IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: US MAGNESIUM LLC,[1] Debtor.	Chapter 11 Case No. 25-11696

DEBTOR'S MOTION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING, (B) GRANT SENIOR SECURED PRIMING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS AND (C) UTILIZE CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION; (III) MODIFYING THE AUTOMATIC STAY; (IV) SCHEDULING FINAL HEARING; AND (IV) GRANTING RELATED RELIEF

The above-captioned debtor and debtor-in-possession, US Magnesium LLC (the "**Debtor**"), files this *Motion for Interim and Final Orders Authorizing Postpetition Financing* (the "**DIP Motion**") up to an aggregate principal amount of $12,500,000, pursuant to the terms set forth in the proposed Interim Order attached as Exhibit A and the Ratification and Amendment Agreement, in substantially the form attached as Exhibit B (the "**Ratification Agreement**" and together with all other Loan Documents, the "**DIP Financing**"),[2] by and between the Debtor and Wells Fargo Bank, National Association (the "**DIP Lender**") and requests that the Court schedule, pursuant to Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), a final hearing (the "**Final Hearing**") for the Court to consider entry of the Final Order authorizing and approving on a final basis the relief requested in this Motion. In support hereof, the Debtor relies on the *Declaration of Ron Thayer in Support of the Debtor's Chapter 11 Petition and Related Requests for Relief* (the "**First Day Declaration**") filed contemporaneously with and in support of

[1] The last four digits of the Debtor's federal tax identification number are 5446. The Debtor's address is 238 N 2200 W, Salt Lake City, Utah 84116

the first day relief sought in this bankruptcy proceeding. In further support of this Motion, the Debtor respectfully represents and sets forth as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

3. On the date hereof (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**").

4. As of the date hereof, an official committee of unsecured creditors has not been appointed in this case. 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. No trustee, examiner, or statutory committee has been appointed in this chapter 11 case (this "**Chapter 11 Case**").

5. Additional information regarding the circumstances leading to the commencement of this Chapter 11 Case and information regarding the Debtor's business and capital structure is set forth in the First Day Declaration.

6. As described in the First Day Declaration, the Debtor was facing a liquidity concern which prompted the request for additional financing and the filing of the Chapter 11 case.

I. Prepetition Secured Indebtedness

7. The Debtor and Wells Fargo Bank, National Association ("**Wells Fargo**") are party to that certain Loan and Security Agreement, dated June 24, 2002, as amended from time to time, currently through that certain Forbearance Agreement and Amendment No. 42 to Loan and Security Agreement dated as of February 19, 2025 (as may be further amended, supplemented, or otherwise modified from time to time, the "**Prepetition Credit Agreement**"). The obligations arising under the Prepetition Credit Agreement are secured by substantially all of the assets of the Debtor other than owned real property. As of the Petition Date, the Debtor has approximately $42 Million, including LCs of $820K, in total funded debt obligations under the Prepetition Credit Agreement.

8. USM, as borrower, and Renco Global Capital, Inc. ("**Renco Global**"), as lender, are party to that certain Subordinated Loan Agreement, dated as of June 26, 2023 (as may be amended, supplemented, or otherwise modified from time to time, the "**Renco Global Loan Agreement**"). The obligations arising under the Renco Global Loan Agreement are secured by a junior security interest in substantially all of the assets of the Debtor other than owned real property. The respective rights of Wells Fargo and Renco Global as lenders to USM are governed by that certain Intercreditor and Subordination Agreement, dated as of June 26, 2023. As of September 8, 2025, the Debtor has approximately $45,448,974.86 in total funded debt obligations under the Renco Global Loan Agreement.

9. In addition to the foregoing, on August 28, 2025, The Renco Group, Inc., as lender, and USM, as borrower, entered into that certain Subordinated Loan Agreement (as may be amended, supplemented, or otherwise modified from time to time, the "**Subordinated Loan Agreement**"). Pursuant to the Subordinated Loan Agreement, The Renco Group, Inc. provided

bridge funding to the Debtor in the amount of $2,500,000 to ensure the Debtor's liquidity would be sufficient to allow it to prepare for and file this Chapter 11 Case. The obligations arising under the Subordinated Loan Agreement are secured by a junior lien in substantially all of the Debtor's assets.

II. The Debtor's Efforts to Obtain DIP Financing

10. In connection with the planning for this chapter 11 case, the Debtor reviewed projected cash flows and made a determination of how much capital would be required to effectuate its chapter 11 strategy. In so doing, the Debtor created a budget for its liquidity needs. (the "**DIP Budget**").

11. The Debtor then requested financing proposals from both existing lenders and potential new lenders and reviewed its options for obtaining additional financing whether via traditional financial institution lenders and alternative lenders. Recognizing that no parties would be willing to provide financing in the form of unsecured credit repayable as an administrative expense under section 503(b) of the Bankruptcy Code, nor under the terms of sections 364(a) or 364(b) of the Bankruptcy Code, the Debtor discussed with their pre-petition lenders the prospect of a new loan on a post-petition basis.

12. The Debtor therefore seeks authorization from the Court to enter into the Ratification Agreement in order to obtain the DIP Financing on an interim basis and final basis.

III. A Concise Statement of Material Terms of the Proposed DIP Financing, Interim Order, and the Ratification Agreement

13. The Debtor engaged in good faith, arm's-length negotiations with the DIP Lender, leading to the terms and conditions contained in the Ratification Agreement.

14. The below chart contains a summary of the material terms and conditions governing the Debtors' proposed DIP Financing and use of Cash Collateral pursuant to, and in accordance with, Bankruptcy Rule 40001(b) and Local Rule 4001-2:

Local Rule Requirement	Description of Provision
Parties to the Ratification Agreement Bankruptcy Rule 4001(c)(1)(B)	**Borrower:** US Magnesium LLC **DIP Lender**: Wells Fargo Bank, National Association *See* the Ratification Agreement attached hereto as Exhibit B, p. 1.
Term and Purpose Bankruptcy Rule 4001(b)(1)(B)(iii), 4001(c)(1)(B); Local Rule 4001-2(a)(i)	The Debtor has an immediate need to obtain postpetition financing pursuant to the DIP Financing and to obtain use of Cash Collateral (subject to the Budget) in order to, among other things, (a) stabilize the Debtor's business operations, (b) fund the Debtor's working capital needs, (c) pay administrative costs in full, (d) preserve value during the course of this Chapter 11 Case, and (e) conduct a postpetition sale process for its assets and attempt to identify a bid or bids that yields the highest and best value to the Debtor's estate.
Borrowing Limits Bankruptcy Rule 4001 (c)(1)(B); Local Rule 4001-2(a)(i)(E)	The DIP Financing consists of the following: $10,000,000 of new money DIP Term Loans; and $10,000,000 of converted Pre-Petition Obligations to Post-Petition Obligations, in an amount equal to any and all sums advanced by the DIP Lender to the Debtor under the DIP Term Loan. *See* the Ratification Agreement, Sec. 7
Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(E)	The Proposed Orders and the Ratification Agreement include standard and customary conditions of borrowing, the satisfaction of which is a condition precedent to the obligations of the DIP Lender to provide the DIP Financing. *See* Ratification Agreement, Sec. 9
Interest Rates Bankruptcy Rule 4001(c)(1)(B)	The interest rate on the DIP Financing shall be the Base Margin Rate (7.5%) plus 1.0%
Default Interest Local Rule 4001-2(a)(ii)	Upon the occurrence and during the continuation of an Event of Default, upon written notice by the DIP Lender to Borrower (except that such notice shall not be required for any payment default hereunder or under the Ratification Agreement), then

	(i) all Loans and all other Obligations (except for undrawn Letters of Credit) shall bear interest at a per annum rate equal to two (2) percentage points above the per annum rate otherwise applicable thereto, and (ii) the Letter of Credit Fees payable under Section 3.3(c) hereof shall be increased to two (2) percentage points above the per annum rate otherwise applicable thereto.
Use of Proceeds Bankruptcy Rule 4001(b)(l)(B)(ii)	The proceeds of the DIP Financing shall be used in accordance with and subject to the Interim Order and the DIP Budget (subject to the Carve-Out and the variances permitted under Sec. 5.3(c) of the Ratification Agreement) *See* the Ratification Agreement, Sec. 5.2
Adequate Protection/Entities with Interests in Cash Collateral Bankruptcy Rules 4001(b)(l)(B), 4001(c)(1)(B)(ii); Local Rule 4001-2(a)(i)(K) & (P)	The following secured parties have an interest in Cash Collateral: the DIP Lender (with Renco holding a subordinate interest via the Renco Global Loan Agreement). The adequate protection provided to the DIP Lender for Pre-Petition Obligations shall be in accordance with the Proposed Interim Order, including the granting of replacement liens and Superpriority claims, as well as cash payments of interest and fees owed by the Debtor in connection with Prepetition Obligations. *See* Proposed Interim Order, ¶16.
Fees Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(K) & (P)	Upon entry of the Proposed Interim Order, the DIP Lender is entitled to certain fees pursuant to the Ratification Agreement, including an exit fee in the amount of $200,000 (the "DIP Exit Fee"), which is payable upon the consummation of the Sales Transaction or the sale of all or substantially all of the assets of Debtor. *See* Ratification Agreement, Sec. 6.
Budget Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(iii)	The use of cash and proceeds from the DIP Financing is subjected to the Initial DIP Budget, a copy of which is attached to the Proposed Interim Order as **Exhibit B**, or any subsequent Approved Budget. *See* Ratification Agreement, Sec. 5.2
Liens and Priorities Bankruptcy Rule 4001©(1)(B)(i)	The liens contemplated by the Proposed Interim Order in paragraphs (7), D.ii(3), and 8 and the Ratification Agreement shall follow the priorities set forth in paragraph 9 to the Proposed Interim Order, including that:

	Effective immediately upon the entry of this Interim Order, the Lender is hereby granted as collateral security for all the Obligations, first-priority postpetition security interests and liens (which shall immediately be valid, binding, permanent, continuing, enforceable and non-avoidable) on all of the, real, personal and mixed property, whether now owned or hereafter acquired of the Debtor, including, without limitation, any cash, any investments of such cash, deposit accounts, inventory, equipment, goods, general intangibles, accounts receivable, commercial tort claims, causes of action, insurance policies, other rights to payment, contracts, properties, plants, equipment, general intangibles, documents, instruments, interest in leaseholds, real property, patents, copyrights, trademarks, trade names, other intellectual property, equity interests, the proceeds of all of the foregoing, and all other Collateral, including the Salt Lake City Property, the Commercial Tort Claim Collateral related to the Commercial Tort Claim, the equity interests of the Skull Valley Joint Venture, and, subject to entry of the Final Order, the proceeds of the Debtor's claims and causes of action arising under sections 502(d), 544-549, 550 and 553 of the Bankruptcy Code (the "Avoidance Actions") whether received through judgment, avoidance or otherwise (collectively, the "Liens"). Subject to the Carve Out (as defined below), pursuant to section 364(c)(2) of the Bankruptcy Code, the Lender is hereby granted a first priority perfected security interest in and lien on all Collateral not otherwise subject to any valid, unavoidable, perfected liens and security interests. Upon entry of the Proposed Interim Order, all Post-Petition Obligations, including for avoidance of doubt any and all Pre-Petition Obligations converted into Post-Petition Obligations, shall constitute an allowed superpriority administrative expense claim. *See* Proposed Interim Order, ¶(7), D.ii.(3), 8 and 9
Carve-Out Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(F)	The Proposed Interim Order provides a carve-out for (i) until the issuance of a Carve Out Trigger Notice (which the Lender may only issue upon an Event of Default), the allowed and reasonable fees and expenses of the Professionals in the amounts set forth in the Budget, paid on a monthly basis; and (ii) following delivery of a Carve Out Trigger Notice, an aggregate amount not to exceed $450,000. *See* Proposed Interim Order, ¶17

Postpetition Liens on Unencumbered Assets Local Rule 4001-2(a)(i)(G)	The Proposed Interim Order provides for valid, binding, continuing, enforceable, non-avoidable, automatically and fully perfected first priority liens on and security interests in all Collateral, including the Salt Lake City Property, the Commercial Tort Claim Collateral related to the Commercial Tort Claim, the equity interests of the Skull Valley Joint Venture and property that is not otherwise subject to any valid, enforceable, and unavoidable lien and security interest. *See* Proposed Interim Order, ¶8.
Milestones Local Rule 4001-2(a)(i)(H)	The Ratification Agreement includes certain milestones concerning this Chapter 11 case that, if not met, will result in an Event of Default. *See* Ratification Agreement, Sec. 5.4.
Payment of Fees Local Rule 4001-2(a)(i)(K)	The Proposed Interim Order provides that the reasonable and documented fees and expenses of the DIP Lender will be paid as set forth in the Ratification Agreement, and subject to the objection of the Debtor and the U.S. Trustee. *See* Proposed Interim Order, ¶12.
Limitations on Use of Funds to Investigate the Liens and Claims of the Prepetition Secured Parties Local Rule 4001-2(a)(L)	The Proposed Interim Order includes a limitation on the use of the proceeds of the DIP Financing and Cash Collateral with respect to claims against the DIP Lender but is subject to a $15,000 investigation budget. *See* Proposed Interim Order, ¶17.
Events of Default Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(M)	The Ratification Agreement contains events of default that are usual and customary for debtor-in-possession financing. *See* Ratification Agreement, Sec. 7.15 Failure of Tranche B DIP Term Loan Participant to fund the purchase price of any Tranche B Term Loan Participation *See* Ratification Agreement, Sec. 7.1
Roll Up Local Rule 4001-2(a)(i)(O)	The Proposed Interim Order provides for the conversion of up to $10,000,000 of Pre-Petition Obligations to Post-Petition Obligations in an amount equal to any and all sums advanced by the DIP Lender to the Debtor under the DIP Term Loan. *See* Proposed Interim Order, (2).

Validity of Prepetition Liens; Challenge Period Local Rule 4001-2(a)(i)(Q)	The Proposed Interim Order contains stipulations and releases concerning the validity of the loans, liens and obligations under the Pre-Petition Loan Agreement (the "Stipulations"). The Proposed Interim Order provides for a 45-day challenge period from the entry of the Proposed Interim Order for any party in interest to initiate an adversary proceeding. *See* Proposed Interim Order ¶32.
Liens on Avoidance Actions Bankruptcy Rule 4001(c)(1)(B)(xi); Local Rule 4001-2(a)(i)(U)	The Proposed Interim Order provides that the Liens will attach to Avoidance Actions and their proceeds. *See* Proposed Interim Order ¶8
Sections 506(c) and 552(b) and Marshalling Waivers Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(V), (W), (X)	Subject to the entry of the Final Order, the Debtor seeks waiver of (a) their right to surcharge the Collateral pursuant to section 506(c) of the Bankruptcy Code, (b) the "equities of the case" exception under section 552(b) of the Bankruptcy Code as to the Collateral, and (c) the equitable doctrine of "marshalling" and other similar doctrines with respect to the Collateral as to the DIP Lender. *See* Proposed Interim Order, D.(ii)5), ¶¶ 14, 29, 30.
Waiver / Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	Pursuant to the Proposed Interim Order, the automatic stay provisions of section 362 of the Bankruptcy Code are modified to the extent necessary to implement and effectuate the terms of the Proposed Interim Order. *See* Proposed Interim Order, ¶

BASIS FOR RELIEF

14. The statutory predicates for the relief requested herein are sections 105, 361, 362, 363 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001 and 9014 and Local Rule 4001-2.

15. The Debtor also requests the use of cash collateral in accordance with 11 U.S.C. § 363 in accordance with the Budget for its ordinary business operations.

16. Absent the relief requested herein, the Debtor's ability to conduct business in the ordinary course would be jeopardized. The Debtor may face interrupted operations which would be an immediate reduction in value of the property of the estate.

I. Approval Under Section 364(c) of the Bankruptcy Code

17. The Debtor proposes to obtain the DIP Financing by providing to the DIP Lender security interests and liens as set forth above pursuant to section 364(c) of the Bankruptcy Code.

18. The statutory requirement for obtaining postpetition credit under section 364(c) is a finding, made after notice and hearing, that the debtor is "unable to obtain unsecured credit allowable under section 503(b)(1) of [the Bankruptcy Code]." 11 U.S.C. § 364(c). Section 364(c) financing is appropriate when the trustee or debtor in possession is unable to obtain unsecured credit allowable as an ordinary administrative claim. See In re L.A. Dodgers LLC, 457 B.R. 308, 312 (Bankr. D. Del. 2011) (denying motion for authorization to enter into postpetition credit facility where debtors could not prove that they were unable to obtain unsecured credit allowable as an administrative expense); In re Crouse Grp., Inc., 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (secured credit under section 364(c)(2) of the Bankruptcy Code is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained).

19. Courts have articulated a three-part test to determine whether a debtor is entitled to financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

a. the debtor is unable to obtain unsecured credit under section 364(b), i.e., by allowing a lender only an administrative claim;

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

c. the terms of the transaction are fair, reasonable and adequate, given the circumstances of the Debtor and the proposed lender.

L.A. Dodgers, 457 B.R. at 312; see In re Ames Dep't Stores, 115 B.R. 34, 37-39 (Bankr. S.D.N.Y. 1990); Aqua Assocs., 123 B.R. 192, 195-96 (Bankr. E.D. Pa. 1991). As is fully set forth below the Debtor has satisfied each of these conditions.

II. The Debtor Does Not Have an Alternative to the DIP Financing

20. As set forth above, and as the Debtor will show at the Interim Hearing, financing of the type and in the amount needed in this case was not obtainable on an unsecured basis. There were no potential sources of postpetition financing for the Debtor, available on an expedited basis and on reasonable terms.

21. In these circumstances, "[t]he statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable." Bray v. Shenandoah Fed. Sav. & Loan Ass'n (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986); see In re Phoenix Steel Corp., 39 B.R. 218, 222 (D. Del. 1984) (concluding the debtor satisfied its burden to show an inability to obtain credit on other terms through time and effort); see also Ames Dep't Stores, 115 B.R. at 37.

21. A debtor need only demonstrate "by a good faith effort that credit was not available without" the protections afforded to potential lenders by sections 364(c) and 364(d) of the Bankruptcy Code. Snowshoe, 789 F.2d at 1088; see In re Antico Mfg. Co., 31 B.R. 103, 105 (Bankr. E.D.N.Y. 1983). Moreover, where there are few lenders 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 . . . an exhaustive search for financing." In re Sky Valley, Inc., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), aff'd, 99 B.R. 117 (N.D. Ga. 1989). Thus, the evidence introduced at the Interim Hearing to consider the relief requested in the Interim Order will satisfy the requirement of section 364(c) of the Bankruptcy Code that alternative credit was not available on

an unsecured basis allowable as an administrative claim under section 503(b)(1) of the Bankruptcy Code.

III. The DIP Financing is Necessary to Preserve the Assets of the Debtor's Estate

22. The Debtor needs immediate access to financing. Access to substantial credit is necessary to meet the day-to-day costs associated with operating the Debtor's business and preserving value pending completion of the proposed sale process. Access to sufficient cash is therefore critical to the Debtor. A loss of confidence among suppliers, customers, employees and other interested parties in the Debtor's ability to access credit at this crucial time would have a material adverse impact on the Debtor's operations and its overall value.

