature of the matters worked on (but shall not be required to include individual time entries), a list of professionals who worked on the matter, their hourly rate (if such professionals bill at an hourly rate), the number of hours each professional billed and, with respect to the invoices of law firms, the year of law school graduation for each attorney; *provided*, *however*, that the U.S. Trustee reserves the right to seek copies of invoices containing the detailed time entries of any professional. The U.S. Trustee reserves his right to seek to obtain unredacted copies of such invoices. Any expenses sought to be reimbursed shall be specified and broken out by type of expense. The provision of such invoices shall not constitute a waiver of the attorney-client privilege or any benefits of the attorney work product doctrine. If no objection to the payment of the Lender Expenses is made in writing by the Fee Notice Parties within ten (10) calendar days after delivery of such invoices, then, without further order of, or application to, the Court or notice to any other party, such Lender Expenses shall be promptly paid by the Debtor. If an objection is made by any of the Fee Notice Parties within the ten-day objection period to the payment of the Lender Expenses, then the disputed portion of such Lender Expenses shall not be paid until the objection is resolved by the applicable parties in good faith or by order of the Court, and the undisputed portion shall be promptly paid by the Debtor. Upon the maturity of the DIP Facility, if the DIP Lender is not the successful bidder for the Debtor's assets or the sale of the assets to the

DIP Lender is not consummated, the Debtor shall promptly pay in full in cash all such invoiced fees and expenses if no objection to the payment of the Lender Expenses is made in writing by the Fee Notice Parties within ten (10) calendar days after delivery of such invoice.

34. **Indemnification**. The DIP Lender (and its affiliates and respective officers, directors, employees, advisors, and agents, solely in such capacity) (each such person, an "Indemnitee") will have no liability for, and will be indemnified and held harmless against, any losses, claims, damages, liabilities or expenses incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof, except to the extent they are found by a final, non-appealable judgment of a court of competent jurisdiction to arise from the gross negligence, bad faith or willful misconduct of the relevant Indemnitee (or any of its affiliates or any of its or its respective officers, directors, employees, advisors or agents). Such indemnity shall not be available (a) to the extent arising from a material breach of any obligation of such Indemnitee under the DIP Note Documents or (b) to the extent arising out of any loss, claim, damage, liability or expense that does not involve an act or omission of the Debtor and that is brought by an Indemnitee against another Indemnitee (other than claims against an Indemnitee in its capacity or in fulfilling its role as DIP Lender or any similar role under the DIP Note Documents). Notwithstanding the foregoing, the Debtor shall not indemnify any Indemnitee for any costs, expenses, losses, claims, damages, or liabilities incurred in connection with a successful Challenge brought in accordance with paragraph 26 hereof.

35. **Headings**. The headings in this Interim Order are for purposes of reference only and shall not limit or otherwise affect the meaning of this Interim Order.

36. **Final Hearing.** The final hearing on the Motion shall be held on ___________ ______, 2026, at __:__ _.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before **4:00 p.m. (prevailing Eastern**

Time) on __________ ___, 2026 and shall be served on: (a) proposed counsel for the Debtor, Cole Schotz P.C., (i) 500 Delaware Avenue, Suite 1410, Wilmington, Delaware 19801, Attn: Patrick J. Reilley (preilley@coleschotz.com) and Michael E. Fitzpatrick (mfitzpatrick@coleschotz.com), (ii) 1325 Avenue of the Americas, 19th Floor, New York, NY 10019, Attn: Daniel F.X. Geoghan (dgeoghan@coleschotz.com) and Jacob S. Frumkin (jfrumkin@coleschotz.com); (b) counsel to the Debtor's prepetition and DIP lender, (i) Clifford Chance US LLP, Two Manhattan West, 375 9th Avenue, New York, New York 10001, Attn: David Feldman (David.Feldman@cliffordchance.com) and Matthew L. Hinker (Matthew.Hinker@cliffordchance.com), (ii) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware 19801, Attn: Sean M. Beach (sbeach@ycst.com); (c) the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: Jonathan W. Lipshie (Jon.Lipshie@usdoj.gov); and (d) counsel to any statutory committee appointed in the Chapter 11 Case. If no objections or responses are filed and served, this Court may enter a final order without further notice or hearing.

37. **Retention of Jurisdiction**. The Court has and will retain jurisdiction to enforce this Interim Order.

<u>Exhibit 1</u>

DIP Note

Execution Version

DEBTOR-IN-POSSESSION
DELAYED DRAW TERM LOAN PROMISSORY NOTE

$3,130,000.00 Dated as of June 5, 2026

FOR VALUE RECEIVED, and subject to the terms and conditions set forth herein, SiFi Networks America, LLC, a Delaware limited liability company (the "Borrower"),[1] hereby unconditionally promises to pay to the order of ArcLink Fiber LLC, a Delaware limited liability company (together with its successors and assigns, collectively, the "Lender"), the aggregate of any and all amounts Lender has disbursed to Borrower pursuant to this Debtor-in-Possession Delayed Draw Term Loan Promissory Note (as the same may be amended, modified, renewed, restated or supplemented from time to time, this "Note"), not to exceed the aggregate principal amount at any time outstanding of three million one hundred and thirty thousand dollars ($3,130,000.00), together with all accrued and unpaid interest (including all interest added to the outstanding principal amount hereof pursuant to Section 4(a) below) as provided in this Note. On June 5, 2026 (the "Petition Date"), Debtor filed a voluntary petition for reorganization ("Chapter 11 Case") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as amended (the "Bankruptcy Code"). Debtor continues to operate its businesses and manage its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Borrower has requested that Lender make loans from time to time on the terms, and subject to the conditions set forth, in this Note and the Interim Order or Final Order (as applicable), which are incorporated herein upon entry by the Bankruptcy Court. Borrower intends to utilize such loans to fund working capital requirements, costs and expenses of administration of the Chapter 11 Case, and expenses relating to the DIP Facility during the pendency of the Chapter 11 Case.

1. Loans.

(a) Subject to the terms and conditions hereof, Lender shall make available to Borrower, from time to time until the Maturity Date, loans (each, a "Loan" and collectively, the "Loans") in an aggregate principal amount not to exceed the Commitment. The aggregate principal amount of all Loans made hereunder shall not exceed at any time the amount of the Commitment, plus all interest added to the outstanding principal amount hereof pursuant to Section 4(a) below (the "Maximum Amount"). Until the Maturity Date, Borrower may, subject to the satisfaction of the conditions as set forth in Section 2 herein, from time to time borrow Loans under this Section 1, provided that (i) the aggregate principal amount of Loans made hereunder shall not exceed the Commitment, (ii) each disbursement of Loans shall be in a minimum amount of $500,000, (iii) disbursements of Loans shall be made on a bi-monthly basis, unless otherwise agreed by Lender in its sole discretion, and (iv) the aggregate amount of Loans made prior to the entry of the Final Order shall not exceed $1,135,000.00, which initial Loans shall be made in a

[1] Capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in Section 18 of this Note, in the DIP Motion, or in the Interim Order or the Final Order, as applicable.

single disbursement. Each Loan shall be made on notice by Borrower to Lender at the address specified in Section 20(a) hereof. Any such notice must be given no later than 12:00 p.m. (prevailing Eastern time) on the date that is at least five (5) Business Days prior to the date of the proposed Loan; provided that the initial Loan may be made simultaneously with entry of the Interim Order. Each such notice (a "Notice of Loan") shall be given in writing (by electronic transmission or overnight courier) specifying (i) the amount of such Loan requested, (ii) the proposed date of such Loan, which must be a Business Day, and (iii) such other information as may be reasonably required by Lender. Upon receipt of a Notice of Loan, subject to the satisfaction of the conditions set forth in this Note, Lender shall make the proceeds of such Loan available to Borrower on the applicable date of funding of such Loan by transferring immediately available funds equal to such proceeds to Borrower's Designated Account. Any amounts of principal repaid or prepaid hereunder may not be reborrowed. The entire unpaid balance of the Loans and all other Obligations shall be immediately due and payable in full in immediately available funds on the Maturity Date.

(b) Notwithstanding the provisions of Section 1(a) above, this DIP Facility shall consist of: (i) the Loans made pursuant to Section 1(a) (the "New Money DIP Loan"); (ii) a roll-up, subject to entry of the Interim Order (the "Interim Roll-Up"), by Lender of the Prepetition Secured Indebtedness equal to $1,135,000.00; and (iii) a roll-up, subject to entry of the Final Order (the "Final Roll-Up" and together with the Interim Roll-Up, the "Roll-Up"), by Lender of the Prepetition Secured Indebtedness equal to $1,088,039.00 *plus* (a) accrued and unpaid interest under the Prepetition Secured Note Agreement from the Petition Date through and including the date that such obligations are rolled up, *plus* (b) any and all unreimbursed costs, fees and expenses of the ArcLink Fiber LLC as the noteholder of the Prepetition Secured Note Agreement, in each case in accordance with the provisions of the Interim Order and the Final Order, as applicable. The New Money DIP Loan and the Roll-Up shall be Obligations under this Agreement.

(c) Lender shall be entitled to rely upon, and shall be fully protected in relying upon, any Notice of Loan or similar notice believed by it to be genuine. Lender may assume that each Person executing and delivering any such notice was duly authorized, unless the responsible individual acting thereon has actual knowledge to the contrary.

(d) Borrower shall utilize the proceeds of Loans in accordance with the Interim Order and Final Order, as applicable, which includes, but is not limited to, funding working capital requirements, costs and expenses of administration of the Chapter 11 Case, and expenses relating to the DIP Facility during the pendency of the Chapter 11 Case.