23. For these reasons, immediate access to the funds available under the Ratification Agreement is critical to the Debtor. The ongoing smooth operations of the business demands that the Debtor not be delayed in receiving the beneficial effects of the DIP Financing; any substantial delay could have the same impact as denial of this Motion.

IV. The Terms of the Ratification Agreement are Fair, Reasonable, and Appropriate

24. The DIP Financing reflects the exercise of the Debtor's sound and prudent business judgment. As described above, the Debtor was not able to obtain alternative financing on an unsecured basis, nor was it able to obtain any financing on terms as favorable as the terms negotiated with the DIP Lender. Thus, this financing is important to the company and the terms are reasonable in light of the necessity of the additional funding. In the Debtor's business judgment, the DIP Financing is the best option available for the Debtor to obtain much-needed liquidity in the circumstances of this chapter 11 case.

25. The Ratification Agreement provides that the security interests and administrative expense claims granted to the DIP Lender are subject to the Carve Out. In Ames Dep't Stores, 115 B.R. at 40, the bankruptcy court found that such "carve outs" are not only reasonable, but are

necessary to ensure that official committees and Debtor's estate will be assured of the assistance of counsel. Further, ensuring payment of US Trustee quarterly fees also demands this necessity.

26. The terms and conditions of the Ratification Agreement are fair and reasonable and were negotiated by the parties in good faith and at arm's-length. The interest rate under the Ratification Agreement is within the range of market rates and fair and reasonable in light of the credit profile of the Debtor, the nature and extent of the DIP Collateral, and the business risks associated with lending to the Debtor in this chapter 11 case. Because the Ratification Agreement has been negotiated in good faith and at arm's-length and no consideration is being provided to any party for obligations arising under the Ratification Agreement, other than as disclosed therein, the Debtor requests that the Ratification Agreement be accorded the benefits of section 364(e) of the Bankruptcy Code.

V. Application of the Business Judgment Standard

27. As described above, after appropriate investigation and analysis, and given the exigencies of the circumstances, the Debtor's management has concluded that alternative credit of the type and in the amount required by the Debtor is not available on an unsecured basis. Bankruptcy courts routinely defer to a debtor's business judgment on most business decisions, including the decision to borrow money, unless such decision fails the arbitrary and capricious standard. See Trans World Airlines, Inc. v. Travelers Int'l AG (In re Trans World Airlines, Inc.), 163 B.R. 964, 974 (Bankr. D. Del. 1994) (noting that approval of interim loan, receivables facility, and asset-based facility "reflect[ed] sound and prudent business judgment . . . [was] reasonable under the circumstances and in the best interest of [the debtor] and its creditors"); In re After Six, Inc., 154 B.R. 876, 882 (Bankr. E.D. Pa. 1993) (debtor "is entitled to some free reign in fulfilling its perceived mission of . . . keeping an ongoing business afloat"). Indeed, "[m]ore exacting

scrutiny [of the debtor's business decisions] would slow the administration of the Debtor's estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate and threaten the court's ability to control a case impartially." Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1311 (5th Cir. 1985).

28. In general, a bankruptcy court defers to a debtor's business judgment regarding the need for and the proposed use of funds, unless such decision is arbitrary and capricious. In re Curlew Valley Assocs., 14 B.R. 506, 511-13 (Bankr. D. Utah 1981); see After Six, 154 B.R. at 882-83. Courts generally will not 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." Curlew Valley Assocs., 14 B.R. at 513-14 (footnote omitted).

29. The Debtor has exercised sound business judgment in determining that the DIP Financing is not only appropriate, it is necessary. Furthermore, the Debtor has satisfied the legal prerequisites to borrow under the Ratification Agreement. The terms of the Ratification Agreement are fair and reasonable and are in the best interests of the Debtor's estate. Accordingly, the Debtor should be granted authority to enter into the Ratification Agreement, and borrow funds on the secured basis described above, establish that it should be granted the authority to pursuant to section 364(c) of the Bankruptcy Code, and to take the other actions contemplated by the Ratification Agreement and as requested herein.

30. Without the liquidity provided by the Ratification Agreement, the Debtor may be unable to pay suppliers, employees, and other constituencies that are essential to the operation of the business in the ordinary course. The Debtor's management has exercised its best business judgment in negotiating the Ratification Agreement that is presently before the Court.

VI. Request for Modification of Automatic Stay

31. Section 362 of the Bankruptcy Code provides for an automatic stay upon the filing of a bankruptcy petition. The proposed Ratification Agreement contemplates a modification of the automatic stay (to the extent applicable), to permit the exercise of all rights and remedies provided for in the Ratification Agreement upon the occurrence and during the continuation of any Event of Default, provided that prior to the exercise of any enforcement remedies against the DIP Collateral, the DIP Lender shall be required to give five (5) days' notice to the Debtor, any official unsecured creditors' committee's counsel, and the U.S. Trustee as provided for in section 3 of the proposed Interim Order. Provisions of this kind allowing for a modification of the automatic stay are typically features of postpetition debtor in possession financing facilities and, in the Debtor's business judgment, are reasonable under the present circumstances.

VII. Request for Immediate Interim Relief

32. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit may not be commenced earlier than 14 days after the service of such motion. Upon request, however, this Court is empowered to conduct a preliminary expedited hearing on the motion, and to authorize the obtaining and use of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate pending a final hearing. In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions. See, e.g., In re Simasko Prod. Co., 47 B.R. 444, 449 (Bankr. D. Colo. 1985). After the 14-day period, the request for financing is not limited to those amounts necessary to prevent destruction of the debtor's business. A debtor is entitled to borrow those amounts that it believes prudent in the operation of its business. See id. at 449; Ames Dep't Stores, 115 B.R. at 36.

33. Pending the Final Hearing, the Debtor requires immediate use of a portion of funds provided for in the Ratification Agreement for, among other things, the Debtor's working capital needs. It is essential that the Debtor immediately has the ability to pay for postpetition expenses, as well as the prepetition expenses approved in the various first-day orders pending before this Court, to minimize the damage occasioned by their constrained liquidity.

34. Absent immediate use of a portion of the DIP Financing, the Debtor may become unable to pay ongoing operational expenses and will not be able to continue to make payments to key constituencies, such as employees, that will be integral to the ordinary operation of the Debtor's businesses. Consequently, if interim relief is not obtained, the Debtor's assets will be jeopardized immediately and irreparably harmed, to the detriment of the Debtor's estates, its creditors, and other parties in interest.

35. As noted above, the Debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code in an amount sufficient to effectuate the sale of its operations. Without the DIP Financing, the Debtor's objective of reorganizing these companies may fail. The terms and conditions of the Ratification Agreement are fair and reasonable, and were negotiated by well-represented parties in good faith and at arm's-length. In these circumstances and, importantly, in light of the risk of possible material irreparable harm to the Debtor's operations, the Debtor respectfully submits the granting of the relief requested by this Motion is warranted.

NOTICE

36. Notice of this Motion will be provided to: (a) the U.S. Trustee; (b) the 20 largest unsecured creditors of the Debtor; (c) Wells Fargo Bank, National Association; (d) any other entity asserting recorded liens against any of the Debtor's assets, and their counsel, if known; (e) the

Internal Revenue Service and (f) any party filing a notice pursuant to Bankruptcy Rule 2002; and in compliance with Bankruptcy Rules 4001(b) and (c) and the Local Rules. The Debtor respectfully submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtor respectfully requests that this Court enter the Interim Order, substantially in the form attached hereto as Exhibit A, granting the relief requested in this Motion on an interim basis and such other and further relief as may be just and proper.

Dated: September 10, 2025

GELLERT SEITZ BUSENKELL & BROWN, LLC

/s/ Michael Busenkell
Michael Busenkell (DE 3933)
Margaret M. Manning (DE 4183)
Michael Van Gorder (DE 6214)
1201 North Orange Street, Suite 300
Wilmington, Delaware 19801
Telephone: (302) 425-5800
Facsimile: (302) 425-5814
Email: mbusenkell@gsbblaw.com
mmanning@gsbblaw.com
mvangorder@gsbblaw.com

Proposed Counsel to the Debtor and Debtor-in-Possession

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: US MAGNESIUM LLC,[1] Debtor.	Chapter 11 Case No. 25-11696

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING, AND (B) GRANT SENIOR SECURED PRIMING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS; (II) GRANTING ADEQUATE PROTECTION; (III) MODIFYING THE AUTOMATIC STAY; (IV) SCHEDULING FINAL HEARING; AND (V) GRANTING RELATED RELIEF

Upon the motion (the "DIP Motion") dated September 10, 2025, of US Magnesium LLC (the "Debtor" or the "Borrower"), as debtor in possession in the above-referenced chapter 11 case (the "Chapter 11 Case"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), for entry of an interim order (the "Interim Order") authorizing the Debtor to, among other things:

(1) Obtain postpetition financing pursuant to the terms and conditions of the Ratification and Amendment Agreement (as defined below), this Interim Order, and the Final Order (as defined below);

[1] The last four digits of the Debtor's federal tax identification number are 5446. The Debtor's address is 238 N 2200 W, Salt Lake City, Utah 84116

(2) Enter into the (a) Ratification and Amendment Agreement, substantially in the form attached hereto as Exhibit A (the "Ratification and Amendment Agreement"), by and between the Borrower and Wells Fargo Bank, National Association (the "Lender"), and (b) the Financing Agreements[2] (together with the Ratification Amendment Agreement, the "DIP Financing Agreements"), providing for, among other things: (x) $10,821,588 of DIP Term Loans; (y) the conversion of up to $10,000,000 of Pre-Petition Obligations to Post-Petition Obligations, in an amount equal to any and all sums advanced by the Lender to the Debtor under the DIP Term Loans; and (z) the application of any payments or proceeds arising from the sale of the Debtor's assets first, to the Pre-Petition Obligations (other than Term Loan C) until such Pre-Petition Obligations are paid and satisfied in full, second, to the Post-Petition Obligations arising in connection with the Tranche A DIP Term Loan until such Post-Petition Obligations are paid and satisfied in full, third, to the Pre-Petition Obligations consisting of Term Loan C and fourth to the Post-Petition Obligations consisting of the Tranche B DIP Term Loans, as provided in the Ratification and Amendment Agreement;

(3) Obtain advances and other financial accommodations as set forth in the Ratification and Amendment Agreement from the Lender, secured by perfected senior priority security interests in, and liens on, the Collateral pursuant to section 364(c)(2) and 364(c)(3) of the Bankruptcy Code;

(4) Grant to the Lender allowed superpriority administrative expense claims in the Chapter 11 Case and any Successor Case (as defined below);

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Ratification and Amendment Agreement.

(5) Use the proceeds of the DIP Term Loans in accordance with the Budget, a copy of which is attached hereto as Exhibit B, the Ratification and Amendment Agreement, and this Interim Order, and as otherwise provided in the Ratification and Amendment Agreement;

(6) Modify the automatic stay imposed by section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms of the Ratification and Amendment Agreement and this Interim Order;

(7) Grant to the Lender first priority perfected security interests in and liens on all Collateral, including, without limitation, all right, title and interest of Debtor in and to the Salt Lake City Property, the Commercial Tort Claim Collateral related to the Ace Commercial Tort Claim, and the equity interests of the Skull Valley Joint Venture, each of which shall constitute Collateral securing the Obligations;

(8) Provide the Lender with adequate protection against the diminution in value of their interests in the Collateral in the form of replacement liens on the Collateral, superpriority administrative expense claims, prepetition interest payments, and reasonable and documented fees and expenses, pursuant to Bankruptcy Code sections 361, 362, 363(e) and 364(d)(1); and

(9) Schedule a final hearing (the "Final Hearing") to consider entry of an order (the "Final Order") granting the relief requested in the DIP Motion on a final basis and approving the form of notice with respect to the Final Hearing.

The Court having considered the DIP Motion, the Declaration of Ron Thayer in Support of First Day Motions (the "First Day Declaration"), the Ratification and Amendment Agreement, and the evidence submitted or adduced and the arguments of counsel made at the hearing on this Interim Order (the "Interim Hearing"); and notice of the DIP Motion and the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014; and the Interim Hearing having been held and concluded; and it appearing that granting the relief requested in the DIP Motion on an interim basis is necessary to avoid immediate and irreparable harm to the Debtor pending the Final Hearing, and is otherwise fair and reasonable and in the best interests of the Debtor, its estate, and its creditors, and is essential for the preservation of the value of the Debtor's assets; and all objections, if any, to the entry of this Interim Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and consideration, and good and sufficient cause appearing therefor, **IT IS FOUND AND DETERMINED THAT**:

A. **Petition Date**. On September 10, 2025 (the "Petition Date"), the Debtor filed voluntary petitions under chapter 11 of the Bankruptcy Code with this Court.

B. **Jurisdiction and Venue**. This Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. §§ 157(b) and 1334, and over the persons and property affected hereby. Venue for the Chapter 11 Case and proceedings on the DIP Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. Consideration of the DIP Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). This Court may enter a final order consistent with Article III of the United States Constitution.

C. **Notice**. Notice of the Interim Hearing and notice of DIP Motion has been provided by the Debtor to (i) the Office of the United States Trustee for the District of Delaware; (ii) the Utah Department of Forestry, Fire and State Lands; (iii) the Attorney General for the State of Utah; (iv) the U.S. Department of Environmental Protection; the Office of the United States Attorney for the District of Delaware; (v) the Internal Revenue Service; (vi) the Debtor's twenty (20) largest unsecured creditors (excluding insiders); (vii) any parties that may hold liens against the Debtor's assets; and (viii) counsel to the Lender, by telecopy, email, overnight courier and/or hand delivery. Under the circumstances, such notice of the Interim Hearing and the DIP Motion constitutes adequate and sufficient notice and complies with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b), (c), and (d), and the Local Rules.

D. **Debtor's Stipulations**.

(i) Stipulations Regarding the Pre-Petition Financing.

(1) *Pre-Petition Loans*. Prior to the Petition Date, Lender made loans and advances and provided other financial accommodations pursuant to the Pre-Petition Loan Agreement and extended the Debtor the Revolving Loans and the Term Loans (collectively, the "Pre-Petition Loans"), the Letters of Credit, and certain other financial accommodations. The Pre-Petition Loan Agreement is valid, binding and enforceable in accordance with its terms.

(2) *Pre-Petition Obligations*. As of the Petition Date, the Debtor was justly and lawfully indebted and liable to the Lender, without defense, counterclaim or offset of any kind, in the aggregate principal amount of approximately $67,039,013.02, comprising $40,451,903.55 outstanding Revolving Loans, $25,000,000 outstanding Term Loans (including principal and accrued and unpaid interest), and Letters of Credit in the undrawn face amount of $821,588, made pursuant to and in accordance with the terms of the Pre-Petition Loan Agreement, plus accrued and unpaid interest, fees, expenses (including attorneys', accountants', appraisers' and financial advisors' fees, to the extent chargeable or reimbursable under the Pre-Petition Loan Agreement), charges and indemnities incurred in connection therewith (whether arising before, on or after the Petition Date, and, collectively, the "Pre-Petition Loan Obligations"). The liens and security interests granted to the Lender with respect to the Pre-Petition Obligations (the "Pre-Petition Liens") are valid, binding, perfected and enforceable liens and security interests in the

collateral and not subject to avoidance, recharacterization, subordination, recovery, attack, effect, counterclaim, defense or claim under the Bankruptcy Code or applicable nonbankruptcy law.

(3) *Pre-Petition Liens*. As of the Petition Date, (i) the Pre-Petition Liens in the Collateral were and continue to be valid, binding, enforceable, non-avoidable and properly perfected, and were granted to, or for the benefit of, the Lender, as applicable, for fair consideration and reasonably equivalent value; (ii) the Pre-Petition Liens were senior in priority over any and all other liens on the Collateral, other than any lien over the assets of the Debtor senior by operation of law and solely to the extent such liens were valid, enforceable, non-avoidable and perfected liens in existence on the Petition Date, including valid liens in existence on the Petition Date that are perfected after the Petition Date as permitted by Bankruptcy Code section 546(b); (iii) the Pre-Petition Obligations constitute legal, valid, binding and non-avoidable obligations of the applicable Debtor enforceable in accordance with the terms of the applicable Pre-Petition Loan Agreement; (iv) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Pre-Petition Obligations exist, and no portion of the Pre-Petition Liens or Pre-Petition Obligations is subject to any challenge or defense, including avoidance, disallowance, disgorgement, recharacterization or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (v) the Debtor has no claims, objections, challenges, causes of action and/or choses in action, including avoidance claims under chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Lender or any of their respective affiliates, agents, representatives, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Pre-Petition Loan Agreement; and (vi) the Debtor waives, discharges and releases any right to challenge any of the Pre-Petition Loan Obligations, the priority of the

Debtor's obligations thereunder and the validity, extent and priority of the Pre-Petition Liens securing the Pre-Petition Loan Obligations.

(ii) Stipulations Regarding the DIP Financing.

1) *Need for DIP Financing*. An immediate need exists for the Debtor to obtain funds from the DIP Term Loans in order to continue operations, fund payroll and operating expenses, and to administer and preserve the value of the Debtor's estate pending the Final Hearing. The ability of the Debtor to finance their operations through the incurrence of the DIP Term Loans is vital to the preservation and maintenance of the going concern value of the Debtor's estate, to maximize the value of the Debtor's assets for the benefit of their creditors, and to avoid immediate and irreparable harm to the Debtor, their estate, and their creditors.

2) *Adequate Protection*. The Lender is entitled to receive adequate protection pursuant to sections 361, 363, and 364 of the Bankruptcy Code for any diminution in value of each of its respective interests in the Collateral. Providing the Lender with adequate protection is necessary to enable the Debtor to obtain the DIP Term Loans and to continue to operate its business to the benefit of its estate and creditors.

3) *Collateral Enhancement*. Granting the Lender first priority liens and perfected security interests in the Salt Lake City Property, the Commercial Tort Claim Collateral related to the Ace Commercial Tort Claim, and the equity interests of the Skull Valley Joint Venture to secure the Obligations, as set forth in the Ratification and Amendment Agreement and as further described below, is necessary to enable the Debtor to obtain the DIP Term Loans and to continue to operate its business to the benefit of its estate and creditors. The Lender's liens and security interests in the Collateral, including the Salt Lake City Property, the Commercial Tort Claim Collateral, and the equity interests of Skull Valley Joint Venture are valid, binding,

perfected and enforceable, to the full extent set forth herein and in the Ratification and Amendment Agreement. The Obligations are secured by all the Collateral, including, for the avoidance of doubt, both Pre-Petition Collateral and Post-Petition Collateral.

4) *No Credit Available on More Favorable Terms*. The Debtor has been unable to obtain (a) unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense, or (b) credit for money borrowed secured by a lien on property of the estate on more favorable terms and conditions than those provided in the Ratification and Amendment Agreement and this Interim Order. The Debtor is unable to obtain credit for borrowed money without granting to the Lender the DIP Superpriority Claim (as defined below) and such other protections provided for herein.

5) *Section 506(c) Waiver*. Subject to and effective upon entry of the Final Order, the Debtor shall be deemed to have waived the provisions of section 506(c) of the Bankruptcy Code as part of the DIP Term Loans. Further, subject to and effective upon entry of the Final Order, no expenses of administration of the Chapter 11 Case or Successor Case shall be charged against or recovered from the Collateral pursuant to section 506(c) of the Bankruptcy Code, the enhancement of collateral provisions of section 552 of the Bankruptcy Code, or any other legal or equitable doctrine (including, without limitation, unjust enrichment) or any similar principle of law, without the prior written consent of the Lender, and no consent shall be implied from any action, inaction or acquiescence by the Lender.

6) *Use of Proceeds of the DIP Term Loans*. All proceeds of the DIP Term Loans (net of any amounts used to pay fees, costs and expenses under the Ratification and Amendment Agreement) shall be used, in each case in a manner consistent with the Budget,

the terms and conditions of the Ratification and Amendment Agreement, this Interim Order and as otherwise provided by the Ratification and Amendment Agreement.

7) *Effect of Reversal, Good Faith*. The Lender has indicated a willingness to provide financing to the Debtor in accordance with the Ratification and Amendment Agreement and this Interim Order, and provided that the Post-Petition Obligations, Liens and other protections granted by this Interim Order and the DIP Financing Agreements will not be affected by any subsequent reversal or modification of this Interim Order as provided in section 364(e) of the Bankruptcy Code. The Lender has acted in good faith in agreeing to provide the DIP Term Loans approved by this Interim Order.

8) *Business Judgment and Good Faith Pursuant to Section 364(e)*. The terms and conditions of the DIP Term Loans and the Ratification and Amendment Agreement, and the fees paid and to be paid thereunder are fair, reasonable, and the best available under the circumstances, reflect the Debtor's exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration; the Ratification and Amendment Agreement were negotiated in good faith and at arms' length between the Debtor and the Lender; and the proceeds to be extended under the DIP Term Loans will be so extended in good faith, and for valid business purposes and uses, as a consequence of which the Lender is entitled to the protection and benefits of section 364(e) of the Bankruptcy Code.

9) *Relief Essential; Best Interest; Good Cause*. Good cause has been shown for the relief requested in the DIP Motion (and as provided in this Interim Order) and such relief is necessary, essential, and appropriate for the preservation of the Debtor's assets,

business, and property. It is in the best interest of the Debtor's estate to be allowed to enter into the DIP Term Loans contemplated by the Ratification and Amendment Agreement.

10) *Immediate Entry*. Sufficient cause exists for immediate entry of this Interim Order pursuant to Local Rule 4001(b)(ii) and Bankruptcy Rule 4001(c)(2).

NOW, THEREFORE, based upon the foregoing findings, and upon consideration of the DIP Motion and the record made before this Court with respect to the DIP Motion, including the record created during the Interim Hearing, and with the consent of the Debtor and the Lender to the form and entry of this Interim Order, and good and sufficient cause appearing therefor, **IT IS HEREBY ORDERED AND DECREED**:

1. **Motion Granted**. The DIP Motion is granted in accordance with the terms and conditions set forth in this Interim Order and the Ratification and Amendment Agreement. Any objections to the DIP Motion with respect to entry of this Interim Order to the extent not withdrawn, waived or otherwise resolved, and all reservations of rights included therein, are hereby denied and overruled on the merits.

2. **Ratification and Amendment Agreement**. The Debtor is authorized and empowered to execute and deliver the Ratification and Amendment Agreement and to incur and to perform the Post-Petition Obligations in accordance with, and subject to, the terms of this Interim Order and the Ratification and Amendment Agreement, and to execute and deliver all instruments and documents which may be required or necessary for the performance by the Debtor under the Ratification and Amendment Agreement and the creation and perfection of the Liens described in and provided for by this Interim Order and the Ratification and Amendment Agreement.

3. **Performance Under Ratification and Amendment Agreement**. The Debtor is hereby authorized to perform all acts, grant liens, pay the principal, interest, fees, expenses and other amounts described in the Ratification and Amendment Agreement as such become due, including, without limitation, reasonable attorneys' fees and disbursements as provided for in the Ratification and Amendment Agreement.

4. **Enforceable Obligations**. The Ratification and Amendment Agreement shall be enforceable against the Debtor, its estate and any successors thereto and its creditors or representatives thereof, in accordance with its terms.

5. **Post-Petition Obligations**. Upon entry of this Interim Order, and without further order of the Court, up to $10,000,000 in Pre-Petition Obligations shall be deemed Post-Petition Obligations, in an amount equal to any and all sums advanced by the Lender to the Debtor pursuant to the Ratification and Amendment Agreement.

6. **Letters of Credit**. Upon entry of this Interim Order, and without further order of the Court, all outstanding Prepetition Letters of Credit shall automatically be deemed exchanged for and issued under the Ratification and Amendment Agreement and shall constitute Post-Petition Obligations

7. **Conditions Precedent**. The Lender shall have no obligation to make any loan or advance under the Ratification and Amendment Agreement unless the conditions precedent to making such loan or advance under the Ratification and Amendment Agreement have been satisfied in full or waived by the Lender in its sole discretion.

8. **Liens**. Effective immediately upon the entry of this Interim Order, the Lender is hereby granted as collateral security for all the Obligations, first-priority postpetition security interests and liens (which shall immediately be valid, binding, permanent, continuing,

enforceable and non-avoidable) on all of the, real, personal and mixed property, whether now owned or hereafter acquired of the Debtor, including, without limitation, any cash, any investments of such cash, deposit accounts, inventory, equipment, goods, general intangibles, accounts receivable, commercial tort claims, causes of action, insurance policies, other rights to payment, contracts, properties, plants, equipment, general intangibles, documents, instruments, interest in leaseholds, real property, patents, copyrights, trademarks, trade names, other intellectual property, equity interests, the proceeds of all of the foregoing, and all other Collateral, including the Salt Lake City Property, the Commercial Tort Claim Collateral related to the Commercial Tort Claim, the equity interests of the Skull Valley Joint Venture, and, subject to entry of the Final Order, the proceeds of the Debtor's claims and causes of action arising under sections 502(d), 544-549, 550 and 553 of the Bankruptcy Code (the "Avoidance Actions") whether received through judgment, avoidance or otherwise (collectively, the "Liens"). Subject to the Carve Out (as defined below), pursuant to section 364(c)(2) of the Bankruptcy Code, the Lender is hereby granted a first priority perfected security interest in and lien on all Collateral not otherwise subject to any valid, unavoidable, perfected liens and security interests.

9. **Priority**. The Liens securing the Obligations shall be senior in priority and superior to any security, mortgage, collateral interest, lien or claim on or to any of the Collateral. Other than as expressly set forth herein, the Liens shall not be made subject to or *pari passu* with any lien or security interest by any court order heretofore or hereafter granted in the Chapter 11 Case. The Lender shall retain the Liens, whether the Collateral is retained by the Debtor or transferred to another entity. The Liens shall be valid and enforceable against any trustee appointed in the Chapter 11 Case, upon the conversion of any of the Chapter 11 Case to a case under chapter

7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (any "Successor Case"), or upon the dismissal of the Chapter 11 Case or Successor Case.

10. **Perfection**. This Interim Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Liens, and any other liens provided herein, without the necessity of filing or recording any financing statement, deed of trust, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement). Notwithstanding the foregoing, the Lender may, in its sole discretion, file such financing statements, recordings, deeds of trust, mortgages, notices of liens and other instruments and documents, and are hereby granted relief from the automatic stay of section 362 of the Bankruptcy Code in order to do so, and all such financing statements, recordings, deeds of trust, mortgages, notices and other instruments and documents shall be deemed to have been filed or recorded at the time and on the date of the commencement of the Chapter 11 Case. The Debtor shall execute and deliver to the Lender all such financing statements, recordings, deeds of trust, mortgages, notices and other instruments and documents as the Lender may reasonably request to evidence, confirm, validate or perfect, or to insure the contemplated priority of, the Liens, and other liens, granted pursuant hereto. The Lender, in its discretion, may file a photocopy of this Interim Order as a financing statement with any recording officer designated to file or record financing statements or with any registry of deeds or similar office in any jurisdiction in which any Debtor has real or personal property, and in such event, the recording officer shall be authorized to file or record such copy of this Interim Order.

11. **Proceeds of Collateral**. The Lender shall apply any payments or proceeds of the Collateral in the manner set forth in the Ratification and Amendment Agreement. For the

avoidance of doubt, and as provided in the Ratification and Amendment Agreement, the Lender shall be authorized to apply any payments or proceeds first, to the Pre-Petition Obligations (other than Term Loan C) until such Pre-Petition Obligations are paid and satisfied in full, second, to the Post-Petition Obligations arising in connection with the Tranche A DIP Term Loan until such Post-Petition Obligations are paid and satisfied in full, third, to the Pre-Petition Obligations consisting of Term Loan C and fourth to the Post-Petition Obligations consisting of the Tranche B DIP Term Loans, as provided in the Ratification and Amendment Agreement.

12. **Lender's Fees & Expenses**. The Debtor shall pay the Lender's reasonable and documented fees and expenses reimbursable under the Ratification and Amendment Agreement, whether incurred before or after the Petition Date, including, without limitation, reasonable and documented fees and disbursements of its counsel as set forth in the Ratification and Amendment Agreement. With respect to any such post-petition fees and expenses incurred, if professionals for the Lender deliver invoices in summary form (which shall not be required to include time entry detail and may be redacted for privileged information) to the Debtor and the U.S. Trustee, with a copy of such invoices delivered simultaneously to the Lender, and no written objection is received by 12:00 p.m., prevailing Eastern Time, on the date that is five (5) calendar days after delivery of such invoices to the Debtor and the U.S. Trustee, the Debtor shall promptly pay, and the Lender is hereby authorized to make an advance under the Ratification and Amendment Agreement to timely pay, such DIP Fees and Expenses. If an objection to a professional's invoice is timely received, the Debtor shall promptly pay, and the Lender is authorized to make an advance under the Ratification and Amendment Agreement to timely pay, the undisputed amount of the invoice, and this Court shall have jurisdiction to determine the disputed portion of such invoice if the parties are unable to resolve the dispute consensually.

Lender shall not be required to comply with the U.S. Trustee fee guidelines or otherwise be required to file a fee or retention application with the Court.

13. **Protection of Lender's and Other Rights**. From and after the Petition Date, the Debtor shall use the proceeds of the extensions of credit under the DIP Term Loans only for the purposes specifically set forth in the Ratification and Amendment Agreement and this Interim Order.

14. **Superpriority Administrative Claim Status**. All Post-Petition Obligations, including for avoidance of doubt any and all Pre-Petition Obligations duly converted into Post-Petition Obligations in accordance herewith, shall constitute an allowed superpriority administrative expense claim (the "DIP Superpriority Claim") with priority in the Chapter 11 Case under sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtor or its estate, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to entry of a final order), 507(a), 507(b), 546(c), 546(d), 726 (to the extent permitted by law), 1113 and 1114 of the Bankruptcy Code and pursuant to any other provision of the Bankruptcy Code except as otherwise set forth herein, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment. The DIP Superpriority Claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtor and all proceeds thereof.

15. **Authorization to Use Proceeds of DIP Term Loans**. Pursuant to the terms and conditions of this Interim Order, the Ratification and Amendment Agreement and the other DIP Financing Agreements, and in accordance with the Budget, the Debtor is authorized to use

the advances under the Ratification and Amendment Agreement during the period commencing immediately after the entry of the Interim Order and terminating upon the occurrence of an Event of Default (as defined below) and the termination of the Ratification and Amendment Agreement in accordance with its terms and subject to the provisions hereof. As set forth in the Ratification and Amendment Agreement, it shall be an Event of Default should a Material Budget Deviation occur.

16. **Adequate Protection Liens**. Until the Pre-Petition Obligations are paid in full, the Lender shall receive, pursuant to Bankruptcy Code sections 361, 362, 363(e) and 364(d)(1), adequate protection against the diminution in value of their interests in the Collateral (the "Diminution in Value"), including but not limited to the following forms of adequate protection:

(a) Adequate Protection Liens. The Lender is hereby granted valid, binding, enforceable, non-avoidable and perfected replacement and additional postpetition security interests in, and liens (the "Adequate Protection Liens") on, the Collateral including, without limitation, subject to entry of the Final Order granting such relief, the Avoidance Proceeds;

(b) Adequate Protection 507(b) Claims. The Lender is hereby granted allowed superpriority administrative expense claims as provided for in Bankruptcy Code section 507(b) in the amount of their respective Diminution in Value (the "Adequate Protection 507(b) Claims"), which Adequate Protection 507(b) Claims shall have recourse to and be payable from the Collateral;

(c) Prepetition Interest Payments. The Debtor is authorized and directed to provide the Lender with adequate protection in the form of cash payments covering any outstanding Prepetition Obligations after the entry of this Interim Order, including interest equal to the applicable interest rate under the Ratification and Amendment Agreement with respect to Post-Petition Obligations to the extent such Prepetition Obligations have not yet been rolled up into Post-Petition Obligations and any fees and expenses owed by the Debtor in connection with such Prepetition Obligations, subject to the rights preserved in this Interim Order.

17. **Carve Out**. The Liens are subordinate only to the following (the "Carve Out"): (i) until the issuance of a Carve Out Trigger Notice (which the Lender may only issue upon an Event of Default), the allowed and reasonable fees and expenses of the Professionals in the amounts set forth in the Budget, paid on a monthly basis; and (ii) following delivery of a Carve Out Trigger Notice, an aggregate amount not to exceed $450,000. The Carve Out shall exclude (other than the Investigation Budget Cap (as defined herein)) any fees and expenses incurred in connection with initiating or prosecuting any claims, causes of action, adversary proceedings, or other litigation against the Lender, including, without limitation, the assertion or joinder in any claim, counterclaim, action, proceeding, application, motion, objection, defenses or other contested matter, the purpose of which is to seek any order, judgment, determination or similar relief invalidating, setting aside, disallowing, avoiding, challenging or subordinating, in whole or in part, the Post-Petition Obligations, the Liens, or the Pre-Petition Liens or preventing, hindering or delaying, whether directly or indirectly, the Lender's assertion or enforcement of their liens or security interests or realization upon any Collateral, or prosecuting any Avoidance Actions against the Lender. The "Investigation Budget Cap" means a cap of $15,000.00 with respect to allowed fees incurred by the Creditors' Committee. Nothing herein shall be construed to obligate the Lender to pay any professional fees or to assure that the Debtor has sufficient funds on hand to pay any professional fees.

18. **Payment of Compensation**. Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of the Debtor or shall affect the right of the Lender to object to the allowance and payment of such fees and expenses or to permit the Debtor to pay any such amounts not set forth in the Budget.

19. **Section 506(c) Claims**. Nothing contained in this Interim Order shall be deemed a consent by the Lender to any charge, lien, assessment or claim against the Collateral under Section 506(c) of the Bankruptcy Code or otherwise. Upon entry of the Final Order, no costs or expenses of administration which have been or may be incurred in the Chapter 11 Case or any Successor Case at any time may be charged against the Lender or any of its claims or the Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise.

20. **Collateral Rights**. Unless the Lender has provided its prior written consent or all Post-Petition Obligations have been paid in full in cash (or will be paid in full in cash upon entry of an order approving indebtedness described below), and all commitments to lend have terminated: (a) the Debtor shall not seek entry, in this Chapter 11 Case or in any Successor Case, of any order which authorizes the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the Collateral and/or entitled to priority administrative status which is senior or *pari passu* to those granted to the Lender pursuant to this Interim Order, unless such credit or indebtedness is sufficient to pay all of the Post-Petition Obligations in full in cash; and (b) the Debtor shall not consent to relief from the automatic stay by any person other than the Lender with respect to all or any portion of the Collateral without the express written consent of the Lender.

21. **Disposition of Collateral**. The Debtor shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral, without the prior written consent

of the Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the Lender or an order of this Court), except as provided in the Ratification and Amendment Agreement and this Interim Order and approved by the Bankruptcy Court to the extent required under applicable bankruptcy law; *provided, however,* that nothing herein shall prevent the Debtor from making sales in the ordinary course of business to the extent consistent with its prior practice and the Budget.

22. **Events of Default**. The occurrence of an "Event of Default" pursuant to the Ratification and Amendment Agreement shall constitute an event of default under this Interim Order, unless expressly waived in writing in accordance with the consents required in the Ratification and Amendment Agreement (collectively, the "Events of Default"). As set forth in the Ratification and Amendment Agreement, the failure of any of the DIP Milestones, including but not limited to the following,[3] to occur is an Event of Default:

(a) On or before the date that is three (3) days after the Petition Date, the Bankruptcy Court shall have entered, each in form and substance satisfactory to Lender, (i) the Interim Financing Order, and (ii) interim First Day Orders, each in form and substance satisfactory to Lender, approving the "first day" applications and motions of Debtor, including the cash management of Debtor;

(b) On or before the date that is three (3) days after the Petition Date, Debtor shall file a motion, in form and substance satisfactory to Lender, (i) to approve the Bidding Procedures and the Bidding Procedures Order with respect to the Sales Transaction and the Purchase Agreement and (ii) to approve the Debtor's entry into the Purchase Agreement and consummation of the Sales Transaction pursuant to Section 363 of the Bankruptcy Code;

---

[3] Terms used but not otherwise defined in this paragraph shall have the meanings ascribed to such terms in the DIP Term Loans Agreement.

(c) On or before the date that is eighteen (18) days after the Petition Date, the Bankruptcy Court shall have approved, in form and substance acceptable to Lender, the Final Financing Order;

(d) On or before the date that is sixty (60) days after the Petition Date, a hearing on the Sales Transaction shall have been held by the Bankruptcy Court and the Bankruptcy Court shall have entered, in form and substance acceptable to Lender, the Sale Order; and the consummation of the Sales Transaction shall have occurred on or before the date that is five (5) days after the Sale Order has been entered by the Bankruptcy Court; and

(e) On or before the date that is sixty (60) days after the Petition Date (unless such date is extended by Lender in its sole discretion), the sale of the Salt Lake City Property shall have been approved pursuant to the Salt Lake City Sale Order on terms and conditions acceptable to Lender, and the consummation of the sale of the Salt Lake City Property shall have occurred on or before the date that is five (5) days after the Salt Lake City Sale Order has been entered by the Bankruptcy Court, with all net proceeds from the closing of such sale to be remitted to Lender for application to the Obligations in accordance with the Ratification Agreement.

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

(a) Any otherwise applicable automatic stay is hereby modified so that after the occurrence of any Event of Default and at any time thereafter during the continuance of such Event of Default, upon five (5) business day's prior written notice of such occurrence (the "Remedies Notice Period"), in each case given by the Lender to Debtor, Debtor's counsel, and the Office of the U.S. Trustee for the District of Delaware, the Lender shall be entitled to exercise its rights and remedies with respect to the Debtor in accordance with the Ratification and Amendment

Agreement. Nothing in this Interim Order shall limit the ability of any party to immediately exercise rights and remedies with respect to any non-Debtor.