2. Certain Conditions to Each Loan. Lender shall not be obligated to fund any Loan, if, as of the date thereof:

(a) Borrower has not paid any amount then payable hereunder or under any other Loan Document or shall not have performed any of their respective obligations hereunder or under any other Loan Document;

(b) Borrower has not duly executed and delivered this Note;

(c) Borrower has not delivered corporate resolutions, incumbency certificates, and similar documents, in form and substance satisfactory to Lender in its reasonable discretion, with respect to this Note and the other Loan Documents and the transactions contemplated hereby and thereby;

(d) Borrower has not (i) duly paid any and all costs and expenses then payable hereunder or under any other Loan Documents (including, without limitation, the reasonable and documented fees, costs, and expenses of counsel to Lender) and (ii) fully performed all of their respective obligations hereunder or under any other Loan Documents;

(e) the Bankruptcy Court has not entered the Interim Order by no later than four (4) days after the Petition Date;

(f) (i) the Bankruptcy Court has not entered the Final Order by no later than twenty-seven (27) days after the Petition Date, or (ii) the Final Order has been stayed, vacated, reversed, modified, or amended without Lender's consent in its reasonable discretion;

(g) (i) the Bankruptcy Court has not entered an order approving the Bidding Procedures by no later than twenty-seven (27) days after the Petition Date, or (ii) such an order has been stayed, vacated, reversed, modified, or amended without Lender's consent in its reasonable discretion;

(h) Borrower has not delivered to Lender the Approved Budget that is in form and substance satisfactory in Lender's reasonable discretion, or shall not have updated the Approved Budget in accordance with this Note;

(i) the Bankruptcy Court order has been entered (i) authorizing Borrower to obtain financing or credit pursuant to section 364 of the Bankruptcy Code from any Person other than Lender; or (ii) providing adequate protection to any Person under sections 361 through 364 of the Bankruptcy Code other than as authorized pursuant to the Interim Order or with the consent and approval of Lender;

(j) any representation or warranty by Borrower contained herein or in any other Loan Documents shall be untrue or incorrect as of such date in any material respect;

(k) (i) any Event of Default shall have occurred and be continuing or would result after giving effect to any requested Loan; or (ii) any Default shall have occurred and be continuing or would result after giving effect to any requested Loan, and Lender in its sole discretion shall have determined not to make any Loan so long as such Default is continuing;

(l) except as occasioned by the commencement of the Chapter 11 Case and the actions, proceedings, investigations, and other matters related thereto, any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof and the Lender shall have determined not to make any Loan so long as such Material Adverse Effect is continuing;

(m) Debtor shall not have filed the Sale Motion in form and substance reasonably acceptable to Lender by the Petition Date;

(n) the Sale Motion has been withdrawn or an order approving the Sale Motion (which order must be in form and substance reasonably acceptable to Lender) has not been entered by the date set forth in the Interim Order;

(o) (i) the Bankruptcy Court has not entered the Sale Order by no later than fifty four (54) days after the Petition Date, or (ii) if on any date after the Sale Order has been entered, the Sale Order is vacated, reversed, modified (without Lender's consent), or successfully appealed; or

(p) after giving effect to any Loan, the outstanding principal amount of all Loans would exceed the lesser of (i) the Commitment, (ii) the amount then authorized by the Interim Order, and (iii) the amount permitted to be borrowed for the applicable period as set forth in the Approved Budget, subject to Permitted Variances.

The request and acceptance by Borrower of the proceeds of any Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by Borrower of the granting and continuance of the Lender's Liens, pursuant to the Collateral Documents.

3. Payment of Principal. FOR VALUE RECEIVED, Borrower promises to pay to Lender, in the manner and at the place hereinafter provided, the unpaid principal amount of all Loans made by Lender pursuant to this Note to Borrower on the Maturity Date.

4. Payment of Interest.

(a) The unpaid principal amount of Loans shall bear interest from the date when made until paid in full at a rate equal to ten percent (10%) per annum, payable on each applicable Interest Payment Date. All payments of interest hereunder shall be made by adding the amount of interest payable on any Interest Payment Date to the outstanding principal amount of Loans, and such amount shall thereafter constitute principal amount of Loans bearing interest in accordance herewith.

(b) If any payment of any of the Obligations becomes due and payable on a day other than a Business Day, the time for payment thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of interest shall be made by Lender on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such interest are payable. Each determination by Lender of an interest rate hereunder shall be final, binding, and conclusive on Borrower (absent manifest error).

(d) So long as an Event of Default shall have occurred and be continuing, and at the election of Lender confirmed by written notice from Lender to Borrower, the interest rate applicable to the Obligations shall be increased by five (5) percentage points (5.00%); per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be payable upon demand.

(e) Notwithstanding anything to the contrary set forth in this Section 4, if a court of competent jurisdiction determines in a final order that the rate of interest payable hereunder exceeds the highest rate of interest permissible under law (the "Maximum Lawful Rate"), then so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable hereunder shall be equal to the Maximum Lawful Rate; provided that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, Borrower shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Lender is equal to the total interest that would have been received had the interest rate payable hereunder been (but for the operation of this paragraph) the interest rate payable since the closing date as otherwise provided in this Note. Thereafter, interest hereunder shall be paid at the rate(s) of interest and in the manner provided in Sections 4(a) through (d), unless and until the rate of interest again exceeds the Maximum Lawful Rate, and at that time this paragraph shall again apply. If the Maximum Lawful Rate is calculated pursuant to this paragraph, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate divided by the number of days in the year in which such calculation is made. If, notwithstanding the provisions of this Section 4(e), a court of competent jurisdiction shall finally determine that Lender have received interest hereunder in excess of the Maximum Lawful Rate, Lender shall, to the extent permitted by applicable law, promptly apply such excess to the payment of other outstanding Obligations and thereafter shall refund any excess to Borrower or as a court of competent jurisdiction may otherwise order.

5. Payments. Except as expressly provided in Section 4(a), all payments of principal and interest in respect of this Note shall be made in Dollars in same day funds to Lender to such account or accounts as shall be designated in a written notice delivered by Lender to Borrower. Each payment made hereunder shall be credited first, to fees and reimbursable expenses of Lender then due and payable pursuant to any of the Loan Documents; second, to interest then due and payable on the Loans; third, to the principal balance of the Loans until the same has been paid in full; and fourth, to all other Obligations. Any amounts of principal repaid or prepaid hereunder may not be reborrowed.

Borrower hereby authorizes Lender to, and Lender may, from time to time, upon prior notice to Borrower, charge the Loan Account of Borrower with any amount due and payable by Borrower under any Loan Documents. Borrower agrees that Lender shall have the right to make such charges whether or not any Default or Event of Default shall have occurred and be continuing. Any amount charged to the Loan Account of Borrower shall be deemed a Loan hereunder made by Lender to Borrower. Borrower confirms that any charges that Lender may so make to the Loan Account of Borrower as herein provided will be made as an accommodation to Borrower and solely at Lender's discretion.

6. Expense Reimbursement.

(a) Lender's Out-of-Pocket Expenses. Borrower shall reimburse Lender for all reasonable and documented out-of-pocket expenses incurred in connection with the negotiation and preparation of the Loan Documents and the obtaining of approval of the Loan Documents by the Bankruptcy Court (including the reasonable and documented fees and expenses of Clifford Chance US LLP ("Clifford") and Young Conaway Stargatt & Taylor, LLP ("YCST" and together with Clifford, "Lender's Counsel"), counsel for the Lender, all of the Lender's special counsel, advisors, consultants, and auditors retained in connection with the preparation and negotiation of the Loan Documents and advice in connection therewith) regardless of whether such fees and expenses were incurred before or after the commencement of the Chapter 11 Case. In addition, Borrower shall reimburse Lender for all reasonable fees, costs, and expenses of Lender's Counsel or other advisors for advice, assistance, or other representation in connection with:

(1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the Loan Documents or advice in connection with the administration of the Loans made pursuant hereto or Lender's rights hereunder or thereunder;

(2) the review of pleadings and documents related to the Chapter 11 Case and any subsequent Chapter 7 case, attendance at meetings or hearings related to the Chapter 11 Case and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Case and any subsequent Chapter 7 case solely as they relate to the Loans made hereunder;

(3) any litigation, contest, dispute, suit, proceeding, or action (whether instituted by Lender, Borrower, or any other Person, and whether as a party, witness, or otherwise) in any way relating to the Collateral, any of the Loan Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding, or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to Lender by virtue of the Loan Documents, including any such litigation, contest, dispute, suit, proceeding, or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default;

(4) any attempt to enforce any remedies of Lender against Borrower or any other Person that may be obligated to Lender by virtue of any of the Loan Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans during the pendency of one or more Events of Default;

(5) any work-out or restructuring of the Loans during the pendency of one or more Events of Default; and

(6) solely as they relate to the Loans made hereunder, any efforts to (i) monitor the Loans or any of the other Obligations, (ii) evaluate, observe or assess the Borrower or Borrower's respective affairs, and (iii) verify, protect, evaluate, assess, appraise, collect, sell, liquidate, or otherwise dispose of any of the Collateral;

including, as to each of clauses (1) through (6) above, all documented and reasonable attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges, and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 6(a), all of which shall be payable, on demand, by Borrower to Lender. Without limiting the generality of the foregoing, such documented and reasonable expenses, costs, charges, and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management, and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs, and expenses; long distance telephone charges; air express charges; facsimile charges; secretarial overtime charges; and expenses for travel, lodging, and food paid or incurred in connection with the performance of such legal or other advisory services. For the avoidance of doubt, all of the foregoing fees, costs, and expenses shall be Obligations under the Note.