(b) Notwithstanding the preceding paragraph, immediately following the giving of notice by the Lender of the occurrence of an Event of Default: (i) the Debtor shall continue to deliver and cause the delivery of the proceeds of Collateral to the Lender as provided in the Ratification and Amendment Agreement and this Interim Order; (ii) the Lender shall continue to apply such proceeds in accordance with the provisions of this Interim Order and of the Ratification and Amendment Agreement; (iii) the Debtor shall have no right to use any of such proceeds other than towards the satisfaction of the Obligations and the Carve Out; and (iv) any obligation otherwise imposed on the Lender to provide any loan or advance to the Debtor pursuant to the Ratification and Amendment Agreement shall immediately be suspended. Following the giving of notice by the Lender of the occurrence of an Event of Default, the Debtor shall be entitled to an emergency hearing before this Court. If the Debtor does not contest the right of the Lender to exercise its remedies within such five (5) business day period, or if an emergency hearing is held that does not result in the Court preventing the Lender from exercising its rights and remedies, then the automatic stay, as to the Lender, shall automatically terminate at the end of the Remedies Notice Period.

(c) Nothing included herein shall prejudice, impair, or otherwise affect the Lender's rights to seek any other or supplemental relief in respect of the Lender's rights, as provided in the Ratification and Amendment Agreement.

24. **Proofs of Claim**. The Lender will not be required to file proofs of claim in the Chapter 11 Case or any Successor Case.

25. **<u>Good Faith Under Section 364(e) of the Bankruptcy Code.</u>** The Lender has acted in good faith in connection with negotiating the Ratification and Amendment Agreement, and extending credit under the DIP Term Loans, and its 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, in the event any or all of the provisions of this Interim Order are hereafter reversed, modified, amended or vacated by a subsequent order of this or any other Court, the Lender is entitled to all the benefits and protections provided in section 364(e) of the Bankruptcy Code. Any such reversal, modification, amendment or vacatur shall not affect the validity and enforceability of any advances made pursuant to this Interim Order or the liens or priority authorized or created hereby. The DIP Superpriority Claim, along with the liens and protections granted to the Lender hereunder arising prior to the effective date of such reversal, modification, amendment or vacatur shall be governed in all respects by the original provisions of this Interim Order, and the Lender shall be entitled to all of the rights, remedies, privileges and benefits, including the DIP Superpriority Claim. Since the loans made pursuant to the Ratification and Amendment Agreement are made in reliance on this Interim Order, the obligations owed to the Lender prior to the effective date of any reversal or modification of this Interim Order cannot, as a result of any subsequent order in the Chapter 11 Case or in any Successor Case, be subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to the Lender under this Interim Order and/or the Ratification and Amendment Agreement.

26. **<u>Binding Effect.</u>** The provisions of this Interim Order shall be binding upon and inure to the benefit of the Lender, the Debtor and each of their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of

the Debtor or with respect to the property of the estate of the Debtor) whether in the Chapter 11 Case, in any Successor Case, or upon dismissal of any such chapter 11 or chapter 7 case.

27. **No Waiver.** The failure of the Lender to seek relief or otherwise exercise their rights and remedies under the Ratification and Amendment Agreement, the DIP Term Loans, this Interim Order or otherwise, as applicable, shall not constitute a waiver of the Lender's rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the Lender under the Bankruptcy Code or under non-bankruptcy law, including without limitation, the rights of the Lender to (i) request conversion of the Chapter 11 Case to a case under chapter 7, dismissal of the Chapter 11 Case, or the appointment of a trustee in the Chapter 11 Case, or (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a plan of reorganization or liquidation or (iii) exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) the Lender may have pursuant to this Interim Order, the Ratification and Amendment Agreement, or applicable law. Nothing in this Interim Order shall interfere with the rights of any party with respect to any non-Debtor.

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

29. **No Marshaling**. Subject to entry of the Final Order, the Lender shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Collateral.

30. **Section 552(b)**. In light of the Lender's agreement to subordinate its liens and superpriority claims to the Carve Out, and subject to entry of the Final Order, the Lender is

entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and the "equities of the case" exception shall not apply with respect to proceeds, product, offspring or profits of any of the Collateral.

31. **Amendment**. The Lender, in its sole discretion, may amend, supplement or otherwise modify, or agree to a waiver or consent in respect of, any provision of the Ratification and Amendment Agreement.

32. **Challenges**.

(a) The Debtor's acknowledgments, stipulations and releases set forth in paragraph D of this Interim Order (collectively, the "Stipulations") shall be binding on the Debtor, its estate and their respective representatives, successors and assigns in all circumstances. The Stipulations contained in this Interim Order shall be binding upon all other parties in interest and all of their respective successors and assigns, including any chapter 7 or chapter 11 trustee (a "Trustee") and any statutory or non-statutory committees appointed or formed in the Chapter 11 Case, including the Creditors' Committee (if any) and any other person or entity acting or seeking to act on behalf of the estate in all circumstances and for all purposes, unless the Creditors' Committee, if any, or any other party in interest (including any Trustee), in each case, having sought, by motion, and been granted standing, has duly and timely filed an adversary proceeding or contested matter (each, a "Challenge") challenging the validity, perfection, enforceability, allowability, priority or extent of the obligations in respect of the Pre-Petition Loan Agreement or otherwise asserting or prosecuting any Avoidance Actions or any other claims, counterclaims or causes of action, objections, contests or defenses against the Lender in connection with any matter related to the Pre-Petition Loan Agreement (collectively, the "Claims and Defenses") by no later than forty-five (45) calendar days from the entry of this Interim Order (the "Challenge Deadline" and, such period, the "Challenge Period"); *provided, further*, that any Trustee appointed prior to the expiration of the Challenge Period will have the longer of (x) the remaining Challenge Period and (y) thirty (30) days from the date of such Trustee's appointment to commence a Challenge. Subject to the entry of the Final Order, the timely filing of a motion seeking standing to file a Challenge before the termination of the Challenge Period shall toll the Challenge Deadline only as to the party that timely filed such standing motion and only with respect to the specific Challenges identified in such standing motion until such motion is resolved or adjudicated by the Court. Any pleadings, including, but not limited to, the complaint, filed in any Challenge proceeding shall set forth with specificity the basis for such Challenge (and any Challenge not so specified prior to the Challenge Deadline shall be deemed forever waived, released and barred). The Court may fashion any appropriate remedy following a successful Challenge.

(b) If no Challenge is timely and properly filed prior to the expiration of the Challenge Period or the Court does not rule in favor of the plaintiff in any such proceeding, then without further order of this Court (x) the obligations in respect of the Pre-Petition Financing Agreements shall constitute allowed claims, not subject to any Claims and Defenses (whether characterized as a counterclaim, setoff, subordination, recharacterization, defense, avoidance, contest, attack, objection, recoupment, reclassification, reduction, disallowance, recovery, disgorgement, attachment, "claim" (as defined by Bankruptcy Code section 101(5)), impairment, subordination (whether equitable, contractual or otherwise) or other challenge of any kind pursuant to the Bankruptcy Code or applicable nonbankruptcy law), for all purposes in this Chapter 11 Case and any subsequent chapter 7 case; (y) the Pre-Petition Liens shall not be subject to any other or further Challenge, including, without limitation, any Claims and Defenses, which shall be deemed to be forever waived and barred, and all parties in interest shall be enjoined from seeking to exercise the rights of the estate, including any successor thereto (including any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Challenge Period); and (z) the Stipulations shall be of full force and effect and forever binding upon the Debtor's estate and all creditors, interest holders and other parties in interest in this Chapter 11 Case and any Successor Case.

(c) If any Challenge is timely filed prior to the expiration of the Challenge Period, (i) the Stipulations contained in this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on the Creditors' Committee, if any, any other statutory or non-statutory committees appointed or formed in the Chapter 11 Case, any other person or party in this case, including any Trustee, and any other person or entity acting or seeking to act on behalf of the estate, except as to any such findings and admissions that were expressly and successfully challenged in such Challenge as set forth in a final, non-appealable order of a court of competent jurisdiction, and (ii) any Claims and Defenses not brought in a timely filed Challenge shall be forever barred; *provided that*, if and to the extent any Challenges to a particular Stipulation or admission are withdrawn, denied or overruled by a final non-appealable order, such Stipulation also shall be binding on the estate and all parties in interest. Nothing in this Interim Order vests or confers on any person, including a Creditors' Committee (if any), standing or authority to pursue any cause of action belonging to the Debtor or its estate, including, without limitation, Challenges with respect to the Stipulations, and all rights to object to such standing are expressly reserved.

33. **Survival of Interim Order and Other Matters**. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) confirming any plan of reorganization or plan of liquidation in the Chapter 11 Case,

(ii) converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code or any Successor Case, (iii) to the extent authorized by applicable law, dismissing the Chapter 11 Case, (iv) withdrawing of the reference of the Chapter 11 Case from this Court, or (v) providing for abstention from handling or retaining of jurisdiction of the Chapter 11 Case in this Court. The terms and provisions of this Interim Order, including the DIP Superpriority Claim and liens granted pursuant to this Interim Order and the Ratification and Amendment Agreement, shall continue in full force and effect notwithstanding the entry of such order, and such DIP Superpriority Claim and liens shall maintain their priority as provided by this Interim Order until all the obligations of the Debtor to the Lender pursuant to the Ratification and Amendment Agreement have been indefeasibly paid in full in cash and discharged (such payment being without prejudice to any terms or provisions contained in the Ratification and Amendment Agreement which survive such discharge by their terms).

34. **Inconsistency**. In the event of any inconsistency between the terms and conditions of the Ratification and Amendment Agreement and of this Interim Order, the provisions of this Interim Order shall govern and control.

35. **Enforceability**. This Interim Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable nunc pro tunc to the Petition Date immediately upon entry of this Interim Order. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, 9024, 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. The rights of all parties in interest to object to the terms of the

Final Order, the Ratification and Amendment Agreement and any other DIP Financing Agreements at the Final Hearing are expressly reserved.

36. **Objections Overruled**. All objections to the DIP Motion to the extent not withdrawn or resolved, are hereby overruled on an interim basis.

37. **No Waivers or Modification of Interim Order**. The Debtor irrevocably waives any right to seek any modification or extension of this Interim Order without the prior written consent of the Lender and no such consent shall be implied by any other action, inaction or acquiescence of the Lender.

38. **Participation Agreement**. Notwithstanding anything in this Interim Order or in the Final Order to the contrary, nothing in this Interim Order or in any Final Order shall limit, modify, or otherwise impact, or have the effect of limiting, modifying, or otherwise impacting, the rights of the Tranche B DIP Term Loan Participant under the Tranche B DIP Term Loan Participation Agreement.

39. **Final Hearing.** The Final Hearing to consider entry of the Final Order and final approval of the DIP Term Loans is scheduled for , 2025 at __:__ _.m. prevailing Eastern time at the United States Bankruptcy Court for the District of Delaware. If no objections to the relief sought in the Final Hearing are filed and served in accordance with this Interim Order, no Final Hearing may be held, and a separate Final Order may be presented by the Debtor and entered by this Court.

40. **Notice of Final Hearing**. Within two (2) business days following entry of this Interim Order, the Debtor shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the "Final Hearing Notice"), together with copies of this Interim Order, the proposed Final Order and the DIP Motion, on: (a) the parties

having been given notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; (c) the Office of the United States Trustee for the District of Delaware; (d) the Utah Department of Forestry, Fire and State Lands; (e) the Attorney General for the State of Utah; (f) the U.S. Department of Environmental Protection; the Office of the United States Attorney for the District of Delaware; (g) the Internal Revenue Service; (h) the Debtor's twenty (20) largest unsecured creditors (excluding insiders); (i) any parties that may hold liens against the Debtor's assets; and (j) counsel to the Lender; and (k). The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Bankruptcy Court no later than , 2025 at 4:00 p.m. prevailing Eastern time which objections shall be served so that the same are received on or before such date and shall be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, in each case to allow actual receipt of the foregoing no later than , 2025, at 4:00 p.m. prevailing Eastern time.

41. Notwithstanding the terms of this Interim Order, this Court is not precluded from entering a Final Order containing provisions that are inconsistent with, or contrary to any of the terms in this Interim Order, subject to the protections under section 364(e) of the Bankruptcy Code and the rights of the Lender to terminate the Ratification and Amendment Agreement if such Final Order is not acceptable to them. In the event this Court modifies any of the provisions of this Interim Order or the Ratification and Amendment Agreement following such further hearing, such modifications shall not affect the rights and priorities of Lender pursuant to this Interim Order with respect to the Collateral, and any portion of the Post-Petition Obligations which arises or is incurred, advanced or paid prior to such modifications (or otherwise arising prior to such

modifications), and this Interim Order shall remain in full force and effect except as specifically amended or modified at such Final Hearing.

EXHIBIT A

Ratification and Amendment Agreement

[See Exhibit B to the Motion]

EXHIBIT B

Draft for Review - Subject to Change

	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	In Court	DIP Budget
	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Total
US Magnesium Forecast Week #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
DIP Budget Week Start	9/8/2025	9/15/2025	9/22/2025	9/29/2025	10/6/2025	10/13/2025	10/20/2025	10/27/2025	11/3/2025	11/10/2025	11/17/2025	11/24/2025	12/1/2025	12/8/2025	12/15/2025	12/22/2025	12/29/2025	1/5/2026	9/8/2025
($ in 000s) Week End	9/14/2025	9/21/2025	9/28/2025	10/5/2025	10/12/2025	10/19/2025	10/26/2025	11/2/2025	11/9/2025	11/16/2025	11/23/2025	11/30/2025	12/7/2025	12/14/2025	12/21/2025	12/28/2025	1/4/2026	1/11/2026	1/11/2026
																			Total
Sales Forecast																			
Envirotech - Mag Chloride	25,923	25,938	25,453	25,891	26,070	25,772	26,045	25,870	25,863	25,852	25,909	25,912	25,889	25,906	25,886	25,888	25,892	25,897	465,858
Broken Arrow - Sodium Chloride	70,370	70,270	67,910	70,332	70,598	70,812	71,006	70,418	70,214	70,195	70,185	70,470	70,487	70,474	70,431	70,359	70,352	70,369	1,265,252
Lithium Sales	-	-	-	-	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	1,573,000
Albemarle Sales	-	-	-	-	-	-	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	2,400,000
Total Gross Sales	**$ 96,293**	**$ 96,209**	**$ 93,363**	**$ 96,222**	**$ 239,668**	**$ 239,584**	**$ 297,051**	**$ 439,288**	**$ 439,077**	**$ 439,047**	**$ 439,095**	**$ 296,382**	**$ 439,376**	**$ 439,379**	**$ 439,317**	**$ 439,247**	**$ 296,244**	**$ 439,267**	**$ 5,704,111**
Collection on Mag Chloride	11,262	23,861	27,269	25,923	25,938	25,453	25,891	26,070	25,772	26,045	25,870	25,863	25,852	25,909	25,912	25,889	25,906	25,886	450,573
Collection on Sodium Chloride	28,466	89,158	48,533	68,204	68,880	69,261	75,712	72,045	70,370	70,270	67,910	70,332	70,598	70,812	71,006	70,418	70,214	70,195	1,222,384
Collections on Lithium Sales	-	-	-	-	-	-	-	-	-	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	1,001,000
Albemarle Collections	-	-	-	-	-	-	-	-	-	-	-	-	200,000	200,000	200,000	200,000	200,000	200,000	1,200,000
Paydown of Pre-Petition Revolver	(39,728)	(113,019)	(75,803)	(94,127)	(94,818)	(94,715)	(101,603)	(98,116)	(96,142)	(239,316)	(236,780)	(96,195)	(439,450)	(439,721)	(439,918)	(439,307)	(296,120)	(439,081)	(3,873,957)
Total Cash Receipts (Note 1)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Payroll & Benefits	-	190,000	-	190,000	-	190,000	-	190,000	-	190,000	-	190,000	-	-	190,000	-	190,000	95,000	1,615,000
Albemarle Project	-	-	-	-	-	15,000	-	-	-	15,000	-	-	-	-	15,000	-	-	7,500	52,500
Utilities / Energy	-	78,500	-	-	-	78,500	-	-	-	78,500	-	-	-	78,500	-	-	-	55,000	369,000
Communciations / Internet	-	15,000	-	-	-	15,000	-	-	-	15,000	-	-	-	15,000	-	-	-	15,000	75,000
Warehouse fees	-	-	30,000	-	1,200	-	30,000	-	1,200	-	30,000	-	1,200	-	30,000	-	-	91,200	214,800
Credit Card Purchases	-	-	-	-	7,500	-	-	-	7,500	-	-	-	7,500	-	-	-	-	-	22,500
Equipment Loans in Use	-	-	-	-	2,500	-	-	-	2,500	-	-	-	2,500	-	-	-	-	-	7,500
Royalties	-	-	-	-	-	-	-	-	-	-	-	170,918	-	-	-	-	-	350,869	521,787
Fuel	-	-	-	45,000	-	-	-	-	-	-	-	-	-	30,000	-	-	-	-	75,000
IT Consultants	-	-	-	-	17,000	-	-	-	17,000	-	-	-	17,000	-	-	-	17,000	-	68,000
Energy Consultant	-	-	5,500	-	-	-	-	5,500	-	-	-	5,500	-	-	-	-	5,500	-	22,000
Wastewater Monitoring	-	-	-	-	-	-	-	7,500	-	-	-	-	-	-	-	-	-	-	7,500
Consent Decree Environmental Report	-	35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	35,000
Administrative Costs / Office Building	-	-	5,000	-	-	-	-	5,000	-	-	-	5,000	-	-	-	-	5,000	-	20,000
County Property Tax Settlement (Note 2)	-	50,000	-	-	-	-	50,000	-	-	-	50,000	311,000	-	-	50,000	-	-	-	511,000
Insurance (Note 3)	36,000	-	-	318,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	354,000
Insurance D&O	-	100,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100,000
Property Insurance	40,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	40,000
Insurance Deductible for Current Claims	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	.	125,000	125,000
Independent Manager	-	-	-	25,000	-	-	-	-	25,000	-	-	-	25,000	-	-	-	25,000	-	100,000
Budget Contingencies	-	5,000	5,000	6,343	5,000	5,000	5,000	6,343	5,000	5,000	5,000	6,343	5,000	5,000	5,000	5,000	6,343	5,000	90,372
Total Operating Disbursements	**76,000**	**473,500**	**45,500**	**584,343**	**33,200**	**303,500**	**85,000**	**214,343**	**58,200**	**303,500**	**85,000**	**688,761**	**58,200**	**128,500**	**290,000**	**5,000**	**248,843**	**744,569**	**4,425,959**
Financing Costs																			
Revolver Interest	-	-	-	187,202	-	-	-	184,877	-	-	-	181,393	-	-	-	-	214,891	41,127	809,490
DIP Interest (8.5%) Plus LC fees	-	-	-	72,740	-	-	-	88,024	-	-	-	99,712	-	-	-	-	142,784	32,611	435,870
DIP Exit Fee $200K	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	200,000	200,000
KEIP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100,000	100,000
Total Financing Costs	-	-	-	259,943	-	-	-	272,901	-	-	-	281,104	-	-	-	-	357,675	373,737	1,545,360
Ordinary Course Professionals																			
Blank Rome	-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	85,000
Dorsey	-	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	102,000
Parr Waddoups	-	-	20,000	-	-	-	20,000	-	-	-	-	20,000	-	-	-	-	20,000	-	80,000
PR Firm	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other / Cushion	-	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	15,000	10,000	10,000	10,000	305,000
Total Ordinary Course Professionals	-	31,000	51,000	31,000	31,000	31,000	51,000	31,000	31,000	31,000	31,000	51,000	31,000	31,000	26,000	21,000	41,000	21,000	572,000
Restructuring Costs																			
GSBB	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	360,000
Carl Marks	30,000	48,000	48,000	48,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	678,000
Lender Counsel - Otterbourg	-	-	-	-	250,000	-	-	-	250,000	-	-	-	200,000	-	-	-	-	200,000	900,000
Great American	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SSG	-	50,000	-	-	-	50,000	-	-	-	50,000	-	-	-	-	50,000	-	-	350,000	550,000
UCC	-	-	-	31,250	-	-	-	31,250	-	-	-	31,250	-	-	-	-	31,250	-	125,000
Claims Agent	-	-	-	31,250	-	-	-	31,250	-	-	-	31,250	-	-	-	-	31,250	-	125,000
Bankruptcy Utility Deposit	-	-	45,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	45,000
US Trustee (Note 5)	-	-	-	-	-	-	-	26,511	-	-	-	-	-	-	-	-	-	46,962	73,474
BR Plan / Cure Cost / Estate Winddown Fundin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	600,000	600,000
Total Restructuring Professional Fees	50,000	118,000	113,000	130,500	306,000	106,000	56,000	145,011	306,000	106,000	56,000	118,500	256,000	56,000	106,000	56,000	118,500	1,252,962	3,456,474
Net Expenses	**126,000**	**622,500**	**209,500**	**1,005,786**	**370,200**	**440,500**	**192,000**	**663,255**	**395,200**	**440,500**	**172,000**	**1,139,365**	**345,200**	**215,500**	**422,000**	**82,000**	**766,018**	**2,392,269**	**9,999,792**
Net Operating Cash Flow	($126,000)	($622,500)	($209,500)	($1,005,786)	($370,200)	($440,500)	($192,000)	($663,255)	($395,200)	($440,500)	($172,000)	($1,139,365)	($345,200)	($215,500)	($422,000)	($82,000)	($766,018)	($2,392,269)	($9,999,792)

Note 1: All cash receipts are being swept to the Revolver Loan and are not available to fund Post petition operations
Note 2: $50K per month relects payment plan of past due property taxes. The November 2025 property tax payment of $311,000 is based on the Company's calculation of the amount due in its tax appeal, which has not been agreed to by the County
Note 3: Assumed premium financing will not be available due to the bankruptcy and entire amount of the renewal premiums are paid when due
Note 4: DIP Credit Agreement specifies a $200K DIP Exit Fee
Note 5: US Trustee payments are based on cash disbursements only and excludes from disbursements the net cash receipts that are swept by Wells Fargo and reduce the outstanding prepetition revolver balance
Note 6: Environmental fees are excluded under the assumption that, at the conclusion of the bankruptcy case,
the buyer is expected to assume these liabilities as part of their purchase or be resolved and settled as part of the Bankruptcy Plan
Note 7: There are $821,588 of outstanding letters of credit as of the petition date

EXHIBIT B

RATIFICATION AND AMENDMENT AGREEMENT

This RATIFICATION AND AMENDMENT AGREEMENT (the "Ratification Agreement"), dated as of September __, 2025, is by and between US MAGNESIUM LLC, a Delaware limited liability company and a debtor and debtor-in-possession ("Borrower" or "Debtor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Lender").

W I T N E S S E T H:

WHEREAS, Borrower has commenced a case under Chapter 11 of the Bankruptcy Code (as hereinafter defined) in the United States Bankruptcy Court for the District of Delaware and Borrower has retained possession of its assets and is authorized under the Bankruptcy Code to continue the operation of its businesses as debtor-in-possession;

WHEREAS, prior to the commencement of the Chapter 11 Case (as hereinafter defined), Lender made loans and advances and provided other financial accommodations to Borrower secured by substantially all of the assets and properties of Borrower as set forth in the Pre-Petition Financing Agreements (as hereinafter defined);

WHEREAS, Borrower is requesting that the Bankruptcy Court (as hereinafter defined) enter a Financing Order (as hereinafter defined) pursuant to which Lender may make post-petition loans and advances, and provide other financial accommodations, to Borrower secured by substantially all the assets and properties of Borrower as set forth in the Financing Order and the Financing Agreements (as hereinafter defined);

WHEREAS, Borrower has requested that Lender make post-petition loans and advances and provide other financial or credit accommodations to Borrower and make certain amendments to the Pre-Petition Loan Agreement (as hereinafter defined) and the other Pre-Petition Financing Agreements, and Lender is willing to do so, subject to the terms and conditions contained herein; and

WHEREAS, Borrower desires to reaffirm its obligations to Lender pursuant to the Pre-Petition Financing Agreements and acknowledge its continuing liabilities to Lender thereunder in order to induce Lender to make such post-petition loans and advances, and provide other financial accommodations, to Borrower secured by substantially all the assets and properties of Borrower as set forth herein and in the Financing Order;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Debtor mutually covenant, warrant and agree as follows:

1. DEFINITIONS.

1.1 Additional Definitions. As used herein, the following terms shall have the respective meanings given to them below and the Pre-Petition Loan Agreement and the other

Pre-Petition Financing Agreements shall be deemed and are hereby amended to include, in addition and not in limitation, each of the following definitions:

(a) "Ace Commercial Tort Claim" means all tort claims of any nature arising out of the physical damage to a gas turbine at Borrower's Rowley Facility, including, without limitation, the action by Borrower in *US Magnesium LLC* v. *ACE American Insurance Company* (Civil Case No. 250400910) filed with the Court of Common Pleas, Philadelphia County, Pennsylvania and all damages, relief at law or equity, payments, income or fees, and any other proceeds (including, without limitation, insurance proceeds) of any kind or in any form related to such claims.

(b) "Adequate Protection Liens" means, collectively, the adequate protection liens as such liens are defined in the Financing Order.

(c) "Bankruptcy Code" means the United States Bankruptcy Code, being Title 11 of the United States Code as enacted in 1978, as the same may have heretofore been or may hereafter be amended, recodified, modified or supplemented, together with all rules, regulations and interpretations thereunder or related thereto.

(d) "Bankruptcy Court" means the United States Bankruptcy Court or the United States District Court for the District of Delaware.

(e) "Bankruptcy Events" means the commencement of the Chapter 11 Case, the events and conditions leading up to the commencement of the Chapter 11 Case, and the occurrence and existence of any defaults under agreements that have no effect under the terms of the Bankruptcy Code as a result of the commencement thereof.

(f) "Bidding Procedures" means the bidding procedures governing the Sales Transaction as approved by the Bankruptcy Court pursuant to the Bidding Procedures Order and any other order of the Bankruptcy Court affecting the Sales Transaction, which shall be in form and substance satisfactory to Lender.

(g) "Bidding Procedures Order" means an order of the Bankruptcy Court approving the Bidding Procedures for the Sales Transaction, scheduling the date for an auction for the Sales Transaction and scheduling a hearing to consider approval of the Sales Transaction, establishing related objection and other deadlines, and approving related notices and forms, in each case in form and substance satisfactory to Lender.

(h) "Budget" means the eighteen (18) week budget prepared by Borrower and the Chief Restructuring Officer, which is set forth on Exhibit A hereto, setting forth on a weekly basis for the periods covered thereby, (a) the projected total cash receipts from sales and the projected total operating costs, expenses and disbursements of Borrower, and (b) the projected net expenses and projected net operating cash flow of Borrower, in form and substance satisfactory to Lender, delivered to Lender in accordance with the terms and conditions of the Ratification Agreement.

(i) "Budget Compliance Report" has the meaning set forth in Section 5.3(b) of the Ratification Agreement.

(j) "Carve Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by Lender to Debtor, Debtor's lead counsel in the Chapter 11 Case, counsel to any Committee and the U.S. Trustee following the occurrence and during the continuation of an Event of Default, stating that the Post-Trigger Date Carve Out has been invoked.

(k) "Chapter 11 Case" means the case under Chapter 11 of the Bankruptcy Code commenced by Debtor which is being administered under the Bankruptcy Code and is pending in the Bankruptcy Court.

(l) "Commercial Tort Claim Security Agreement" means the Supplemental Commercial Tort Claim Security Agreement, dated as of October 16, 2019, between Borrower and Lender, as may be amended, modified, supplemented, extended, renewed, restated.

(m) "Committee" means any official committee of unsecured creditors in the Chapter 11 Case pursuant to Section 1102 of the Bankruptcy Code.

(n) "Chief Restructuring Officer" means Mr. Ron Mayo or such other chief restructuring advisor selected by Borrower and acceptable to Lender.

(o) "CRO Engagement Agreement" means the Advisory Agreement, dated August 3, 2025, between Borrower and Carl Marks Advisory Group LLC, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Ratification Agreement.

(p) "DIP Credit Facility" means the senior secured DIP Term Loans provided by Lender to Borrower as debtor and debtor-in-possession during the Chapter 11 Case as set forth in the Ratification Agreement and the Financing Order.

(q) "DIP Exit Fee" shall have the meaning set forth in Section 6 of the Ratification Agreement.

(r) "DIP Reserve" means an amount or amounts determined by Lender in its discretion to account for (i) the Post-Trigger Date Carve Out, (ii) any unpaid administrative expense claims of the Borrower or other priority claims in the Chapter 11 Case that, in Lender's determination, may require payment prior to the payment in full of all Obligations, and (iii) the amount of any liens or claims in or against the Collateral that are pari passu with or senior to any liens and claims of Lender, each of the forgoing in an amount as determined by Lender in its discretion; provided, however that the DIP Reserve shall not exceed $1,050,000 in the aggregate. The Lender shall provide the Borrower with two (2) Business Days' notice prior to the implementation of any new DIP Reserve following the Ratification Effective Date or any change in the methodology on the calculation of an existing DIP Reserve (provided, however, that failure to provide such notice shall not preclude the effectiveness of such DIP Reserve).

(s) "DIP Term Loans" means, collectively, the Tranche A DIP Term Loans and the Tranche B DIP Term Loans.

(t) "DIP Term Loan Commitment" means the sum of the Tranche A DIP Term Loan Commitment and the Tranche B DIP Term Loan Commitment.

(u) "DIP Term Loan Commitment Amount" means, as of any date of determination, the sum of the Tranche A DIP Term Loan Commitment Amount and the Tranche B DIP Term Loan Commitment Amount.

(v) "Final Financing Order" means the order of the Bankruptcy Court entered in the Chapter 11 Case after a final hearing of the Bankruptcy Court, which order shall be in form and substance satisfactory to the Lender in its sole discretion and from which no appeal or motion to reconsider has been filed, together with all extensions, modifications and amendments thereto, consented to by the Lender, which among other matters, but not by way of limitation, authorizes the Borrower to obtain credit, incur the Post-Petition Obligations, and grant Liens therefor and grants superpriority expense claims to Lender with respect to all obligations due Lender, subject to no priority claim or administrative expenses of the Chapter 11 Case or any other entity (other than as specifically set forth in the Financing Order).

(w) "Financing Order" means, individually and collectively, the Interim Financing Order, the Final Financing Order and such other orders relating thereto or authorizing the granting of credit by Lender to Borrower on an emergency, interim or permanent basis pursuant to Section 364 of the Bankruptcy Code as may be issued or entered by the Bankruptcy Court in the Chapter 11 Case.

(x) "First Day Orders" means the orders entered by the Bankruptcy Court in respect of first day motions and applications to be filed by Debtor in respect of the Chapter 11 Case.

(y) "Interim Financing Order" means the order of the Bankruptcy Court entered in the Chapter 11 Case after an interim hearing in form and substance satisfactory to the Lender in its sole discretion, together with all extensions, modifications, and amendments thereto consented to by the Lender, which, among other matters but not by way of limitation, authorizes, on an interim basis, the Borrower to execute and perform under the terms of the Pre-Petition Financing Agreements, as amended and supplemented by the terms and conditions of the Ratification Agreement.

(z) "Investment Banker" means SSG Capital Advisors, LLC or such other investment banking firm selected and retained by Borrower acceptable to Lender pursuant to the Investment Banking Agreement.

(aa) "Investment Banking Agreement" means the engagement agreement, dated August 21, 2025, between Borrower and SSG Advisors, LLC or such other engagement letter between Borrower and a replacement investment banker, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Ratification Agreement.

(bb) "LC Tranche A DIP Term Loans" means the Tranche A DIP Term Loans made pursuant to Section 2.8(e) hereof to fund Letter of Credit Disbursements in the Chapter 11 Case of up to $821,588.

(cc) "Loan Agreement" means the Pre-Petition Loan Agreement as ratified, amended, supplemented and otherwise modified by the Ratification Agreement, as the same now exists or may hereafter be amended from time to time.

(dd) "Material Budget Deviation" has the meaning set forth in Section 5.3(b) of the Ratification Agreement.

(ee) "Obligations" means, collectively, all Pre-Petition Obligations and all Post-Petition Obligations.

(ff) "Petition Date" means the date of the commencement of the Chapter 11 Case.

(gg) "Post-Petition Collateral" means, collectively, all now existing and hereafter acquired real and personal property of Debtor's estate, wherever located, of any kind, nature or description, including any such property in which a lien is granted to Lender pursuant to the Financing Agreements, the Financing Order or any other order entered or issued by the Bankruptcy Court, and shall include, without limitation:

(i) all of the Pre-Petition Collateral;

(ii) all Accounts;

(iii) all general intangibles, including, without limitation, all Intellectual Property;

(iv) all goods, including, without limitation, Inventory and Equipment;

(v) all Real Property and leasehold interests and fixtures;

(vi) all chattel paper, including, without limitation, all tangible and electronic chattel paper;

(vii) all instruments, including, without limitation, all promissory notes;

(viii) all documents;

(ix) all deposit accounts;

(x) all letters of credit, banker's acceptances and similar instruments and including all letter-of-credit rights;

(xi) all supporting obligations and all present and future liens, security interests, rights, remedies, title and interest in, to and in respect of Receivables and other Collateral, including (i) rights and remedies under or relating to guaranties, contracts of suretyship, letters of credit, credit insurance and other insurance related to the Collateral, (ii) the right, title and interest in and to all insurance policies, including all rights and remedies under or relating to any business interruption insurance, liability insurance, D&O insurance and property insurance and any losses or claims thereunder, (iii) goods described in invoices, documents, contracts or instruments with respect to, or otherwise representing or evidencing, Receivables or other Collateral, including returned, repossessed and reclaimed goods, and (iv) deposits by and property of account debtors or other persons securing the obligations of account debtors;

(xii) all (i) investment property (including securities, whether certificated or uncertificated, securities accounts, security entitlements, commodity contracts or commodity accounts) (ii) Equity Interests of Skull Valley Joint Venture, and (ii) monies, credit balances, deposits and other property of Debtor now or hereafter held or received by or in transit to Lender or its Affiliates or at any other depository or other institution from or for the account of Debtor, whether for safekeeping, pledge, custody, transmission, collection or otherwise;

(xiii) all commercial tort claims under the Pre-Petition Loan Agreement, including, without limitation, all Commercial Tort Claim Collateral;

(xiv) to the extent not otherwise described above, all Receivables;

(xv) all Records;

(xvi) effective upon entry of a Final Financing Order, all claims, rights, interests, assets and properties recovered by or on behalf of Borrower or any trustee of Borrower (whether in the Chapter 11 Case or any subsequent case to which the Chapter 11 Case is converted), including, without limitation, all property recovered as a result of transfers or obligations avoided or actions maintained or taken pursuant to (among others) Sections 542, 544, 545, 547, 548, 549, 550, 551, 552 and 553 of the Bankruptcy Code; and

(xvii) to the extent not covered by the foregoing clauses, all proceeds and products in whatever form of all or any part of the other Collateral, including all rents, profits, income and benefits and all proceeds of insurance and all condemnation awards and all other compensation for any event of loss with respect to all or any part of the other Collateral (together with all rights to recover and proceed with respect to the same), and all accessions to, substitutions for and replacements of all or any part of the other Collateral.

(hh) "Post-Petition Obligations" means all Obligations (as defined in the Pre-Petition Loan Agreement) of Debtor arising from, related to or in connection with any Loans, Letters of Credit or other advances on and after the Petition Date together with all other obligations, liabilities or indebtedness of up to $10,000,000 of Pre-Petition Obligations that Lender is entitled to treat as administrative claims in accordance with the Financing Order and whether arising on or after the conversion or dismissal of the Chapter 11 Case, and whether arising under or related to the Ratification Agreement, the Loan Agreement, the other Financing Agreements, a Financing Order, by operation of law or otherwise, and whether incurred by Debtor as principal, surety, endorser, guarantor or otherwise and including, without limitation, all principal, interest, financing charges, letter of credit fees, unused line fees, servicing fees, line increase fees, debtor-in-possession facility fees, early termination fees, other fees, commissions, costs, expenses and attorneys', accountants' and consultants' fees and expenses incurred in connection with any of the foregoing. For the avoidance of doubt, the Post-Petition Obligations shall include that portion of the outstanding Pre-Petition Obligations owed to Lender in connection with or related to the Loans that have been "rolled-up" from time to time as provided in the Financing Order.

(ii) "Post-Trigger Date Carve Out" shall have the meaning set forth in the Financing Order.

(jj) "Pre-Petition Collateral" means, collectively, (i) all "Collateral" as such term is defined in the Pre-Petition Loan Agreement as in effect immediately prior to the Petition Date, and (ii) all other security for the Pre-Petition Obligations as provided in the Pre-Petition Loan Agreement and the other Pre-Petition Financing Agreements immediately prior to the Petition Date.