7. Indemnity. Borrower shall indemnify and hold harmless Lender and its respective affiliates, members, officers, directors, employees, attorneys, agents, and representatives, solely in such capacity (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended, or terminated under this Note and the other Loan Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between or among any parties to any of the Loan Documents (collectively, "Indemnified Liabilities"); provided that, Borrower shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability, or expense results solely from that Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. **NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE, OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED, OR TERMINATED UNDER ANY LOAN DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.** For the avoidance of doubt, Borrower's obligations under this paragraph shall be an Obligation under this Note.

8. Adjustments for Withholding, Capital Adequacy. Notwithstanding anything to the contrary contained herein, all payments to Lender by Borrower under this Note shall be made free and clear of and without deduction or withholding for any and all taxes, duties, levies, imposts, deductions, charges, or withholdings and all related liabilities (all such taxes, duties, levies, imposts, deductions, charges, withholdings, and liabilities being referred to as "Taxes") imposed by the United States of America or any other nation or jurisdiction (or any political subdivision or taxing authority of either), unless such Taxes are required by applicable law to be deducted or withheld and excluding taxes imposed on Lender's overall net income by the jurisdiction under

the laws of which it is organized or any political subdivision thereof. If Borrower shall be required by applicable law to deduct or withhold any such Taxes from or in respect of any amount payable under this Note, then (i) the amount payable shall be increased (and for greater certainty, in the case of interest, the amount of interest shall be increased) as may be necessary so that after making all required deductions or withholdings, (including deductions or withholdings applicable to any additional amounts paid under this Note) Lender receives an amount equal to the amount it would have received if no such deduction or withholding had been made, (ii) Borrower shall make such deductions or withholdings, and (iii) Borrower shall immediately pay the full amount deducted or withheld to the relevant governmental entity in accordance with applicable law.

If the effect of the adoption, effectiveness, phase-in, or applicability after the date hereof of any law, rule or regulation (including without limitation any tax, duty, charge, or withholding on or from payments due from Borrower (but excluding taxation on the overall net income of Lender)), or any change therein or in the interpretation or administration thereof by any governmental authority, central bank, or comparable agency charged with the interpretation or administration thereof, is to reduce the rate of return on the capital of Lender with respect to this Note or to increase the cost to Lender of making or maintaining amounts available under this Note, Borrower agrees to pay Lender such additional amount or amounts as will compensate Lender on an after-tax basis for such reduction or increase.

Borrower agrees to immediately pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, financial institutions duties, debits taxes, or similar levies (all such taxes, charges, duties, and levies being referred to as "Other Taxes") which arise from any payment made by Borrower under this Note or from the execution, delivery or registration of, or otherwise with respect to, this Note.

Borrower shall indemnify Lender for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed by any jurisdiction on amounts payable by Borrower hereunder) paid by Lender and any liability (including penalties, interest, and expenses) arising from or with respect to such Taxes or Other Taxes, whether or not they were correctly or legally asserted, excluding taxes imposed on Lender's overall net income. Payment under this indemnification shall be made upon demand. A certificate as to the amount of such Taxes or Other Taxes submitted to Borrower by Lender shall be conclusive evidence, absent manifest error, of the amount due from Borrower to Lender.

Borrower shall furnish to Lender the original or a certified copy of a receipt evidencing payment of Taxes or Other Taxes made by Borrower within thirty (30) days after the date of any payment of Taxes or Other Taxes.

9. Security. In accordance with the Interim Order or Final Order, as applicable, the DIP Facility shall be secured by the following:

(a) Pursuant to section 364(d)(1) of the Bankruptcy Code, first priority (subject to liens permitted under the Loan Documents) priming liens on the Prepetition Collateral, senior in priority to the Prepetition Liens.

(b) Pursuant to section 364(c)(2) of the Bankruptcy Code, first priority liens on any unencumbered assets.

(c) Pursuant to section 364(c)(3) of the Bankruptcy Code, junior priority liens on all assets that are subject to valid, perfected and unavoidable liens in favor of third parties that were in existence immediately prior to the Petition Date or that were perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

The liens and security agreements securing the DIP Facility shall be effective and perfected as of the entry of the Interim Order and without necessity of the execution, filing or recording of control agreements financings statements or other agreements.

10. Priority of Obligations and the Lender's Liens. The priority of Lender's Liens on the Collateral and of the Obligations, including adequate protection liens and superpriority claims granted to Lender under the Interim Order and the Final Order shall be as set forth in the Interim Order or Final Order (as applicable). As more fully described in the Interim Order or Final Order (as applicable), to the fullest extent allowed pursuant to the Bankruptcy Code and subject to any limitations set forth in the Interim Order or the Final Order (as applicable), Lender's Liens on the Collateral and the Obligations shall be senior to all other liens, claims, interests, and other obligations of the Borrower, including but not limited to all Liens provided to the Prepetition Secured Parties pursuant to the Prepetition Financing Documents.

11. Further Assurances. Borrower represents that no other Indebtedness for borrowed money exists other than this Note and the Permitted Indebtedness. Borrower agrees that Borrower shall, at Borrower's expense and upon request of Lender, duly execute and deliver or cause to be duly executed and delivered, to Lender such further instruments and do and cause to be done such further acts as may be necessary or proper in the opinion of Lender to carry out more effectively the provisions and purposes of this Note or any other Loan Documents, including, upon Lender's written request and in form and substance satisfactory to Lender, security agreements, UCC-l financing statements and other Collateral Documents granting to Lender, first priority Liens in the Collateral to secure the Obligations.

12. Reports and Notices.

(a) In accordance with the Interim Order or Final Order, as applicable, on or before Wednesday of each calendar week commencing on the second full calendar week after the Petition Date and continuing on a weekly basis thereafter, Borrower hereby agrees to deliver to Lender (i) a report of total receipts and total disbursements and (ii) a statement setting forth in reasonable detail the cash balance for each deposit account of Debtor as of the previous Friday.

(b) In accordance with the Interim Order or Final Order, as applicable, Borrower will provide Lender with the following by no later than 5:00 p.m. (prevailing Eastern time) on Wednesday of each calendar week, commencing on the second full calendar week after the Petition Date and continuing on a weekly basis thereafter: a comparison of actual cash disbursements and cash receipts for the most recently ended Applicable Period to the Approved Budget for such Applicable Period and an explanation in reasonable detail of the variances between actual results and the Approved Budget for such Applicable Period and verifying whether or not such variances constitute Permitted Variances.

(c) In accordance with the Interim Order or Final Order, as applicable, Borrower hereby agrees to deliver to Lender on or before Wednesday of each calendar week commencing on the first full week after the Petition Date, an updated rolling 13-week Approved Budget for the immediately succeeding thirteen (13) week period, which budget shall be updated weekly on a rolling basis throughout the term hereof, in form and substance satisfactory to Lender in Lender's sole and absolute discretion.

(d) In accordance with the Interim Order or Final Order, as applicable, Borrower hereby agrees to deliver, or cause to be delivered to Lender, each of the following, which shall be in form and detail acceptable to Lender in its sole discretion:

(1) promptly (and in any event within twenty-four (24) hours) after any officer of Borrower obtains knowledge of the occurrence of any Default or Event of Default under any Loan Document, notice of such occurrence, together with a detailed statement by a responsible officer of Borrower of the steps being taken by Borrower to cure the effect of such Default or Event of Default;

(2) promptly (and in any event within twenty-four (24) hours) upon any officer of Borrower obtaining knowledge thereof, notice of any material loss of or damage to any Collateral or of any material adverse change in any Collateral or the prospect of payment thereof, or of the occurrence or existence of any other event or circumstance which has had or could reasonably be expected to have a Material Adverse Effect;

(3) with respect to any filings by Borrower in the Chapter 11 Case, as soon as reasonably practicable and in any event at least two (2) calendar days prior to filing, copies of any motion, pleading, or other filing by or on behalf of Debtor that would materially and negatively impact the Collateral or, if granted, would constitute a Material Adverse Effect;

(4) (A) promptly (and in any event within twenty-four (24) hours) after submission to any governmental authority, (I) all documents and information furnished to such governmental authority in connection with any investigation of Borrower, other than routine inquiries by such governmental authority, and (II) copies of any periodic or special reports filed by Borrower with any governmental authority, other than routine reports filed in the ordinary course of business, and (B) as soon as available and in any event within three (3) days of the execution, receipt or delivery thereof, copies of notices and other communications received from or sent to any governmental authority which specifically relate to Borrower other than routine communication with the Office of the United States Trustee;

(5) promptly (and in any event within twenty-four (24) hours) upon any officer of Borrower obtaining knowledge thereof, notice of Borrower's violation

of any law, rule or regulation which could reasonably be expected to have a Material Adverse Effect; and

(6) promptly upon request, such other information concerning the condition or operations, financial or otherwise, of Borrower as Lender may reasonably request.

(e) Borrower authorizes Lender to communicate directly with their independent certified public accountants, advisors, and chief restructuring officer (the "CRO"), if any, and authorizes and shall instruct those accountants, advisors, and CRO to reasonably disclose and make reasonably available to Lender, as requested by Lender, any and all financial statements and other supporting financial documents, schedules, and information relating to Borrower or any of Borrower's respective subsidiaries (including copies of any issued management letters) with respect to the business, financial condition and other affairs of Borrower or any of Borrower's respective subsidiaries.

13. Affirmative Covenants.

Borrower agrees that:

(a) Borrower will keep accurate books of record and account pertaining to the Collateral and pertaining to Borrower's businesses and financial condition and such other matters as Lender may from time to time request, in which true and complete entries will be made in accordance with GAAP and, upon request of Lender, will permit any officer, employee, attorney, accountant, or agent of Lender to audit, review, make extracts from, or copy, at Borrower's expense, any and all corporate and financial and other books and records of Borrower at all times during ordinary business hours, to send and discuss with account debtors and other obligors requests for verification of amounts owed to Borrower, and to discuss Borrower's affairs with any of Borrower's directors, officers, employees, attorneys, accountants, or the CRO. Borrower will permit Lender, or any of its respective officers, employees, accountants, attorneys, or agents, to examine and inspect any Collateral or any other property of Borrower at any time during ordinary business hours. The provisions of the forgoing Section 13(a) are subject, in all respects, to reasonable confidentiality restrictions Borrower may deem appropriate under the circumstances and any applicable attorney-client, attorney work product, or similar privilege in favor of Borrower.

(b) (i) Borrower will (A) comply with all requirements of law, the non-compliance with which could reasonably be expected to have a Material Adverse Effect and (B) use and keep the Collateral, and require that others use and keep the Collateral, only for lawful purposes, without violation of any federal, state, or local law, statute, or ordinance, and (ii) Borrower will obtain, maintain in effect and comply with all permits, licenses, and similar approvals necessary for the operation of Borrower's business as now or hereafter conducted.

(c) Borrower will pay or discharge, when due (except for any pre-petition taxes), (i) all taxes, assessments, and governmental charges levied or imposed upon them or upon their income or profits, upon any properties of Borrower (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest, prior to the date on which penalties attach thereto, (ii) all federal, state and local taxes required to be withheld by them, and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien or charge upon any properties of Borrower.

(d) (i) Borrower will keep and maintain the Collateral and all of their other properties necessary or useful in their business in good condition, repair, and working order (normal wear and tear excepted) and will from time to time replace or repair any worn, defective, or broken parts, and (ii) Borrower will defend the Collateral against all claims or demands of all Persons (other than Lender and, if applicable and authorized by the Interim Order or Final Order, the Prepetition Secured Parties) claiming the Collateral or any interest therein.

(e) Borrower will conduct Borrower's business and affairs without knowingly infringing of or interfering with any intellectual property of any other Person in any respect and shall comply in all respects with the terms of the written agreements governing the Borrower's use of any intellectual property licenses.

(f) Borrower will keep all Collateral free and clear of all security interests, liens and encumbrances, except Permitted Encumbrances.

(g) Borrower will obtain and at all times maintain insurance with responsible and reputable insurers, in such amounts and against such risks as may from time to time be reasonably required by Lender, but in all events in such amounts and against such risks as is usually carried by companies engaged in a similar business and owning similar properties in the same general areas in which Borrower operates. Without limiting the generality of the foregoing, Borrower will at all times keep all tangible Collateral insured against risks of fire (including so-called extended coverage), theft, collision (for Collateral consisting of motor vehicles), and such other risks and in such amounts as Lender may reasonably request, with any loss payable to Lender to the extent of its interest. As provided in the Interim Order or the Final Order (as applicable), Lender shall be named as a loss payee or an additional insured, as applicable, on each insurance policy maintained by Debtor that in any way relates to the Collateral. Upon request of Lender, Borrower shall cause all policies of insurance maintained by Debtor to contain a loss payable endorsement or an additional insured endorsement, as applicable, in favor of Lender, in form and substance acceptable to Lender.

(h) Borrower will preserve and maintain Borrower's existence and all of Borrower's rights, privileges, and franchises necessary or desirable in the normal conduct of Borrower's business and shall conduct its business in an orderly, efficient, and regular manner.

(i) Borrower shall operate Borrower's business in a manner consistent with the Approved Budget subject only to Permitted Variances.

(j) Borrower shall comply with all terms, conditions, requirements and obligations set forth in the Interim Order or the Final Order (as applicable).

(k) Borrower shall maintain Borrower's bank accounts in accordance with the order authorizing Debtor's use of the existing bank accounts entered in the Chapter 11 Case, which order shall be in form and substance reasonably satisfactory to Lender.

14. Negative Covenants.

Borrower agrees that, without the prior written consent of Lender in its reasonable discretion:

(a) Borrower shall not directly or indirectly merge or consolidate with, acquire all or substantially all of the assets or capital Stock of, or otherwise combine with, any Person.

(b) Borrower shall not create, incur, assume, or permit to exist any Indebtedness, except (without duplication), to the extent not prohibited by the Bankruptcy Code, Permitted Indebtedness.

(c) Borrower shall not make any changes in Borrower's capital structures or amend Borrower's organizational documents in a manner that would adversely affect Lender.

(d) Borrower shall not create, incur, assume, or permit to exist any Lien on or with respect to any of Borrower's properties or assets (whether now owned or hereafter acquired) except for Permitted Encumbrances. In addition, Borrower shall not become a party to any agreement, note, indenture, or instrument or take any other action that would prohibit the creation of a Lien on any of their properties or other assets in favor of Lender, as collateral for the Obligations.

(e) Except in the ordinary course of the operation of Borrower's business and consistent with past practice, Borrower shall not enter into any material contractual agreement or any amendment thereto after the Petition Date, other than the Loan Documents, unless approved by Lender.

(f) Borrower shall not maintain any deposit account or securities account that is not subject to a first priority security interest in favor of Lender pursuant to the Interim Order and the Final Order.

(g) Borrower shall not consent to any amendment, supplement or other modification of any of the terms or provisions contained in, or applicable to, the Interim Order or the Final Order.

(h) Borrower shall not make any changes in any of Borrower's business objectives, purposes, or operations that could materially adversely affect the repayment of the Loans or any of the other Obligations or could reasonably be expected to have or result in a Material Adverse Effect. Borrower shall not engage in any business other than the businesses currently engaged in by Borrower or businesses reasonably related thereto.

(i) Borrower will not assume, guarantee, endorse, or otherwise become directly or contingently liable in connection with any obligations of any other Person, except the endorsement of negotiable instruments by Borrower for the deposit or collection or similar transactions in the ordinary course of business.

(j) Except for Stock in any subsidiary of Borrower held on the date hereof, Borrower will not purchase or hold beneficially any Stock or other securities or evidences of indebtedness of, make or permit to exist any Loans or advances to, or make any investment or acquire any interest whatsoever in, any other Person, including specifically, but without limitation, any partnership or joint venture.

(k) Borrower will not permit any breach, default, or event of default to occur under any note, loan agreement, indenture, mortgage, or other security agreement binding upon Borrower, except for breaches, defaults or events of default existing on the date of commencement of the Chapter 11 Case or resulting therefrom.

(l) Borrower will not pay salaries, bonuses, commissions, consultant fees, or other compensation, other than as provided in the Approved Budget; or increase the salary, bonus, commissions, consultant fees, or other compensation of any directors, shareholders, or consultant, or any member of their respective families, other than as may be provided in the Approved Budget.

(m) Borrower will not convey, sell, lease, assign, transfer, or otherwise dispose of any of Borrower's property, business, or assets, whether now owned or hereinafter acquired other than in the ordinary course of business or pursuant to the terms of the Stalking Horse APA.

(n) Borrower shall not cancel any claim or debt owing to them, except for reasonable consideration negotiated on an arm's-length basis and in the ordinary course of Borrower's business consistent with past practices.

15. <u>Events of Default; Rights and Remedies</u>. Notwithstanding the provisions of section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, but subject to the provisions of the Interim Order or the Final Order (as applicable), the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "<u>Event of Default</u>" hereunder:

(a) Borrower (i) shall fail to make any payment of principal or interest on the Loans or any of the other Obligations within two (2) Business Days of when due and payable, or (ii) shall fail to pay or reimburse Lender for any expense reimbursable hereunder or under any other Loan Document in accordance with the Interim Order or Final Order (as applicable).

(b) Any representation or warranty herein or in any other Loan Document or in any written statement, report, financial statement, or certificate made or delivered to Lender by Borrower is untrue or incorrect in any material respect as of the date when made or deemed made.

(c) Any provision of any Loan Document shall for any reason cease to be valid, binding, and enforceable in accordance with its terms (or Borrower shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any Loan Document has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any Loan Document shall cease to be a valid and perfected first priority Lien (except as otherwise permitted herein or therein) in any of the Collateral purported to be covered thereby.

(d) There shall be a change in the business, assets, operations, or financial condition of Borrower that results in a Material Adverse Effect, other than those customarily caused by commencing a case under chapter 11 of the Bankruptcy Code and other than a sale pursuant to the terms of the Stalking Horse APA which results in the indefeasible payment in full in cash of the Obligations.

(e) A deviation in actual cash disbursements from the Approved Budget in excess of such line item's Permitted Variance shall occur.

(f) Any event constituting an event of default or termination event as set forth in the Interim Order or Final Order (as applicable) (each, a "Termination Event") shall occur. For the avoidance of doubt, any event constituting a Cash Collateral Termination Event under the Interim Order shall constitute a Termination Event.

(g) Any of the following shall occur:

(1) Any Milestone set forth in the Interim Order or in the Final Order, as applicable, shall not have been satisfied.

(2) The Stalking Horse APA is terminated; *provided, however*, that it shall not constitute an Event of Default if Debtor exercises Debtor's fiduciary duty and accepts an alternative bid at an auction in accordance with the Sale Order where such alternative bid includes cash consideration sufficient to satisfy the full amount of the obligations under the DIP Facility and the Prepetition Secured Indebtedness.