(kk) "Pre-Petition Loan Agreement" means the Loan and Security Agreement, dated June 24, 2002, by and between Lender and Borrower, as amended by Amendment No. 1 to Loan and Security Agreement, dated as of October 28, 2002, Amendment No. 2 and Waiver to Loan and Security Agreement, dated as of June 21, 2004, Amendment No. 3 to Loan and Security Agreement, dated as of January 21, 2005, Amendment No. 4 to Loan and Security Agreement, dated as of March 7, 2005, Amendment No. 5 to Loan and Security Agreement, dated as of June 1, 2005, Amendment No. 6 to Loan and Security Agreement, dated as of October 2, 2006, Amendment No. 7 to Loan and Security Agreement, dated as of October 11, 2007, Amendment No. 8 to Loan and Security Agreement and Waiver, dated as of April 10, 2009, Amendment No. 9 to Loan and Security Agreement, dated June 1, 2009, Amendment No. 10 to Loan and Security Agreement, dated as of October 1, 2010, Amendment No. 11 to Loan and Security Agreement, dated as of September 21, 2011, Amendment No. 12 to Loan and Security Agreement, dated as of January 3, 2012, Amendment No. 13 to Loan and Security Agreement, dated as of March 15, 2012, Amendment No. 14 to Loan and Security Agreement, dated as of October 31, 2013, Amendment No. 15 to Loan and Security Agreement, dated as of March 31, 2015, Amendment No. 16 to Loan and Security Agreement, dated as of May 1, 2015, Amendment No. 17 to Loan and Security Agreement, dated as of July 31, 2015, Amendment No. 18 to Loan and Security Agreement, dated as of October 30, 2015, Amendment No. 19 to Loan and Security Agreement, dated as of February 22, 2016, Amendment No. 20 to Loan and Security Agreement, dated as of December 16, 2016, Amendment No. 21 to Loan and Security Agreement, dated as of February 28, 2019, Amendment No. 22 to Loan and Security Agreement, dated as of August 1, 2019, Amendment No. 23 to Loan and Security Agreement, dated as of December 10, 2019, Amendment No. 24 to Loan and Security Agreement, dated as of March 31, 2020, Amendment No. 25 to Loan and Security Agreement, dated as of August 21, 2020, Amendment No. 26 to Loan and Security Agreement, dated as of November 30, 2020, Amendment No. 27 to Loan and Security Agreement, dated as of December 30, 2020, Amendment No. 28 to Loan and Security Agreement, dated as of January 22, 2021, Amendment No. 29 to Loan and Security Agreement, dated as of April 28, 2022, Amendment No. 30 to Loan and Security Agreement, dated as of June 29, 2022, Amendment No. 31 to Loan and Security Agreement, dated as of July 22, 2022, Amendment No. 32 to Loan and Security Agreement, dated as of August 11, 2022, Amendment No. 33 to Loan and Security Agreement, dated as of October 31, 2022, Amendment No. 34 to Loan and Security Agreement, dated as of January 31, 2022, Amendment No. 35 to Loan and Security Agreement, dated as of March 7, 2023, Amendment No. 36 to Loan and Security Agreement, dated as of May 5, 2023, Amendment No. 37 to Loan and Security Agreement, dated as of June 26, 2023, Amendment No. 38 to Loan and Security Agreement, dated as of July 12, 2023, Amendment No. 39 to Loan and Security Agreement, dated as of October 2, 2023, Amendment No. 40 to Loan and Security Agreement, dated as of November 20, 2023, Amendment No. 41 to Loan and Security Agreement, dated as of May 29, 2024, and Forbearance Agreement and Amendment No. 42 to Loan and Security Agreement, dated as of February 19, 2025 and as in effect immediately prior to the Petition Date.

(ll) “Pre-Petition Financing Agreements” means the Financing Agreements (as defined in the Pre-Petition Loan Agreement), as in effect immediately prior to the Petition Date.

(mm) “Pre-Petition Obligations” means all Obligations (as such term is defined in the Pre-Petition Loan Agreement) arising at any time before the Petition Date.

(nn) “Professionals” means the Debtor’s and any Committee’s professionals, retained by either of them by order of the Bankruptcy Court under Sections 327, 328 or 1103(a) of the Bankruptcy Code.

(oo) “Purchase Agreement” means the asset purchase agreement that may be entered into between Borrower, as seller, and a buyer acceptable to Lender pursuant to which the buyer shall purchase all or substantially all of the assets and business of Borrower including, without limitation, the Utah Mineral Lease Documents (including the schedules and exhibits to such purchase agreement), which purchase agreement shall be in form and substance acceptable to Lender.

(pp) “Purchase Documents” means (a) the Purchase Agreement and (b) all material agreements, documents and instruments, including all schedules and exhibits thereto, at any time executed and/or delivered in connection therewith, all of which agreements, documents and instruments shall be in form and substance acceptable to Lender.

(qq) “Ratification Agreement” means the Ratification and Amendment Agreement, dated as of September __, 2025, by and between Borrower and Lender, as the same may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(rr) “Ratification Effective Date” means the date on which all of the conditions precedent in Section 9 of the Ratification Agreement have been satisfied (or waived) by Lender in its discretion.

(ss) “Sale Order” means an order entered by the Bankruptcy Court approving the Sales Transaction, which order shall be in form and substance satisfactory to Lender, and shall provide for, among other things, the receipt by Lender of all net cash proceeds from any Sales Transaction to be applied to the payment in full of all Obligations in such manner as Lender shall determine in accordance with the Financing Agreements.

(tt) “Sales Transaction” means a sale of all or substantially all of the Borrower’s assets and business pursuant to Section 363 of the Bankruptcy Code, including, without limitation, all right, title and interest of Borrower in respect of the Utah Mineral Lease Documents, on terms and conditions satisfactory to Lender.

(uu) "Salt Lake City Mortgage" means the Deed of Trust, Fixture Filing and Assignment of Rents and Leases, dated on or about the Ratification Effective Date, by Borrower in favor of Lender with respect to the Salt Lake City Property, as may be amended, modified, supplemented, extended, renewed, restated or replaced.

(vv) "Salt Lake City Property" means the Real Property located at 238 North 2200 West, Salt Lake City, UT 84116 in Salt Lake County, UT, together with all buildings, structures, fixtures and other improvements relating thereto.

(ww) "Salt Lake City Purchase Agreement" means the purchase and sale agreement for the sale by Borrower, as seller, to a purchaser acceptable to Lender with respect to the purchase of the Salt Lake City Property (including the schedules and exhibits thereto), which agreement shall be in form and substance acceptable to Lender.

(xx) "Salt Lake City Purchase Documents" means (a) the Salt Lake City Purchase Agreement and (b) all material deeds, agreements, documents and instruments, including all schedules and exhibits thereto, with respect to the sale of the Salt Lake City Property at any time executed and/or delivered in connection therewith, all of which deeds, agreements, documents and instruments shall be in form and substance acceptable to Lender.

(yy) "Salt Lake City Sale Order" means an order entered by the Bankruptcy Court approving the sale of the Salt Lake City Property, which order shall be in form and substance satisfactory to Lender, and shall provide for, among other things, the receipt by Lender of all net cash proceeds from the sale of the Salt Lake City Property to be applied to the payment in full of all Obligations in such manner as Lender shall determine in accordance with the Financing Agreements.

(zz) "Skull Valley Joint Venture" means the business and assets of the joint venture owned by Skull Valley, including all right, title and interest of Skull Valley to own and operate the water delivery system located in Tooele County, Utah, including all water rights, machinery, equipment and other property set forth in the agreements, documents and instruments providing for the Skull Valley Joint Venture.

(aaa) "Skull Valley" means Skull Valley Water Group, LLC, a Utah limited liability company, its successors and assigns.

(bbb) "Tranche A DIP Term Loan Commitment" means the commitment of Lender to make the Tranche A DIP Term Loans (including any LC Tranche A DIP Term Loans) as set forth in Section 2.8 of the Loan Agreement.

(ccc) "Tranche A DIP Term Loan Commitment Amount" means, as of any date of determination, the amount equal to (i) (A) $5,000,000 consisting of Tranche A DIP Term Loans made pursuant to Section 2.8(c) hereof plus (B) $821,588 consisting of LC Tranche A DIP Term Loans made pursuant Section 2.8(e) hereof minus (ii) the original principal amount of all Tranche A DIP Term Loans (including any LC Tranche A DIP Term Loans) made prior to such date.

(ddd) "Tranche A DIP Term Loans" means the delayed draw term loans, including any LC Tranche A DIP Term Loans, made by Lender to Borrower up to the Tranche A DIP Term Loan Commitment Amount in accordance with Section 2.8 of the Loan Agreement.

(eee) "Tranche A DIP Term Note" means the Tranche A DIP Term Loan Promissory Note, dated as of the Ratification Effective Date, by Borrower payable to the order of Lender, in form and substance acceptable to Lender, evidencing any Obligations of Borrower to Lender arising from the Tranche A DIP Term Loans, as may be amended, modified, supplemented, extended, renewed, restated or replaced.

(fff) "Tranche B DIP Term Loan Commitment" means the commitment of Lender to make the Tranche B DIP Term Loan as set forth in Section 2.8 of the Loan Agreement.

(ggg) "Tranche B DIP Term Loan Commitment Amount" means, as of any date of determination, the amount equal to (i) $5,000,000 minus (ii) the original principal amount of all Tranche B DIP Term Loans made prior to such date.

(hhh) "Tranche B DIP Term Loan Participant" means Renco Group, Inc. as the purchaser of the Tranche B DIP Term Loan Participation, together with its successors and assigns to the extent permitted under the Tranche B DIP Term Loan Participation Agreement.

(iii) "Tranche B DIP Term Loan Participation" means the undivided, junior subordinated interests in Lender's right title and interest in and to the Tranche B DIP Term Loan Commitment purchased by Tranche B DIP Term Loan Participant from Lender pursuant to the Tranche B DIP Term Loan Participation Agreement.

(jjj) "Tranche B DIP Term Loan Participation Agreement" means the Tranche B DIP Term Loan Participation Agreement, dated as of the Ratification Effective Date, between Lender and Tranche B DIP Term Loan Participant, as the same now exists or may from time to time be amended, modified, supplemented, extended, renewed, restated or replaced.

(kkk) "Tranche B DIP Term Note" means the Tranche B DIP Term Loan Promissory Note, dated as of the Ratification Effective Date, by Borrower payable to the order of Lender, in form and substance acceptable to Lender, evidencing any Obligations of Borrower to Lender arising from the Tranche B DIP Term Loans, as may be amended, modified, supplemented, extended, renewed, restated or replaced.

(lll) "Tranche B DIP Term Loans" means the delayed draw term loans made by Lender to Borrower up to the Tranche B DIP Term Loan Commitment Amount in accordance with Section 2.8 of the Loan Agreement.

(mmm) "Utah Mineral Lease" means the Agreement, dated July 31, 1969, between the State of Utah acting through Utah Trust Lands Administration (formerly known as the Utah State Land Board) and the Utah Department of Natural Resources with respect to the mineral leases and use rights by Borrower of the land owned by the State of Utah located in Tooele County, Utah and Box Elder County, Utah granting the right to Borrower to use the land and water rights to extract, produce, mine and develop the salts, lithium, brine and other minerals and chemicals from the Great Salt Lake as provided therein, as amended, modified, supplemented, extended, renewed, restated or replaced.

(nnn) "Utah Mineral Lease Documents" means, collectively, (a) the Utah Mineral Lease and (b) any royalty agreements, options, access agreements or leases related to the Utah Mineral Lease, as amended, modified, supplemented, extended, renewed, restated or replaced.

1.2 Amendments to Definitions.

(a) Base Rate Margin. The definition of "Base Rate Margin" in the Pre-Petition Loan Agreement is hereby replaced with the following:

"Base Rate Margin" means 7.5%.

(b) Borrower and Debtor. All references to the terms "Borrower", or "Debtor" in the Loan Agreement or the other Financing Agreements shall be deemed, and each such reference is hereby amended, to mean and include the Debtor, as defined herein, and its successors and assigns (including any trustee or other fiduciary hereafter appointed as Debtor's legal representative, as applicable, or with respect to Debtor or the property of the estate of Debtor whether under Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case and its successor upon conclusion of the Chapter 11 Case of Debtor).

(c) Collateral. All references to the term "Collateral" in the Loan Agreement or the other Financing Agreements, or any other term referring to the security for the Pre-Petition Obligations, shall be deemed, and each such reference is hereby amended to mean, collectively, the Pre-Petition Collateral and the Post-Petition Collateral.

(d) Commercial Tort Claim Collateral. The definition of "Commercial Tort Claim Collateral" in the Pre-Petition Loan Agreement is hereby amended to include, in addition and not limitation, the Ace Commercial Tort Claim and Section 5.2(g) of the Pre-Petition Loan Agreement is hereby amended to include, in addition and not in limitation, the reference to the Ace Commercial Tort Claim. On and after the Ratification Effective Date, the provisions of Section 2.2 of the Commercial Tort Claim Security Agreement shall apply to the Ace Commercial Tort Claim.

(e) Financing Agreements. All references to the term "Financing Agreements" in the Loan Agreement or the other Financing Agreements shall be deemed, and each such reference is hereby amended, to include, in addition and not in limitation, the Ratification Agreement and all of the Pre-Petition Financing Agreements, as ratified, assumed and adopted by Borrower pursuant to the terms of the Ratification Agreement, as amended and supplemented thereby, and the Financing Order, as each of the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(f) Interest Rate. The definition of "Interest Rate" in the Pre-Petition Loan Agreement is hereby replaced with the following:

> "Interest Rate" means as of the Ratification Effective Date and at all times thereafter, as to all Obligations (except for undrawn Letters of Credit) that have been charged to the loan account pursuant to the terms hereof, shall bear interest subject to adjustment as provided in Section 3.1(b) hereof, as follows:
>
> (a) as to all Revolving Loans and all Term Loans (other than the DIP Term Loans), a rate per annum equal to the Base Rate Margin plus .5%;
>
> (b) as to all DIP Term Loans, a rate per annum equal to the Base Margin Rate plus 1.0%.

(g) Letter of Credit Limit. The definition of "Letter of Credit Limit" in the Loan Agreement and the other Financing Agreements is hereby replaced with the following:

> "Letter of Credit Limit" means as of the Ratification Effective Date and at all times thereafter, $821,588.

(h) Loan Agreement. All references to the term "Agreement" in the Pre-Petition Loan Agreement or the term "Loan Agreement" in the other Financing Agreements shall be deemed, and each such reference is hereby amended, to mean the Loan Agreement (as defined in the Ratification Agreement), and as ratified, assumed and adopted by Borrower pursuant to the terms hereof and the Financing Order.

(i) Loans. The definition of "Loans" in the Pre-Petition Loan Agreement is hereby amended to include, without limitation, and all references to the term "Loans" in the Loan Agreement and the other Financing Agreements shall be deemed and each such reference is hereby amended to include, in addition and not in limitation, the DIP Term Loans, including, without limitation, all Tranche A DIP Term Loans (including all LC Tranche A DIP Term Loans) and all Tranche B DIP Term Loans.

(j) Material Adverse Effect. All references to the term "material adverse effect" or "material adverse change" in the Loan Agreement, the Ratification Agreement or the other Financing Agreements shall be deemed, and each such reference is hereby amended, to add at the end thereof: "; provided, that, the Bankruptcy Events shall not, individually or collectively, constitute a material adverse effect or material adverse change".

(k) Maturity Date. The definition of "Maturity Date" in the Pre-Petition Loan Agreement is hereby deleted in its entirety and the following substituted therefor:

> "Maturity Date" means the earliest to occur of (a) January 9, 2026, (b) the consummation of the sale or sales of all or substantially all of the Borrower's assets and properties or of all equity interests of Borrower, (c) the last date Borrower is authorized to borrow funds under the Loan Agreement pursuant to the Interim Financing Order, unless the Final Financing Order has been entered prior to such date, and in such event,

then the last date Borrower is authorized to borrow funds under the Loan Agreement pursuant to the Final Financing Order, or (d) unless Lender otherwise agrees in writing in its discretion, the occurrence of an Event of Default.

(l) Maximum Credit. The definition of "Maximum Credit" in the Loan Agreement and the other Financing Agreements is hereby replaced with the following:

"Maximum Credit" means, at any time on and after the Forbearance Effective Date, the amount equal to the lesser of (a) $80,821,588 and (b) the sum of (i) the Revolving Loan Limit then in effect, plus (ii) the then outstanding principal amount of Term Loan C, plus accrued and unpaid interest thereon, plus (iii) the then outstanding amount of the DIP Term Loans.

(m) Obligations. All references to the term "Obligations" in the Loan Agreement, the Ratification Agreement or the other Financing Agreements shall be deemed, and each such reference is hereby amended, to mean both the Pre-Petition Obligations and the Post-Petition Obligations.

(n) Reserves. The definition of "Reserves" in the Pre-Petition Loan Agreement is hereby amended to include, without limitation, any all references to the term "Reserves" in the Loan Agreement and the other Financing Agreements shall be deemed and each such reference is hereby amended to include, in addition and not in limitation, the DIP Reserves.

(o) Revolving Loan Limit. The definition of "Revolving Loan Limit" in the Loan Agreement and the other Financing Agreements is hereby replaced with the following:

"Revolving Loan Limit" means as of the Ratification Effective Date and at all times thereafter, $43,000,000.

1.3 Interpretation.

(a) For purposes of the Ratification Agreement, unless otherwise defined or amended herein, including, but not limited to, those terms used or defined in the recitals hereto, all terms used herein shall have the respective meanings assigned to such terms in the Pre-Petition Loan Agreement, as amended, supplemented or otherwise modified by the Ratification Agreement.

(b) All references to any term in the singular shall include the plural and all references to any term in the plural shall include the singular unless the context of such usage requires otherwise.

(c) All terms not specifically defined herein which are defined in the Uniform Commercial Code, as in effect in the State of New York as of the date hereof, shall have the meaning set forth therein, except that the term "Lien" or "lien" shall have the meaning set forth in § 101(37) of the Bankruptcy Code.

2. ACKNOWLEDGMENTS.

2.1 Pre-Petition Obligations. The Borrower hereby acknowledges, confirms and agrees that, as of September 9, 2025, Borrower is indebted to (a) Lender in respect of all Pre-Petition Obligations, (a) in an aggregate principal amount of $67,039,013.02 consisting of the following: (i) Revolving Loans made pursuant to the Pre-Petition Loan Agreement in the aggregate principal amount of $40,451,903.55, (ii) Term Loans in the aggregate principal amount of $25,000,000, comprised of Term Loan C in the principal amount of $25,000,000, plus accrued and unpaid interest through August 31, 2025 in the amount of $765,521.47, and (iii) Letters of Credit in the undrawn face amount of $821,588; (b) all the foregoing amounts, together with all interest accrued and accruing thereon, and all fees, costs, expenses and other charges relating thereto, are unconditionally owing by Borrower to Lender, without offset, defense or counterclaim of any kind, nature or description whatsoever; and (c) Borrower's obligation and liability for the payment and performance of all other Obligations pursuant to the Loan Agreement and the other Financing Agreements is unconditionally owing to Lender without offset, defense or counterclaim of any kind, nature or description whatsoever.

2.2 Acknowledgment of Security Interests. Borrower hereby acknowledges, confirms and agrees that Lender has and shall continue to have (a) valid, enforceable and perfected first priority and senior security interests in and liens upon all Pre-Petition Collateral heretofore granted to Lender pursuant to the Pre-Petition Financing Agreements as in effect immediately prior to the Petition Date to secure all of the Pre-Petition Obligations, and (b) valid and enforceable first priority and senior security interests in and liens upon all Post-Petition Collateral granted to Lender under the Financing Order or hereunder or under any of the other Financing Agreements or otherwise granted to or held by Lender, in each case, subject only to the Liens permitted hereunder.

2.3 Binding Effect of Documents. Borrower hereby acknowledges, confirms and agrees that: (a) each of the Pre-Petition Financing Agreements to which they are party prior to the Petition Date was duly executed and delivered to Lender by Borrower and each is in full force and effect as of the date hereof, (b) the agreements and obligations of Borrower contained in the Pre-Petition Financing Agreements constitute the legal, valid and binding obligations of Borrower enforceable against it in accordance with the terms thereof, and Borrower has no valid defense, offset or counterclaim to the enforcement of such obligations, and (c) Lender is and shall be entitled to all of the rights, remedies and benefits provided for in (i) the Financing Agreements (subject to the entry and terms of the Financing Order) and (ii) the Financing Order.