(3) A motion or other pleading is filed in the Chapter 11 Case to dismiss or convert such Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, which motion or pleading is not withdrawn within five (5) calendar days, or otherwise overruled or dismissed by the Bankruptcy Court within fourteen (14) calendar days.

(4) A motion or other pleading is filed in the Chapter 11 Case for entry of an order authorizing the appointment of an interim or permanent trustee in such Chapter 11 Case or the appointment of an examiner (other than a fee examiner) in such Chapter 11 Case, which motion or pleading is not withdrawn within five (5) calendar days, or otherwise overruled or dismissed by the Bankruptcy Court within fourteen (14) calendar days.

(5) Borrower moves in the Chapter 11 Case (or fails to contest in good faith a motion brought by any other Person) to approve a sale or other disposition of substantially all of Debtor's assets that (i) does not provide for the indefeasible payment in full in cash of the Obligations and (ii) is not satisfactory to Lender, in its sole discretion, and termination of commitment of Lender to make Loans without the consent of Lender in its sole discretion.

(6) Borrower moves for (or fails to contest in good faith a motion brought by any other Person), or the Bankruptcy Court enters, an order confirming a chapter 11 plan, which plan is not in form and substance acceptable to Lender in its reasonable discretion.

(7) Borrower moves in the Chapter 11 Case (or fails to contest in good faith a motion brought by any other Person or such motion succeeds): (i) to grant any Lien

other than Permitted Encumbrances upon or affecting any Collateral other than in connection with any replacement credit facility that provides for payment in full of all Obligations; (ii) to recover from any portion of the Collateral any costs or expenses of preserving or disposing of such Collateral under section 506(c) of the Bankruptcy Code; or (iii) to authorize any other action or actions adverse to Lender, or its rights and remedies hereunder or its interests in the Collateral, that would, individually or in the aggregate, have a Material Adverse Effect.

(8) The allowance of any claim or claims under section 506(c) of the Bankruptcy Code against or with respect to any Collateral.

(9) The Interim or Final Order is reversed, vacated, revoked, stayed, amended, supplemented, or otherwise modified in any manner without the prior written consent of Lender in its reasonable discretion.

(10) The occurrence of any post-petition judgments, liabilities or events that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(11) The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Case or the appointment of an examiner (other than a fee examiner) in the Chapter 11 Case.

(12) The Chapter 11 Case shall be dismissed or converted from a case under Chapter 11 to a case under Chapter 7 of the Bankruptcy Code without the consent of Lender.

(13) The entry of an order in the Chapter 11 Case avoiding or requiring repayment of any portion of the payments made to Lender on account of the Obligations owing under this Note or the other Loan Documents.

(14) The entry of an order in the Chapter 11 Case granting any other superpriority administrative claim or Lien equal to or superior to that granted to Lender, unless consented to by Lender in its sole discretion.

(15) The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code (i) to allow any creditor (other than Lender) to execute upon or enforce a Lien on any Collateral, or (ii) with respect to any Lien of or the granting of any Lien on any Collateral to any state or local environmental or regulatory agency or authority that could reasonably be expected to have a Material Adverse Effect.

(16) There shall commence any suit or action against Lender by or on behalf of (i) Borrower or (ii) the Committee, in each case, that constitutes a challenge or that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of Lender and, if such suit or action is commenced by any Person other than Borrower, such suit or action shall not have been dismissed or stayed

within ten (10) calendar days after service thereof on Lender, and, if stayed, such stay shall have been lifted.

(h) Borrower shall fail or neglect to perform, keep or observe any of the provisions of this Note that is not the subject of any other clause of this Section 15, and such failure remains uncured for five (5) Business Days after notice.

16. Rights and Remedies Upon Event of Default.

(a) If any Event of Default shall have occurred and be continuing, then Lender may, upon written notice (the "Termination Notice") to Borrower subject to the terms of the Interim Order or Final Order (as applicable): (i) terminate this Note and the DIP Facility contemplated hereby with respect to further Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Loan, to be forthwith due and payable; (iii) revoke Borrower's rights to use cash collateral in which Lender has an interest; and (iv) exercise any rights and remedies under the Loan Documents, the Interim Order or the Final Order (as applicable), or at law or in equity.

(b) Except as otherwise provided for in this Note or by applicable law, Borrower waives: (a) presentment, demand, protest, and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Lender on which Borrower may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard; (b) all rights to notice and a hearing prior to Lender's taking possession or control of, or Lender's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Lender to exercise any of its remedies; and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

(c) Subject to the terms of the Interim Order and Final Order (as applicable), in addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, Lender is hereby authorized at any time or from time to time, without notice to Borrower or to any other Person, any such notice being hereby expressly waived, to offset and to appropriate and to apply any and all balances held by it at any of its offices for the account of Borrower (regardless of whether such balances are then due to Borrower) and any other properties or assets at any time held or owing by Lender to or for the credit or for the account of Borrower against and on account of any of the Obligations that are not paid when due.

(d) To the extent permitted by law and subject in all respects to the terms of the Interim Order or the Final Order (as applicable), Lender's sole duty with respect to the custody, safekeeping, and physical preservation of the Collateral in its possession shall be to deal with it in the same manner as Lender deals with similar securities and property as a secured lender in other transactions. Lender's duty of care with respect to Collateral in the custody or possession of a bailee or other third person shall be deemed fulfilled if it exercises reasonable care in the selection of the bailee or other third person, and Lender need not otherwise preserve, protect, insure or care for any Collateral, and Lender shall not be obligated to preserve any rights Borrower may have against prior parties.

17. Reference Agreements. This Note evidences the Loans that may be made to Borrower from time to time in the aggregate principal amount at any time outstanding of up to the Maximum Amount and is issued pursuant to and entitled to the benefits of the Interim Order and Final Order (as applicable) to which reference is hereby made for a more complete statement of the terms and conditions under which the Loans evidenced by this Note are made and are to be repaid.

18. Definitions. The following terms used in this Note shall have the following meaning (and any of such terms may, unless the context otherwise requires, be used in the singular or the plural depending on the reference):

"Applicable Period" means each of the First Applicable Period, the Second Applicable Period, the Third Applicable Period and each Rolling Applicable Period, as applicable.

"Approved Budget" means a detailed budget which sets forth projected cash receipts and cash disbursements on a weekly basis by line item for the time period from and including the Petition Date through the conclusion of the initial Approved Budget period set forth therein, in form and substance acceptable to the Lender in its sole discretion prior to the hearing to consider the authorization of Borrower's entry into this Note, a copy of which is attached hereto as Exhibit A, as the same may be updated, modified or supplemented from time to time with the written consent of the Lender in its reasonable discretion.

"Bankruptcy Code" shall have the meaning given such term in the recital to this Note.

"Bankruptcy Court" shall have the meaning given such term in the recital to this Note.

"Borrower" shall have the meaning given such term in the recital to this Note.

"Business Day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New York, or any other day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close, or any other day on which banking institutions located in London, United Kingdom and the Netherlands are authorized or required by law or other governmental action to close.

"Cash Collateral Termination Event" shall have the meaning given such term in the Interim Order.

"Chapter 11 Case" shall have the meaning given such term in the recital to this Note.

"Collateral" shall mean the assets and property covered by the Interim Order and Final Order (as applicable) and the other Collateral Documents and any other assets and property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Lender, to secure the Obligations. Without limiting the foregoing, the Collateral shall include all proceeds of any of the foregoing and all present and future assets and property of the estates of Borrower under section 541(a) of the Bankruptcy Code (including, without limitation, the proceeds of claims and causes of action under chapter 5 of the Bankruptcy Code).

"Collateral Documents" shall mean any agreement entered into pursuant to Section 11 hereof and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations, including the Interim Order or the Final Order (as applicable).

"Committee" shall mean any official committee of unsecured creditors appointed in the Chapter 11 Case.

"Commitment" means the commitment of the Lender to make the Loans to the Borrower in the aggregate principal amount not to exceed $3,130,000.00, as the same may be terminated or reduced from time to time in accordance with the terms of this Note.

"Contingent Obligation" means, with respect to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness, leases, dividends or other obligations ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, (i) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of a primary obligor, (ii) the obligation to make take-or-pay or similar payments, if required, regardless of nonperformance by any other party or parties to an agreement, (iii) any obligation of such Person, whether or not contingent, (A) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (B) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (C) to purchase property, assets, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (D) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; provided, however, that the term "Contingent Obligation" shall not include any product warranties extended in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation with respect to which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such Person may be liable pursuant to the terms of the instrument evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto (assuming such Person is required to perform thereunder), as determined by such Person in good faith.

"CRO" shall have the meaning given such term in Section 12(e) of this Note.

"Debtor" shall have the meaning given such term in the Interim Order and Final Order, as applicable.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning given such term in Section 4(d) of this Note.

"Designated Account" shall mean account number ending in x7462,maintained by the Borrower with East West Bank in Pasadena, California or such other deposit account of Borrower (located in the United States) that has been designated as such in writing by Borrower to Lender.

"DIP Facility" shall mean this Agreement and the extensions of credit made hereunder.

"DIP Motion" shall mean the *Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to the Prepetition Secured Noteholder, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* filed on the Petition Date.

"Dollars" or "$" shall mean lawful currency of the United States of America.

"Event of Default" shall have the meaning given such term in Section 15 of this Note.

"Final Order" shall mean an order of the Bankruptcy Court entered in the Chapter 11 Case after a final hearing pursuant to section 364 of the Bankruptcy Code and Bankruptcy Rule 4001, satisfactory in form and substance to Lender in its reasonable discretion, together with all extensions, modifications, and amendments thereto, (i) authorizing Borrower to obtain credit, incur Indebtedness, and grant Liens under this Note and the other Loan Documents, (ii) granting adequate protection, (iii) modifying the automatic stay, and (iv) granting related relief, all as set forth in such order.

"First Applicable Period" means the period from the Petition Date to the last day of the Fiscal Week that is two Fiscal Weeks after the Petition Date.

"Fiscal Week" means a calendar week commencing on Sunday and ending on the following Saturday.

"GAAP" shall mean generally accepted accounting principles in the United Kingdom.

"Indebtedness" shall mean, without duplication, with respect to any Person, (i) all indebtedness of such Person for borrowed money; (ii) all obligations of such Person for the deferred purchase price of property or services (other than trade payables, payables to vendors or other account payables incurred in the ordinary course of such Person's business and not past due for more than ninety (90) days after the date such payable was created); (iii) all obligations of such Person evidenced by bonds, debentures, notes, or other similar instruments or upon which interest payments are customarily made; (iv) all obligations and liabilities of such Person created or arising under any conditional sales or other title retention agreement with respect to property used or acquired by such Person, even though the rights and remedies of the lessor, seller, and the lender thereunder are limited to repossession or sale of such property; (v) all capitalized lease obligations of such Person; (vi) all obligations and liabilities, contingent or otherwise, of such Person, in respect of letters of credit, acceptances, and similar facilities; (vii) all obligations and liabilities, calculated on a basis reasonably satisfactory to Lender and in accordance with accepted practice, of such Person under interest rate or currency swaps and other derivatives; (viii) all Contingent Obligations; (ix) all other items which, in accordance with GAAP, would be included as liabilities on the liability side of the balance sheet of such Person; and (x) all obligations referred to in clauses (i) through (ix) of this definition of another Person secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien upon property owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness. The Indebtedness of any Person shall include the Indebtedness of any partnership of or joint venture in which such Person is a general partner or a joint venturer.

"Indemnified Person" shall have the meaning given such term in Section 7 of this Note.

"Interest Payment Date" shall mean the first Business Day of each month to occur while any Loans are outstanding; provided that, in addition to the foregoing, each of (x) the date upon which all of the Loans have been paid in full and (y) the Maturity Date shall be deemed to be an "Interest Payment Date" with respect to any interest that has then accrued hereunder.

"Interim Order" shall mean an order of the Bankruptcy Court entered in the Chapter 11 Case pursuant to section 364 of the Bankruptcy Code and Bankruptcy Rule 4001, satisfactory in form and substance to Lender in its reasonable discretion, together with all extensions, modifications, and amendments thereto, (i) authorizing Borrower, on an interim basis, to obtain credit, incur Indebtedness, and grant Liens under this Note and the other Loan Documents, (ii) granting adequate protection, (iii) modifying the automatic stay, (iv) setting a final hearing, and (v) granting related relief, all as set forth in such order. The Interim Order is attached hereto as Exhibit B.

"Lender" shall have the meaning given such term in the recital to this Note.

"Lender's Counsel" shall have the meaning give such term in Section 6(a) of this Note.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement, encumbrance, or preference, priority, or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

"Loan" and "Loans" shall have the meaning given such term in Section 1 of this Note.

"Loan Account" means an account maintained hereunder by Lender on its books of account with respect to Borrower, in which Borrower will be charged with all Loans made to, and all other Obligations incurred by, Borrower.

"Loan Documents" shall mean this Note, the Interim Order, the Final Order, the Collateral Documents, and all other agreements, instruments, documents, and certificates executed and delivered to, or in favor of, Lender and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of Borrower, or any employee of Borrower, and delivered to Lender in connection with this Note or the transactions contemplated thereby. Any reference in this Note or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements, or other modifications thereto, and shall refer to such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business assets, or properties or condition (financial or otherwise) of Borrower (other than those resulting solely from the commencement of the Chapter 11 Case), (ii) the ability of Borrower to perform any of its obligations under any Loan Document to which it is a party (other than those resulting solely from the commencement of the Chapter 11 Case), (iii) the legality, validity, or enforceability of this Note or any other Loan Document, (iv) the rights and remedies of Lender under any Loan Document, or (v) the validity, perfection, or priority of a Lien in favor of Lender on any of the Collateral.

"Maturity Date" means the earliest of: (i) Stated Maturity Date; (ii) the date on which the Obligations are declared to be, or otherwise become, due and payable in full due to the occurrence of an Event of Default; and (iii) the date of delivery of a Termination Notice.

"Maximum Amount" shall have the meaning given such term in Section 1 of this Note.

"Maximum Lawful Rate" shall have the meaning given such term in Section 4(e) of this Note.

"Milestone" shall have the meaning given such term in the Interim Order or the Final Order, as applicable.

"New Money DIP Loan" shall have the meaning given such term in Section 1(b) of this Note.

"Note" shall have the meaning given such term in the recitals of this Note.

"Notice of Loan" shall have the meaning given such term in Section 1 of this Note.

"Obligations" shall mean all loans, advances, debts, liabilities, and obligations for the performance of covenants, tasks, or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by Borrower to Lender, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, arising under this Note or any of the other Loan Documents. This term includes all principal, interest, charges, expenses, attorneys' fees and any other sum chargeable to Borrower under this Note or any of the other Loan Documents.

"Other Taxes" shall have the meaning given such term in Section 8 of this Note.

"Permitted Encumbrances" shall mean any pre-existing liens and security interests as of the Petition Date on the Collateral, but solely to the extent that such liens and security interests were, as of the Petition Date, valid, enforceable, perfected, and non-avoidable liens, or were perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

"Permitted Indebtedness" shall mean: (a) current Indebtedness maturing in less than 90 days and incurred in the ordinary course of business for supplies, equipment, services, taxes or labor; (b) Indebtedness arising under this Note and the other Loan Documents; (c) Prepetition Secured Indebtedness; (d) deferred taxes and other expenses incurred in the ordinary course of business; (e) other Indebtedness listed in the Approved Budget; (f) Indebtedness from the Borrower to its parent entity; and (g) administrative expenses of Borrower for which the Bankruptcy Court has not directed payment.

"Permitted Variances" shall mean, for any Applicable Period, any variance that does not result in the total actual disbursements for any Applicable Period being greater than 110% of what is projected in the Approved Budget as "Total Outflows" for such period. Total actual disbursements shall be determined in a manner consistent with the determination of "Total Outflows" in the Approved Budget.

"Person" shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, public benefit corporation, other entity or government (whether federal, state, county, city, municipal, local, foreign, or otherwise, including any instrumentality, division, agency, body, or department thereof).

"Petition Date" shall have the meaning given such term in the recitals of this Note.

"Prepetition Collateral" shall mean all encumbered assets, subject to a valid and perfected lien as of the Petition Date under the Prepetition Secured Note Agreement.

"Prepetition Secured Note Agreement" shall mean that certain Secured Promissory Term Note, dated May 6, 2026, by and between Lender and Borrower.

"Prepetition Secured Indebtedness" shall have the meaning given such term in the Interim Order or the Final Order, as applicable, and for the avoidance of doubt, such term shall include all Obligations in connection with the Prepetition Secured Note Agreement.

"Prepetition Loan Documents" shall mean all documentation executed in connection with the Prepetition Secured Note Agreement.

"Prepetition Secured Parties" shall have the meaning given such term in the Interim Order or the Final Order, as applicable.

"Rolling Applicable Period" means each period of four Fiscal Weeks, beginning with the period of four Fiscal Weeks ending on the last day of the Fiscal Week immediately following the Third Applicable Period and each Fiscal Week thereafter (which shall be reported on the last day of such week), in each case, on a rolling four week basis.

"Sale Motion" means the *Debtor's Motion for Entry of an Order (I) Approving the Bidding Procedures, (II) Scheduling Certain Dates and Deadlines with Respect Thereto, (III) Approving the Form and Manner of Notice Thereof, (IV) Approving the Stalking Horse Agreement, (V) Approving the Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (VI) Approving the Sale of Substantially All of the Debtor's Assets, (VII) Authorizing the Debtor's Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (VIII) Granting Related Relief.*

"Sale Order" means the entry by the Bankruptcy Court of an order approving a sale as requested in the Sale Motion.

"Second Applicable Period" means the period from the Petition Date to the last day of the Fiscal Week that is three Fiscal Weeks after the Petition Date.

"Stalking Horse APA" means that certain Asset Purchase Agreement by and among the Debtor and ArcLink Fiber LLC, executed on or about the Petition Date, and submitted as an exhibit to the Sale Motion.

"Stated Maturity Date" the first Business Day that is one-hundred and twenty (120) days after the Petition Date or such later date agreed to by Lender in its sole discretion.

"Stock" shall mean all shares, options, warrants, general or limited partnership interests or other equivalents (regardless of how designated) of or in a corporation, partnership or equivalent entity whether voting or nonvoting, including common stock, preferred stock or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act).

"Taxes" shall have the meaning given such term in Section 8 of this Note.

"Termination Event" shall have the meaning given such term in Section 15(f) of this Note.

"Termination Notice" shall have the meaning given such term in Section 16(a) of this Note.

"Third Applicable Period" means the period from the Petition Date to the last day of the Fiscal Week that is four Fiscal Weeks after the Petition Date.