3. ADOPTION AND RATIFICATION.

3.1. Borrower (a) ratifies, assumes, adopts and agrees to be bound by all of the Pre-Petition Financing Agreements and (b) agrees to pay all of the Pre-Petition Obligations in accordance with the terms of such Pre-Petition Financing Agreements, as supplemented and amended by the Ratification Agreement, and in accordance with the Financing Order. All of the Pre-Petition Financing Agreements are hereby incorporated herein by reference and hereby are and shall be deemed adopted and assumed in full by Borrower, as Debtor and Debtor-in-Possession and considered as agreements between Borrower, on the one hand, and Lender, on the other hand. Borrower hereby ratifies, restates, affirms and confirms all of the terms and conditions of the Pre-Petition Financing Agreements, as amended and supplemented pursuant hereto and the Financing Order, and Borrower, as Debtor and Debtor-in-Possession, agrees to be fully bound by the terms of the Financing Agreements.

3.2. Notwithstanding anything in Section 3.1 of the Ratification Agreement to the contrary, the Lender acknowledges that the Specified Defaults and certain Events of Default have occurred and are continuing under the Pre-Petition Loan Agreement and the other Pre-Petition Financing Agreements, including, but not limited to, as a result of the commencement of the Chapter 11 Case and the other Bankruptcy Events (collectively, the "Specified Defaults"). From and after the Ratification Effective Date, for purposes of determining whether any Default or Event of Default has occurred under the Loan Agreement or any other Financing Agreement, Lender hereby agrees that all such Specified Defaults shall be excluded from any determination of such Default or Event of Default and only Defaults and Events of Default (as provided in the Loan Agreement) occurring from and after the Ratification Effective Date shall constitute Defaults and Events of Default under the Loan Agreement. For the avoidance of doubt, none of the Specified Defaults shall give any right to the Lender or any Lender to exercise or enforce any of their respective rights or remedies under the Loan Agreement or the other Financing Agreements on the basis of the occurrence and/or existence of any one or more of the Specified Defaults.

4. GRANT OF SECURITY INTEREST.

As additional collateral security for the prompt performance, observance and payment in full of all of the Obligations, Borrower, as Debtor and Debtor-in-Possession, hereby grants, pledges and assigns to Lender and also confirms, reaffirms and restates the prior grant to Lender of, continuing senior priority security interests in and liens upon, and rights of setoff against, all of the Collateral.

5. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS.

In addition to the representations, warranties and covenants made by Borrower to Lender under the Loan Agreement and the other Financing Agreements (in each case, for the avoidance of doubt, as amended by or provided in the Ratification Agreement), Borrower hereby represents, warrants and covenants to Lender the following (which shall survive the execution and delivery of the Ratification Agreement), the truth and accuracy of which, or compliance with, to the extent such compliance does not violate the terms and provisions of the Bankruptcy Code, shall be a continuing condition precedent to the making of Loans by Lender:

5.1 Financing Order. Borrower shall not seek to have any Financing Order vacated, modified, reversed on appeal, or vacated or modified by any order of the Bankruptcy Court (other than as consented to by Lender).

5.2 Use of Proceeds. All Loans provided by Lender to Borrower pursuant to the Financing Order, the Loan Agreement or otherwise, shall only be used by Debtor to the extent (a) provided for in the Budget in accordance with the Ratification Agreement, (b) permitted by the Loan Agreement as amended by the Ratification Agreement or (c) as authorized by the Bankruptcy Court and consented to by the Lender for (i) general working capital needs to the extent provided in the Budget, (ii) the repayment of the Obligations and (iii) the payment of fees, expenses, and costs incurred in connection with the Ratification Agreement and the Chapter 11 Case, including the payments of any adequate protection payments approved in the Financing Order.

5.3 Budget.

(a) Borrower and the Chief Restructuring Officer shall have prepared and delivered to Lender, in form and substance satisfactory to Lender, the Budget covering the 18-week period commencing with the full week ending on September 14, 2025 through and including the full week ending on January 11, 2026. The Budget shall not be updated, amended or modified without the prior written consent of Lender.

(b) Not later than 5:00 p.m. (Eastern time) on the Wednesday of each week commencing with the Wednesday following the first full week ending after the Petition Date, Borrower shall furnish to Lender a weekly report (the "Budget Compliance Report") that sets forth on a cumulative week to date basis from the Petition Date through and including the immediately preceding Friday, (i) a comparison of (x) the actual amount of the Total Expenses of Borrower to (y) the projected amount of the Total Expenses of Borrower and (ii) an explanation of the reason for any deviation in the projected Total Expenses to the actual Total Expenses. As used herein, (i) "Total Expenses" means the sum of the line items in the Budget entitled "Total Operating Disbursements", "Total Financing Costs", "Total Ordinary Course Professionals" and "Total Restructuring Professional Fees" and (ii) a "Material Budget Deviation" means, at any time as set forth in the Budget Compliance Report, the actual amount of Total Restructuring Costs on a cumulative basis exceeds the projected amount of Total Restructuring Costs on a cumulative basis by more than five percent (5%); provided, that, if the amount of the Lender's counsels attorneys' fees exceeds the actual amount of the line item in the Budget for "Lender Counsel", the amount of any such excess shall not be included in the calculation of "Total Expenses" for purposes of determining whether a Material Budget Deviation has occurred.

(c) Debtor hereby confirms, acknowledges and agrees that, unless waived in writing by Lender, (i) the occurrence of a Material Budget Deviation or (ii) the failure to deliver any reports with respect to any Budget, in form and substance satisfactory to Lender in its sole discretion, shall constitute an Event of Default. Notwithstanding any approval by Lender of the Budget, Lender will not, and shall not be required to, provide any DIP Term Loans to Borrower pursuant to the Budget, but shall only provide DIP Term Loans in accordance with the terms and conditions set forth in the Loan Agreement as amended by the Ratification Agreement, the other Financing Agreements and the Financing Orders.

(d) Notwithstanding any amounts set forth in the Budget relating to the costs and expenses of Lender that are reimbursable by Borrower or any other amounts owing by Borrower to Lender (including, without limitation, attorneys and consulting fees and expenses) in accordance with the Loan Agreement and the other Financing Agreements, such budgeted amounts shall not limit, impair, modify or waive the Debtor's obligation to pay the actual amounts due to Lender in respect of such costs, expenses and other amounts owing to Lender in accordance with the Loan Agreement and the other Financing Agreements.

5.4 DIP Milestones. In addition to the continuing representations, warranties and covenants heretofore and hereafter made by Debtor to Lender, whether pursuant to the Financing Agreements or otherwise, and not in limitation thereof, Debtor covenants and agrees to satisfy each of the following conditions:

(a) On the Petition Date, Debtor shall file motions, each in form and substance satisfactory to Lender, requesting approval from the Bankruptcy Court, of the First Day Orders, including the cash management of Debtor;

(b) On the Petition Date, Debtor shall file motions, each in form and substance satisfactory to Lender, requesting approval from the Bankruptcy Court, of the DIP Credit Facility under the Financing Order on the terms and conditions contemplated by the Loan Agreement, granting to Lender the security interests and liens and superpriority administrative expense claim status set forth herein and in the Financing Order, modifying the automatic stay and other provisions required by Lender and its counsel;

(c) On or before the date that is three (3) days after the Petition Date, the Bankruptcy Court shall have entered, each in form and substance satisfactory to Lender, (i) the Interim Financing Order, and (ii) interim First Day Orders, each in form and substance satisfactory to Lender, approving the "first day" applications and motions of Debtor, including the cash management of Debtor;

(d) On or before the date that is three (3) days after the Petition Date, Debtor shall file a motion, in form and substance satisfactory to Lender, (i) to approve the Bidding Procedures and the Bidding Procedures Order with respect to the Sales Transaction and the Purchase Agreement and (ii) to approve the Bidding Procedures and the Bidding Procedures Order with respect to the Sales Transaction pursuant to Section 363 of the Bankruptcy Code;

(e) On or before the date that is eighteen (18) days after the Petition Date, the Bankruptcy Court shall have approved, in form and substance acceptable to Lender, the Final Financing Order;

(f) On or before the date that is sixty (60) days after the Petition Date (unless such date is extended by Lender in its sole discretion), a hearing on the Sales Transaction shall have been held by the Bankruptcy Court and the Bankruptcy Court shall have entered, in form and substance acceptable to Lender, the Sale Order, and the consummation of the Sales Transaction shall have occurred on or before the date that is five (5) days after the Sale Order has been entered by the Bankruptcy Court; and

(g) On or before the date that is sixty (60) days after the Petition Date (unless such date is extended by Lender in its sole discretion), the sale of the Salt Lake City Property shall have been approved pursuant to the Salt Lake City Sale Order on terms and conditions acceptable to Lender, and the consummation of the sale of the Salt Lake City Property shall have occurred on or before the date that is five (5) days after the Salt Lake City Sale Order has been entered by the Bankruptcy Court, with all net proceeds from the closing of such sale to be remitted to Lender for application to the Obligations in accordance with the Ratification Agreement.

Debtor confirms, acknowledges and agrees that notwithstanding anything to the contrary contained in the Loan Agreement, any failure to comply with the requirements set forth in this Section 5.4 shall constitute an additional immediate Event of Default under the Financing Agreements.

5.5 ERISA. Borrower hereby represents and warrants with, to and in favor of Lender that (a) there are no liens, security interests or encumbrances upon, in or against any assets or properties of Borrower arising under ERISA, whether held by the Pension Benefit Guaranty Corporation (the "PBGC") or the contributing sponsor, or a member of the controlled group thereof, of any pension benefit plan of Borrower and (b) no notice of lien has been filed by the PBGC (or any other Person) pursuant to ERISA against any assets or properties of Borrower.

5.6 Chief Restructuring Officer.

(a) Debtor shall retain, and shall continue to retain at all times during which the Obligations remain outstanding, Ron Mayo, or such other Person(s) acceptable to Lender, as its Chief Restructuring Officer at the sole cost and expense of the Debtor, on terms and conditions acceptable to Lender pursuant to a CRO Engagement Agreement. The Chief Restructuring Officer (in conjunction with the Independent Manager of Borrower) shall (i) review and approve the terms of debtor-in-possession financing facilities for the Loan Parties and related adequate protection arrangements in respect of the Debtor's credit facilities, (ii) review and approve the terms of any plan or pre- or post-petition asset purchase agreement, to enter into binding and definitive agreement(s) on behalf of the Debtor with respect to the foregoing, (iii) supervise the structuring and conduct a sale or plan process for the Debtor, including negotiating the terms of any competing bids, and (iv) in connection with the preceding clauses (i), (ii) and (iii), but subject to such notice and court approvals as may be required, to enter into binding agreements on behalf of the Debtor. Debtor hereby irrevocably authorizes and direct the Chief Restructuring Officer to consult with Lender and to share with Lender and its advisors, upon reasonable request therefor, all financial reports, budgets and any variances from same, other financial information, operational issues, matters related to the Collateral, all reports prepared or reviewed by the Chief Restructuring Officer, information on the sale and maintenance of the Debtor's businesses and assets and such other matters as Lender may reasonably request. Debtor agrees to provide the Chief Restructuring Officer with complete access to all of the books and records of the Debtor, all of premises of the Debtor and to all management and employees of Debtor as and when deemed necessary by the Chief Restructuring Officer.

(b) Any amendment, modification or termination of the retention agreement with the Chief Restructuring Officer without the prior written consent of Lender shall constitute an Event of Default. Debtor acknowledges and agrees that the Debtor shall cause the Chief Restructuring Officer, as further described in clause (a) above, (i) to keep Lender fully informed of the progress of the business and operations of the Debtor and to respond to any reasonable inquiries of Lender regarding the maintenance of the Debtor's business and the sale of its assets, and (ii) to communicate and cooperate with Lender and share all information, as reasonably requested thereby, with Lender regarding the Debtor, and the sale and maintenance of the Debtor's business and assets.

(c) If the Chief Restructuring Officer resigns, the Debtor shall promptly notify Lender in writing of such resignation (but in any event by no later than the end of the day that Debtor learns of such resignation). Any replacement or successor Chief Restructuring Officer shall be reasonably acceptable to Lender, shall be retained pursuant to a new retention agreement on terms and conditions reasonably acceptable to Lender within five (5) Business Days immediately following the notice of resignation of the resigning Chief Restructuring Officer, and shall be approved by the Bankruptcy Court. Failure to comply with the terms and conditions of this Section 5.6 shall constitute an Event of Default.

5.7 Investment Banker.

(a) Debtor shall retain, and shall continue to retain at all times during which the Obligations remain outstanding, and at the sole cost and expense of Debtor, an Investment Banker, acceptable to Lender on terms and conditions acceptable to Lender pursuant to an Investment Banking Agreement, in each case in Lender's sole discretion. It being acknowledged that as of the date hereof SSG Advisors, LLC is acceptable to Lender. The Investment Banker shall work with the Chief Restructuring Officer and management of Debtor to coordinate and conduct all aspects of the marketing and sale of substantially all of the assets and properties of Debtor. Debtor hereby irrevocably authorizes and directs the Investment Banker to consult with Lender and to share with Lender all information and materials produced or received in connection with (i) the sale to an acceptable purchaser of substantially all of Debtor's businesses and assets, or any portion thereof and (ii) any other restructuring or financial transaction contemplated by Debtor in the Chapter 11 Case. Debtor shall not amend, modify or terminate the retention of the Investment Banker without the prior written consent of Lender.

(b) Debtor acknowledges and agrees that Debtor shall cause the Investment Banker to (i) keep Lender fully informed of the progress of the marketing and sale of the assets and properties of the Borrower and/or any other restructuring or financial transaction, including, without limitation, providing Lender with weekly telephonic updates regarding the foregoing, (ii) respond fully to any inquiries of Lender regarding such marketing and sale process and any restructuring or financial transaction, and (iii) communicate and fully cooperate with Lender and share all information requested by Lender with Lender regarding the marketing and sale of Debtor's assets and properties and/or other restructuring transaction. Failure to comply with the terms and conditions of this Section 5.7 shall constitute an Event of Default.

5.8 Post-Closing Covenants. Borrower hereby covenants and agrees to deliver to Lender the following items, in form and substance acceptable to Lender:

(a) within sixty (60) days after the Petition Date, in form and substance acceptable to Lender, a Pledge and Security Agreement with respect to the Equity Interests of Borrower in the Skull Valley Joint Venture, duly executed and delivered by Borrower, together with such agreements, documents, consents and instruments as deemed necessary or desirable by Lender to protect and enforce its Collateral;

(b) within fifteen (15) days after the Petition Date, in form and substance acceptable to Lender, certificates of liability insurance and commercial property insurance with respect to the assets and properties of Borrower, including lender's loss payable endorsement and additional insured endorsements; and

(c) within five (5) days after the Petition Date, in form and substance acceptable to Lender, the original of the Salt Lake City Mortgage, duly executed and delivered by Borrower, in form acceptable for recording in the real estate records of Salt Lake County, Utah.

For the avoidance of doubt, failure to deliver any of the items in accordance with this Section 5.8 shall constitute an Event of Default.

6. DIP EXIT FEE.

Debtor shall pay to Lender an exit fee in the amount of $200,000 (the "DIP Exit Fee") on account of the DIP Credit Facility provided by Lender to Borrower in the Chapter 11 Case. The DIP Exit Fee shall be fully earned on the Ratification Effective Date and payable upon the consummation of the Sales Transaction or the sale of all or substantially all of the assets of Debtor. The DIP Exit Fee may be charged directly to the loan account of Borrower maintained by Lender.

7. AMENDMENTS.

7.1 DIP Credit Facility. Subject to the terms and conditions of this Agreement, the Loan Agreement and the Financing Orders, Lender is agreeing to provide Borrower the DIP Term Loan Commitment up to the DIP Term Loan Commitment Amount. Section 2 of the Pre-Petition Loan Agreement is hereby amended by adding a new Section 2.8 immediately after Section 2.7 as follows:

> "2.8 DIP Term Loan Facility.
>
> (a) Subject to and upon the terms and conditions contained herein, in the Ratification Agreement and the Financing Orders, Lender agrees to make to Borrower from time to time the DIP Term Loans in the aggregate principal amount of up to $10,821,588 consisting of the Tranche A DIP Term Loans in the aggregate principal amount of up to (i) $5,000,000 pursuant to Section 2.8(c) hereof and (ii) LC Tranche A DIP Term Loans in the aggregate principal amount of up to $821,588 pursuant to Section 2.8(e) hereof, and (iii) the Tranche B DIP Term Loans in the aggregate principal amount of up to $5,000,000.
>
> (b) The DIP Term Loans requested pursuant to Section 2.8(c) hereof will be funded on a pro rata basis, fifty percent (50%) of which will consist of proceeds of a Tranche A Term Loan and fifty percent (50%) of which will consist of proceeds of a Tranche B DIP Term Loan. Each Tranche B DIP Term Loan shall be funded using proceeds of the Tranche B DIP Term Loan Participation equal to fifty (50%) of the DIP Term Loan being requested by

Borrower. On the Ratification Effective Date, Lender shall have received from Tranche B DIP Term Loan Participant the purchase price of a Tranche B DIP Term Loan Participation in the amount equal to fifty percent (50%) of the "Net Expenses" (as such term is set forth in the Budget) for the first two (2) weeks covered in the Budget. Lender shall have no obligation to make any such DIP Term Loans unless Lender has received from Tranche B Term Loan Participant the proceeds equal to fifty percent (50%) of the amount of the DIP Term Loan being requested and the failure of Tranche B DIP Term Loan Participant to fund the purchase price of any Tranche B Term Loan Participation shall constitute an Event of Default. The proceeds of all DIP Term Loans approved by Lender pursuant to this Section 2.8(b) shall be used to fund the costs, expenses and items set forth in the Budget.

(c) The obligation of Lender to make any DIP Term Loan pursuant to Section 2.8(b) is subject to the satisfaction of, or waiver of, immediately prior to or concurrently with the making of, any such DIP Term Loan of each of the following conditions precedent:

(i) Lender shall have received a written request by Borrower to make a DIP Term Loan not later than 1:00 p.m. on the Business Day prior to the date of the requested funding of such DIP Term Loan, which notice shall include (A) the amount of the DIP Term Loan being requested and the funding date of the DIP Term Loan and (B) the disbursements to be paid pursuant to the Budget using the proceeds of such DIP Term Loan; provided, however, that under no circumstances shall Borrower request, or shall Lender be obligated to fund, a DIP Term Loan in an amount in excess of the amount necessary to allow Borrower to make all disbursements due to be paid in accordance with the Budget over the immediately following two (2) week period; and

(ii) all other conditions precedent set forth in Section 9 of the Ratification Agreement and Section 4.2 hereof shall have been satisfied as determined by Lender.

(d) Upon receipt of the written request for a DIP Term Loan by Borrower pursuant to Section 2.8(c) hereof, Lender shall send a copy of the written notice to Tranche B Term Loan Participant setting forth the amount of the proceeds of the Tranche B Term Loan Participation needed to fund fifty percent (50%) of the requested DIP Term Loan. Tranche B Term Loan Participant shall remit to Lender by no later than 10:00 a.m. on the date of the requested funding, the amount of the purchase price of the Tranche B DIP Term Loan Participation needed to fund the Tranche B DIP Term Loan. Upon receipt of the proceeds of the Tranche B DIP Term Loan Participation, Lender shall make the full amount of the DIP Term Loan being requested pursuant to Section 2.8(c) hereof. Upon the making of a Tranche A DIP Term Loan pursuant to Section 2.8(c), the Tranche A DIP Term Loan Commitment Amount shall be reduced by the amount of such Tranche A DIP Term Loan.