19. Representations and Warranties. Borrower represents as follows:

(a) Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, the jurisdiction of formation;

(b) subject to entry of the Interim Order, the execution and delivery of this Note and the other Loan Documents and the performance by Borrower of Borrower's obligations hereunder and under the other Loan Documents are within Borrower's corporate powers, have been duly authorized by all necessary corporate or limited liability company action of Borrower, have received all necessary bankruptcy, insolvency or governmental approvals, and do not and will not contravene or conflict with any provisions of applicable law or of Borrower's organizational documents or of any agreements binding upon or applicable to Borrower or any of Borrower's properties;

(c) the Chapter 11 Case has been duly authorized by all necessary corporate action by or on behalf of Borrower and have been duly and properly commenced;

(d) subject to entry of the Interim Order, this Note and each other Loan Document is a legal, valid, and binding obligation, enforceable against Borrower in accordance with its terms except as limited by equitable principles relating to enforceability;

(e) Borrower has good and marketable title to, or valid leasehold interests in, all of their respective properties and assets; none of the properties and assets of Borrower are subject to any Liens other than Permitted Encumbrances, and (giving effect to the protections provided by the Chapter 11 Case) there are no facts, circumstances or conditions that may result in any Liens other than Permitted Encumbrances;

(f) no information contained in this Note, any of the other Loan Documents, any projections, financial statements or collateral reports or other reports from time to time delivered hereunder or any written statement furnished by or on behalf of Borrower to Lender pursuant to the terms of this Note, any Loan Document or otherwise contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. Subject to entry of the Interim Order and the Final Order (as applicable), the Liens granted to Lender pursuant to the Collateral Documents will at all times be fully perfected first priority Liens in and to the Collateral described;

(g) except for proceedings in the Chapter 11 Case and as set forth on Schedule 21(g) attached hereto, no action, claim, lawsuit, demand, investigation, or proceeding is now pending or, to the knowledge of Borrower, threatened against Borrower before any governmental authority or before any arbitrator or panel of arbitrators that (i) challenges Borrower's right or power to enter into or perform any of their respective obligations under the Loan Documents to which each is a party, or the validity or enforceability of any Loan Document or any action taken thereunder or (ii) (giving effect to the protections provided by the Chapter 11 Case) has a reasonable risk of being determined adversely to Borrower and that, if so determined, could have a Material Adverse Effect;

(h) to the best of Borrower's knowledge, each of Borrower's accounts, contracts, contract rights, tangible chattel paper, intangible or electronic chattel paper, documents, instruments, general intangibles, supporting obligations and other rights, remedies, obligations, or other intangibles of any kind (i) is and will be genuine, and in all respects what it purports to be, and is not and will not be evidenced by a judgment, an instrument or chattel paper (unless such judgment shall have been assigned to Lender in such manner as Lender shall deem necessary or appropriate to perfect and preserve its first priority security interest therein and unless, if so requested by Lender, such instrument shall have been endorsed and delivered to or at the direction of Lender and, in the case of tangible chattel paper, if so requested by Lender, delivered to Lender); (ii) represents and will represent a bona fide transaction completed or in progress in accordance with the terms and provisions contained in the invoices and purchase orders relating thereto, and the underlying transactions giving rise thereto do not and will not in any way violate any requirements of law; and (iii) is and will be in the amount shown on Borrower's records, which amount is and will be actually and absolutely owing to Borrower and not contingent or subject to any rights of set-off or reduction for any reason other than regular discounts, credits or adjustments allowed by Borrower in the ordinary course of their business;

(i) the execution, delivery and performance of this Note and the other Loan Documents will not (immediately or with the giving of notice or passage of time, or both) (i) violate the organizational documents of Borrower, or violate any law or regulation; or (ii) result in the creation or imposition of any Lien upon any of the property of Borrower, except in favor of Lender;

(j) except for the Chapter 11 Case and giving effect to the protections provided by the Chapter 11 Case, there is no order, notice, claim, litigation, proceeding or investigation pending or threatened against or in any way affecting (i) Borrower, whether or not covered by insurance, that would reasonably be expected to have a Material Adverse Effect or (ii) this Note or any other Loan Document.

20. Miscellaneous.

(a) All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, electronically mailed, or delivered as follows:

If to Borrower:

SiFi Networks America, LLC
103 Foulk Road, Suite 500
Wilmington, Delaware 19803
Attention: Ian Wade
Email: ian.wade@sifinetworks.com

With a copy (not constituting notice) to:

Cole Schotz P.C.
1325 Avenue of the Americas
New York, New York 10019
Attention: James Stefanick

Email: jstefanick@coleschotz.com

If to Lender:

ArcLink Fiber LLC
103 Foulk Road, Suite 202
Wilmington, Delaware 19803
Email: SIFITopco@patrizia.ag

With a copy (not constituting notice) to:

Clifford Chance US LLP
Two Manhattan West
375 9th Avenue
New York, New York 10001
Attention: Matthew Hinker; Madelyn Nicolini
Email: matthew.hinker@cliffordchance.com;
madelyn.nicolini@cliffordchance.com

and

Young Conaway Stargatt & Taylor, LLP
1000 North King Street
Wilmington, Delaware 19801
Attention: Sean Beach
Email: sbeach@ycst.com

All such notices and communications shall, when mailed or sent by overnight courier, be effective when deposited in the mails or delivered to the overnight courier, as the case may be, or when sent by facsimile or electronic mail be effective when confirmation is received.

(b) No failure or delay on the part of Lender or any other holder of this Note (or any portion thereof) to exercise any right, power or privilege under this Note and no course of dealing between Borrower and Lender shall impair such right, power or privilege or operate as a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies expressly provided in this Note are cumulative to, and not exclusive of, any rights or remedies that Lender would otherwise have. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstances without notice or demand.

(c) Borrower hereby consents to renewals and extensions of time at or after the maturity hereof without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(d) If any provision in or obligation under this Note shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality, and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(e) **THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF BORROWER AND LENDER HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES.**

(f) **BORROWER AND, BY THEIR ACCEPTANCE OF THIS NOTE, LENDER AND ANY SUBSEQUENT HOLDER OF THIS NOTE, HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE AND THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED**. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Borrower and, by their acceptance of this Note, the Lender and any subsequent holder of this Note, each (i) acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this relationship, and that each will continue to rely on this waiver in their related future dealings and (ii) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS OF THIS NOTE**. In the event of litigation, this provision may be filed as a written consent a trial by the court. Each party hereto hereby submits to the exclusive jurisdiction of the Bankruptcy Court for purposes of all legal proceedings arising out of or relating to this Note or the transactions contemplated hereby.

(g) Borrower hereby waives the benefit of any statute or rule of law or judicial decision which would otherwise require that the provisions of this Note be construed or interpreted most strongly against the party responsible for the drafting thereof.

(h) Borrower shall not have the right to assign Borrower's obligations or liabilities under this Note without the prior written consent of Lender. Lender may assign to one or more entities all or any part of, or may grant participation's to one or more entities in or to all or any part of, the amounts outstanding hereunder, and to the extent of any such assignment or participation (unless otherwise stated therein) the assignee or participant shall have the same rights and benefits hereunder as it would have it were a Lender hereunder. Lender shall notify Borrower of any such assignment which notice shall include a description of the assignment and include customary instructions from Lender and its assignee with respect to the making of payments and other communications with Lender and such assignee.

(i) The obligations under Section 6 and Section 7 shall survive any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) No provision of this Note may be amended or waived unless such amendment or waiver is in writing and is signed by Borrower and Lender.

(k) If any provision of this Note is held invalid, illegal, or unenforceable, the parties shall negotiate in good faith so as to replace each invalid, illegal or unenforceable provision with a valid, legal, and enforceable provision which will, in effect, from an economic viewpoint, most nearly and fairly approach the effect of the invalid, illegal, or unenforceable provision and the intent of the parties in entering into this Note.

(l) This Note, the other Loan Documents, and all Liens created hereby or pursuant to the Collateral Documents or any other Loan Documents shall be binding upon Borrower, the estate of Borrower, and any trustee or successor in interest of Borrower in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to section 365 of the Bankruptcy Code. This Note and the other Loan Documents shall be binding upon, and inure to the benefit of, the successors of Lender and its respective assigns, transferees and endorsees. The Liens created by this Note, and the other Loan Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of any of the Chapter 11 Case or any other bankruptcy case of Borrower to a case under Chapter 7 of the Bankruptcy Code or in the event of dismissal of any of the Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that Lender files financing statements or otherwise perfect its security interests or Liens under applicable law.

(m) In the event of any inconsistency between the provisions of the Interim Order or Final Order (as applicable) and this Note or any other Loan Document, the provisions of the Interim Order or Final Order (as applicable) shall govern.

(n) THIS WRITTEN PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be executed and delivered by their duly authorized officer as of the day and year and at the place first above written.

BORROWER: **SIFI NETWORKS AMERICA, LLC**

By: */s/ Jacen Dinoff*
Name: Jacen Dinoff
Title: Chief Restructuring Officer

LENDER: **ARCLINK FIBER LLC**

By:______________________________
Name: ______________________________
Title: ______________________________

By: ______________________________
Name: ______________________________
Title: ______________________________

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be executed and delivered by their duly authorized officer as of the day and year and at the place first above written.

BORROWER:

SIFI NETWORKS AMERICA, LLC

By:______________________________

Name: ____________________________

Title: ____________________________

LENDER:

ARCLINK FIBER LLC

Signed by:

By: Bart Saenen

A1FFA9975007476...

Name: Bart Saenen

Title: Director

DocuSigned by:

By:

F1C0DAE085354C1...

Name: Phoebe Smith

Title: Director

EXHIBIT A

APPROVED BUDGET

Intentionally omitted.

EXHIBIT B

INTERIM ORDER

Intentionally omitted.

Schedule 21(g)

Name of Sale Motion

Debtor's Motion for Entry of an Order (I) Approving the Bidding Procedures, (II) Scheduling Certain Dates and Deadlines with Respect Thereto, (III) Approving the Form and Manner of Notice Thereof, (IV) Approving the Stalking Horse Agreement, (V) Approving the Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (VI) Approving the Sale of Substantially All of the Debtor's Assets (VII) Authorizing the Debtor's Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and (VIII) Granting Related Relief

Pending Litigation

- *Berkshire Hathaway Specialty Insurance Company v. SiFi Networks America, LLC*, C.A. No. 8:23-cv-01417 (FWS) (C.D. Cal.)
- *Cablevision Lightpath LLC v. SiFi Networks America, LLC*, C.A. No. N26C-05-051 MAA (Del. Super. Ct.)
- *Generate Saratoga Springs Fiber Member, LLC et al. v. SIFI Saratoga Springs Inc. et al.*, Case No. 01-24-0007-2419 (International Centre for Dispute Resolution)
- *Generate Saratoga Springs Fiber Member, LLC et al. v. SIFI Saratoga Springs Inc. et al.*, C.A. No. 1272-JTL (Del. Ch.)
- *Neda v. SiFi Networks America, LLC*, Case No. 30-2025-01454867-CU-BC-CJC (Cal. Super. Ct.)

Exhibit 2

Initial Budget

	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	
Week Number	**0 (Petition date of 6/5/26**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	
Week Beginning	**05/31/2026**	**06/07/2026**	**06/14/2026**	**06/21/2026**	**06/28/2026**	**07/05/2026**	**07/12/2026**	**07/19/2026**	**07/26/2026**	**08/02/2026**	**08/09/2026**	**08/16/2026**	**08/23/2026**	**08/30/2026**	**Total**
Week Ending	**06/06/2026**	**06/13/2026**	**06/20/2026**	**06/27/2026**	**07/04/2026**	**07/11/2026**	**07/18/2026**	**07/25/2026**	**08/01/2026**	**08/08/2026**	**08/15/2026**	**08/22/2026**	**08/29/2026**	**09/05/2026**	**DIP BUDGET**
RECEIPTS															
Reimbursement of Dvpt Costs	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Management Fees Monthly	445.0	-	-	-	445.0	-	-	-	-	-	-	-	-	-	890.0
Management/Lion Fee Adjs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Development Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Lion Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Flow Down Agreements	-	-	260.0	-	-	-	-	260.0	-	-	-	-	-	-	520.0
Future Fiber Loan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
VAT Refund/ R&D / Tax	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sale Proceeds															-
Total Receipts	**$ 445.0**	**$ -**	**$ 260.0**	**$ -**	**$ 445.0**	**$ -**	**$ -**	**$ 260.0**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 1,410.0**
OPERATING DISBURSEMENTS															
Payroll Expenses and Taxes	$ (2.0)	$ -	$ (178.5)	$ -	$ (178.5)	$ -	$ (178.5)	$ -	$ (178.5)	$ (281.0)	$ -	$ -	$ -	$ -	$ (997.0)
Benefits	-	-	(23.0)	-	(23.0)	-	(23.0)	-	(23.0)	(11.5)	-	-	-	-	(103.5)
Agency Staff - Manilla Team	(15.4)	-	-	-	(17.0)	-	-	-	-	(17.0)	-	-	-	-	(49.4)
Cost of Sale - Flow Down Costs (Recovered)	(234.9)	-	(260.0)	-	-	-	-	(260.0)	-	-	-	-	-	-	(754.9)
Cost of Sale - Service Costs Not Recoverable	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cost of Sale - SNO	(16.1)	-	-	-	(16.0)	-	-	(16.0)	-	-	-	-	-	-	(48.1)
SNO QAQC	(190.3)	-	(190.0)	-	(190.0)	-	-	-	-	-	-	-	-	-	(570.3)
Additional Services Systems Costs (SNO)	(19.5)	-	-	-	(19.5)	-	-	(19.5)	-	-	-	-	-	-	(58.5)
Insurance	(14.3)	-	-	(5.0)	-	-	-	(5.0)	-	-	-	-	-	-	(24.3)
Ordinary Course Professionals	(80.0)	-	-	-	-	(60.0)	-	(60.0)	-	-	-	-	-	-	(200.0)
Travel	-	-	(12.0)	(12.5)	-	-	(14.0)	(12.0)	-	-	(14.0)	-	-	-	(64.5)
Telephone	-	-	(1.4)	-	-	-	(1.4)	-	-	-	(1.5)	-	-	-	(4.3)
Office Supplies/General Administrative Expenses	(14.0)	-	(1.0)	(10.0)	-	-	(1.0)	(10.0)	-	-	(1.0)	-	-	-	(37.0)
Bank Charges	-	(2.5)	(1.4)	-	-	-	(1.4)	-	-	-	(1.4)	-	-	-	(6.7)
Total Disbursements	**$ (586.5)**	**$ (2.5)**	**$ (667.3)**	**$ (27.5)**	**$ (444.0)**	**$ (60.0)**	**$ (219.3)**	**$ (382.5)**	**$ (201.5)**	**$ (309.5)**	**$ (17.9)**	**$ -**	**$ -**	**$ -**	**$ (2,918.5)**
Cash Flow from SiFi Operations	**$ (141.5)**	**$ (2.5)**	**$ (407.3)**	**$ (27.5)**	**$ 1.0**	**$ (60.0)**	**$ (219.3)**	**$ (122.5)**	**$ (201.5)**	**$ (309.5)**	**$ (17.9)**	**$ -**	**$ -**	**$ -**	**$ (1,508.5)**
Total Operating Cash Flow	**$ (141.5)**	**$ (2.5)**	**$ (407.3)**	**$ (27.5)**	**$ 1.0**	**$ (60.0)**	**$ (219.3)**	**$ (122.5)**	**$ (201.5)**	**$ (309.5)**	**$ (17.9)**	**$ -**	**$ -**	**$ -**	**$ (1,508.5)**
NON-OPERATING DISBURSEMENTS															
Professional Fees - Debtor Legal - Cole Schotz	$ (150.0)	$ -	$ -	$ -	$ (350.0)	$ -	$ -	$ -	$ (350.0)	$ -	$ -	$ -	$ (350.0)	$ -	$ (1,200.0)
Professional Fees - Debtor Financial Advisory - KCP Advisory Group	(75.0)	-	-	-	-	-	-	-	(90.0)	-	-	-	(175.0)	-	(265.0)
Professional Fees - Debtor Sales Agent	-	-	-	-	-	-	(80.0)	-	-	-	-	-	-	-	(80.0)
Professional Fees - Claims Agent	-	-	-	-	-	(54.5)	-	-	-	(30.0)	-	-	(48.0)	-	(132.5)
Director Fees	(25.0)	-	-	-	-	(25.0)	-	-	-	-	(25.0)	-	(25.0)	-	(75.0)
Directors and Officers Insurance Tail Coverage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
US Trustee Fees	-	-	-	-	-	-	(13.8)	-	-	-	-	-	(29.3)	-	(43.1)
Professional Fees - Lender	-	-	-	-	(100.0)	-	-	-	(100.0)	-	-	-	(100.0)	-	(300.0)
Winddown Cost	-	-	-	-	-	-	-	-	-	-	-	-	(15.0)	-	(15.0)
Bank Escrow Fees	-	-	-	-	-	-	-	-	(4.0)	-	-	-	-	-	(4.0)
Total Non-Operating Disbursements	**$ (250.0)**	**$ -**	**$ -**	**$ -**	**$ (450.0)**	**$ (79.5)**	**$ (93.8)**	**$ -**	**$ (544.0)**	**$ (30.0)**	**$ (25.0)**	**$ -**	**$ (742.3)**	**$ -**	**$ (2,114.6)**
Total Disbursements	**$ (836.5)**	**$ (2.5)**	**$ (667.3)**	**$ (27.5)**	**$ (894.0)**	**$ (139.5)**	**$ (313.1)**	**$ (382.5)**	**$ (745.5)**	**$ (339.5)**	**$ (42.9)**	**$ -**	**$ (742.3)**	**$ -**	**$ (5,033.1)**
Net Weekly Cash Flow	**$ (391.5)**	**$ (2.5)**	**$ (407.3)**	**$ (27.5)**	**$ (449.0)**	**$ (139.5)**	**$ (313.1)**	**$ (122.5)**	**$ (745.5)**	**$ (339.5)**	**$ (42.9)**	**$ -**	**$ (742.3)**	**$ -**	**$ (3,623.1)**
Beginning Cash on Hand	$ 609.8	$ 218.3	$ 215.8	$ 308.5	$ 281.0	$ 467.0	$ 327.5	$ 14.4	$ 1,141.9	$ 396.4	$ 56.9	$ 14.0	$ 14.0	$ 16.7	$ 609.8
Net Weekly Cash Flow	(391.5)	(2.5)	(407.3)	(27.5)	(449.0)	(139.5)	(313.1)	(122.5)	(745.5)	(339.5)	(42.9)	-	(742.3)	-	(3,723.1)
Additional (Decrease in) Funding Need	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Funding	-	-	500.0	-	635.0	-	-	1,250.0	-	-	-	-	745.0	-	3,130.0
Repayment to Lenders	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Weekly Ending Cash on Hand	**$ 218**	**$ 216**	**$ 309**	**$ 281**	**$ 467**	**$ 328**	**$ 14**	**$ 1,142**	**$ 396**	**$ 57**	**$ 14**	**$ 14**	**$ 17**	**$ 17**	**$ 17**