Upon the making of a Tranche B DIP Term Loan, the Tranche B DIP Term Loan Commitment Amount shall be reduced by the amount of such Tranche B DIP Term Loan. Lender shall have no obligation to make the portion of any DIP Term Loan if after giving the effect to the requested DIP Term Loan, the DIP Term Loan Commitment Amount minus the DIP Reserve shall be less than $-0-.

(e) If Lender receives a request for a draw under a Letter of Credit in the Chapter 11 Case in accordance with Section 2.6 hereof, Lender agrees to make the payment in respect of such Letter of Credit in the amount equal to the Letter of Credit Disbursement. The amount of the Letter of Credit Disbursement made shall immediately and automatically be deemed to be a LC Tranche A DIP Term Loan under the Loan Agreement (notwithstanding any failure to satisfy any condition precedent set forth in Section 2.8(c) hereof) and shall bear interest at the rate then applicable to DIP Term Loans. Borrower's obligation to pay the amount of such Letter of Credit Disbursement to Lender shall be automatically converted into an obligation to pay the resulting LC Tranche A DIP Term Loan. Upon the making of a LC Tranche A DIP Term Loan pursuant to this Section 2.8(e), the Tranche A DIP Term Loan Commitment Amount shall be reduced by the amount of such LC Tranche A DIP Term Loan. All LC Tranche A DIP Term Loan s shall be deemed to constitute Tranche A DIP Term Loans only and not Tranche B DIP Term Loans.

(f) Each Tranche A DIP Term Loan (including each LC Tranche A DIP Term Loan) made available to Borrower is (i) to be repaid, together with interest in accordance with the terms of the Ratification Agreement, the Financing Orders, this Agreement, the Tranche A Term Note and the other Financing Agreements, and (ii) secured by all of the Collateral. Each Tranche B DIP Term Loan made available to Borrower is (x) to be repaid, together with interest in accordance with the terms of the Ratification Agreement, the Financing Orders, this Agreement, the Tranche B Term Note and the other Financing Agreements, and (y) secured by all of the Collateral.

(g) The Tranche A DIP Term Loans (including all LC Tranche A DIP Term Loans) shall be evidenced by the Tranche A DIP Term Note in the principal amount of up to $5,821,588 and the Tranche B DIP Term Loans shall be evidenced by the Tranche B DIP Term Note in the principal amount of up to $5,000,000. Once borrowed any amounts paid or prepaid in respect of the Tranche A DIP Term Loans (including all LC Tranche A DIP Term Loans) or the Tranche B DIP Term Loans may not be reborrowed.

(h) The Tranche A DIP Term Loans (including all LC Tranche A DIP Term Loans) and the Tranche B DIP Term Loans shall be repaid in accordance with Section 9.6(d) of the Loan Agreement and the Financing Orders."

7.2 Rate of Interest. Section 3.1(a) and (b) of the Pre-Petition Loan Agreement is hereby replaced with the following:

> "(a) Subject to Section 3.1(b) hereof, Borrower shall pay to Lender interest at the Interest Rate on the outstanding principal amount of the Obligations.
>
> (b) Upon the occurrence and during the continuation of an Event of Default, upon written notice by Lender to Borrower (except that such notice shall not be required for any payment default hereunder or under the Ratification Agreement), then (i) all Loans and all other Obligations (except for undrawn Letters of Credit) shall bear interest at a per annum rate equal to two (2) percentage points above the per annum rate otherwise applicable thereto, and (ii) the Letter of Credit Fees payable under Section 3.3(c) hereof shall be increased to two (2) percentage points above the per annum rate otherwise applicable thereto."

7.3 Payments. Section 9.6 of the Pre-Petition Loan Agreement is hereby amended by adding a new Section 9.6(d) and Section 9.6(e) immediately after Section 9.6(c) as follows:

> "(d) Notwithstanding anything to the contrary contained in this Agreement or any of the other Financing Agreements, Lender shall apply any such payments or proceeds first, to the Pre-Petition Obligations (other than Term Loan C) until such Pre-Petition Obligations are paid and satisfied in full, second, to the Post-Petition Obligations (including, without limitation, all Obligations arising in connection with the Tranche A DIP Term Loan) until such Post-Petition Obligations are paid and satisfied in full, third, to the Pre-Petition Obligations consisting of Term Loan C and fourth to the Post-Petition Obligations consisting of the Tranche B DIP Term Loans.
>
> (e) Notwithstanding anything to the contrary in this Agreement, to the extent not previously paid in full in cash or other immediately available funds, all DIP Term Loans and other Loans shall be due and payable in full on the Maturity Date, and may not be reborrowed thereafter."

7.4 Letters of Credit. Notwithstanding anything to the contrary contained in the Pre-Petition Loan Agreement or the other Financing Agreements, any issued and undrawn Letters of Credit under the Pre-Petition Loan Agreement as of the Petition Date shall be deemed to be Letters of Credit under the DIP Credit Facility. On and after the Ratification Effective Date, (a) unless otherwise agreed to in Lender's sole discretion, Lender shall have no obligation to issue any new Letters of Credit under the Loan Agreement or the Ratification Agreement or increase the amount of such existing Letters of Credit issued and outstanding as of the Petition Date and (b) if Lender makes a payment under a Letter of Credit, the amount of the Letter of Credit Disbursement shall immediately and automatically be made as and be deemed to be an LC Tranche A DIP Term Loan in accordance with Section 2.8(e) of the Loan Agreement). All Letter of Credit Disbursements made in the Chapter 11 Case shall be deemed to be LC Tranche A DIP

Term Loans under the Loan Agreement, and Borrower's obligation to pay the amount of such Letter of Credit Disbursement to Lender shall be automatically converted into an obligation to pay the resulting LC Tranche A DIP Term Loan.

7.5 SOFR Option. Notwithstanding anything to the contrary contained in the Pre-Petition Loan Agreement or the other Financing Agreements (a) the Borrower's right to request SOFR Loans in accordance with the Loan Agreement is hereby terminated and of no further force or effect, (b) no Borrowing made on or after the Petition Date shall bear interest at a rate determined by reference to the Adjusted Term SOFR, (c) all SOFR Loans shall automatically be converted to Base Rate Loans on the Petition Date, and (d) Borrower shall not request, and Lender shall have no obligation to provide, any SOFR Loans.

7.6 Indebtedness. Notwithstanding anything to the contrary contained in Section 7.3 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Financing Agreements, Borrower shall not, and shall not permit any Subsidiary, after the date hereof, to, create, incur, assume, guarantee, or otherwise become directly or indirectly, liable with respect to any Indebtedness, except (a) as provided in the Financing Orders, and (b) with the express prior written consent of Lender.

7.7 Liens. Section 7.4 of the Pre-Petition Loan Agreement is hereby replaced with the following:

> "7.4 Liens. Borrower shall not, directly or indirectly, allow or suffer to exist any Liens, other than (a) all Liens existing on the Petition Date that constituted Liens permitted in and under the Pre-Petition Loan Agreement and the other Pre-Petition Financing Agreements to the extent such liens were legal, valid, binding, enforceable and non-avoidable as of the Petition Date, and are not otherwise subject to any defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law, (b) the Adequate Protection Liens, and (c) Liens on the Collateral in respect of the Post-Trigger Date Carve Out".

7.8 Loans, Investments, Guarantees, Etc. Notwithstanding anything to the contrary contained in Section 7.5 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Financing Agreements, Borrower shall not, and shall not permit any Subsidiary, after the date hereof, to, directly or indirectly, make any loans or advance money or property to any Person, or invest in (by capital contribution, dividend or otherwise) or purchase or repurchase the stock or Indebtedness or all or a substantial part of the assets or property of any Person, or guarantee, assume, endorse, or otherwise become responsible for (directly or indirectly) the Indebtedness, performance, obligations or dividends of any Person or agree to do any of the foregoing, except (a) as provided in the Financing Orders, and (b) with the express prior written consent of Lender.

7.9 Transactions with Affiliates. Notwithstanding anything to the contrary contained in Section 7.6 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Financing Agreements, Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly (a) purchase, acquire or lease any property from, or sell, transfer or lease any property to, any shareholder, officer, director, agent, employee or Affiliate or (b) make any payments of any dividends, management, consulting or other fees or any payments in respect of any Indebtedness owing to any shareholder, officer, director or Affiliate of Borrower, except (i) as provided in the Financing Orders, and (ii) with the express prior written consent of Lender.

7.10 Dividends. Notwithstanding anything to the contrary contained in Section 7.7 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Financing Agreements, Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, declare or pay any cash dividends or dividends payable in property now or hereafter outstanding or make any other distribution, or set apart any sums for such purpose, or redeem, retire, defease, purchase or otherwise acquire any Equity Interests of Borrower (or set aside or otherwise deposit or invest any sums for such purpose) for any consideration or apply or set apart any sums, or make any other distribution (by reduction of capital or otherwise) in respect of any such Equity Interests or agree to do any of the foregoing, except (a) as provided in the Financing Orders, and (b) with the express prior written consent of Lender.

7.11 Sale of Assets, Consolidation, Merger, Dissolution, Etc. Section 7.10 of the Pre-Petition Loan Agreement is hereby replaced with the following:

> "7.10 Sale of Assets, Consolidation, Merger, Dissolution, Etc. Borrower shall not, directly or indirectly, (a) merge into or with or consolidate with any other Person or permit any other Person to merge into or with or consolidate with it except as permitted by the Ratification Agreement and the Financing Orders, or (b) sell, assign, lease, transfer, abandon or otherwise dispose of any stock or Indebtedness to any other Person or any of its properties or assets to any other Person (except: (i) sales of Inventory in the ordinary course of business, the Sales Transaction in accordance with the Sale Order, the sale of the Salt Lake City Property in accordance with the Salt Lake City Sale Order, and the sale of any other of its assets or properties in accordance with an order of the Bankruptcy Court, in form and substance satisfactory to Lender, in each case to the extent permitted by the Ratification Agreement and the Financing Orders, or (c) liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), except as permitted by the Ratification Agreement and the Financing Orders, or (d) agree to do any of the foregoing, except as permitted by the Ratification Agreement and the Financing Orders."

7.12 Inventory and Equipment Covenants. Notwithstanding anything to the contrary contained in the Pre-Petition Loan Agreement or any of the other Financing Agreements, Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, remove any Inventory or Equipment from the locations set forth in the Loan Agreement, without the prior written consent of Lender, except for sales of Inventory and Equipment in accordance with the terms of the Ratification Agreement and except to move Inventory and Equipment directly from one location permitted in the Loan Agreement to another such location permitted in the Loan Agreement.

7.13 Financial Statements and Other Information. For the avoidance of doubt, Borrower shall continue to deliver to Lender, in form and substance acceptable to Lender, the borrowing base certificates on a monthly basis and other information with respect to the Accounts, Inventory and other Collateral in accordance with the Loan Agreement and the other Financing Agreements or as Lender may otherwise request.

7.14 Fixed Charge Coverage Ratio. Section 7.19 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.19 [Intentionally Omitted.]"

7.15 Excess Availability. Section 7.24 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.24 [Intentionally Omitted.]"

7.16 Events of Default. Section 8 of the Pre-Petition Loan Agreement is hereby amended by (a) replacing the period at the end of Section 8.1(n) with the following "; or" and (b) adding the immediately following Section 8.1(n) as follows:

> "(o) the occurrence of any condition or event which permits Lender to exercise any of the remedies set forth in the Financing Order, including, without limitation, any "Event of Default" (as defined in any Financing Order); or
>
> (p) the termination or non-renewal of the Financing Agreements as provided for in any Financing Order; or
>
> (q) Debtor suspends or discontinues all or any material part of its business, or is enjoined by any court or governmental agency from continuing to conduct all or any material part of its business, or a trustee or examiner with expanded powers is appointed for Debtor or any of its properties; or
>
> (r) any act, condition or event occurring after the Petition Date that, in Lender's sole discretion, has or could reasonably expect to have a Material Adverse Effect; or
>
> (s) conversion of the Chapter 11 Case to a Chapter 7 case under the Bankruptcy Code; or
>
> (t) dismissal of the Chapter 11 Case or any subsequent Chapter 7 case either voluntarily or involuntarily; or
>
> (u) grant of a lien on or other interest in any property of Debtor, other than a Lien permitted by any Financing Order, which is superior to or ranks in parity with Lender's Lien upon the Collateral; or

(v) the grant of an administrative expense claim in the Chapter 11 Case which is superior to or ranks in parity with the rights of the Lender (other than administrative expense claims permitted by any Financing Order or the Ratification Agreement); or

(w) the failure of Debtor to comply with any Financing Order or the Ratification Agreement, or any Financing Order shall be modified, reversed, revoked, remanded, stayed, rescinded, vacated or amended on appeal or by the Bankruptcy Court without the prior written consent of Lender; or

(x) the appointment of a trustee pursuant to Sections 1104(a)(1) or 1104(a)(2) of the Bankruptcy Code; or

(y) the appointment of an examiner with special powers pursuant to Section 1104(a) of the Bankruptcy Code; or

(z) the filing of a plan of reorganization or liquidation by or on behalf of Debtor which does not provide for payment in full of all Obligations on the effective date thereof in accordance with the terms and conditions contained herein, unless otherwise consented to by the Lender; or

(aa) the confirmation of any plan of reorganization or liquidation in any of the Chapter 11 Case of Debtor which does not provide for payment in full of all Obligations on the effective date thereof in accordance with the terms and conditions contained herein, unless otherwise consented to by Lender; or

(bb) the filing of a motion by Debtor that is not dismissed or denied within thirty (30) days after the date of filing such motion seeking, or the entry of any order permitting, recovery from any portion of the Collateral (or from Lender) any costs or expenses of preserving or disposing of the Collateral under section 506(c) or section 552(b) of the Bankruptcy Code (or otherwise); or

(cc) a motion is filed that is not dismissed within twenty (20) days after the filing thereof that seeks to take possession of any of the assets or business of Debtor; or

(dd) a motion is filed that is not dismissed within twenty (20) days after the filing thereof that seeks to prohibit the Debtor from selling any of its Inventory, Equipment or other assets; or

(ee) any Material Budget Deviation."

7.17 Right of Inspection; Access; Field Exams. Section 9.2 of the Loan Agreement is hereby replaced with the following:

> "9.2 <u>Right of Inspection; Access; Field Exams</u>. Lender and its respective representatives shall at all times, have free access to and right of inspection of the Collateral and have full access to and the right to examine and make copies of the books and records of Borrower to confirm and verify all Accounts, to perform general audits, conduct field examinations, appraisals or valuations of the assets and properties of Borrower and to do whatever else Lender deems necessary to protect the interests of Lender. Lender may at any time remove from the premises of Borrower or require Borrower or any accountants and auditors employed by Borrower to deliver any books and records and Lender may, without cost or expense to it, use such of Borrower's personnel, supplies, computer equipment and space at its places of business as may be reasonably necessary for the handling of collections."

7.18 Term. Section 10.1(a) of the Pre-Petition Loan Agreement is hereby replaced with the following:

> "(a) This Agreement and the other Financing Agreements shall become effective as of the date hereof and shall continue in full force and effect for a term ending on the Maturity Date."

7.19 <u>Governing Law</u>. Section 11.1 of the Pre-Petition Loan Agreement is hereby amended by deleting the first sentence thereof in its entirety and replacing it with the following:

> "11.1 THE VALIDITY OF THIS AGREEMENT AND THE OTHER FINANCING AGREEMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER FINANCING AGREEMENT IN RESPECT OF SUCH OTHER FINANCING AGREEMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH (I) THE LAWS OF THE STATE OF NEW YORK AND (II) TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE."

7.20 <u>Jurisdiction</u>. Section 11.2 of the Pre-Petition Loan Agreement is hereby amended by deleting the first sentence thereof in its entirety and replacing it with the following:

> "THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER FINANCING AGREEMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE BANKRUPTCY COURT AND THE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, AND ANY APPELLATE COURT FROM ANY THEREOF; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT LENDER'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE LENDER ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND."

8. RELEASE.

8.1 Release of Pre-Petition Claims.

(a) Upon the earlier of (i) the entry of the Final Financing Order or (ii) the entry of an Order extending the term of the Interim Financing Order beyond thirty (30) calendar days after the date of the Interim Financing Order, in consideration of the agreements of Lender contained herein and the making of any Revolving Loans by Lender, Borrower, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, on behalf of themselves and their respective successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably release, remise and forever discharge Lender and its respective successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (Lender and all such other parties being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever but, for the avoidance of doubt, excluding any claims or causes of action for gross negligence or willful misconduct (individually, a "Pre-Petition Released Claim" and collectively, "Pre-Petition Released Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which Borrower, or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any nature, cause or thing whatsoever which arises at any time on or prior to the Ratification Effective Date, including, without limitation, for or on account of, or in relation to, or in any way in connection with the Pre-Petition Loan Agreement, as amended and supplemented through the date hereof, and the other Financing Agreements.

(b) Upon the earlier of (i) the entry of the Final Financing Order or (ii) the entry of an Order extending the term of the Interim Financing Order beyond thirty (30) calendar days after the date of the Interim Financing Order, Borrower and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Pre-Petition Released Claim released, remised and discharged by Borrower pursuant to this Section 8.1. If Borrower violates the foregoing covenant, Borrower agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

8.2 Release of Post-Petition Claims. Upon the payment in full of all of the Obligations, in consideration of the agreements of Lender contained herein and the making of any Revolving Loans by Lender, Borrower hereby covenants and agrees to execute and deliver in favor of Lender a valid and binding termination and release agreement, in form and substance satisfactory to Lender. If Borrower violates such covenant, Borrower agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

8.3 Releases Generally.

(a) Borrower understands, acknowledges and agrees that the releases set forth above in Sections 8.1 and 8.2 hereof may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such releases.

(b) Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final and unconditional nature of the releases set forth in Section 8.1 hereof and, when made, Section 8.2 hereof.

9. CONDITIONS PRECEDENT.

The amendments, representations and warranties, covenants, defaults and all other agreements and obligations contained in the Ratification Agreement shall only become effective upon the satisfaction (or waiver) of all of the following conditions precedent (the time of such satisfaction (or waiver) referred to herein:

9.1 as of the Petition Date, the Pre-Petition Financing Agreements shall not have been terminated;

9.2 Debtor shall have a commenced voluntary case under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware by no later than September __, 2025. Debtor shall have fully complied with all notice and other requirements of the Bankruptcy Code in a manner acceptable to Lender (and its counsel) in its sole discretion, with respect to the Interim Financing Order and Lender shall have received such evidence thereof as it shall require in its sole discretion. All of the motions for and the forms of the First Day Orders entered by the Bankruptcy Court at the time of the commencement of the Chapter 11 Case shall be in form and substance satisfactory to Lender in its sole discretion;

9.3 no trustee or examiner with expanded powers shall have been appointed or designated with respect to Borrower, as Debtor and Debtor-in-Possession, or its business, properties and assets and no motion or proceeding shall be pending seeking such relief;

9.4 the Interim Financing Order, in the form and substance acceptable to Lender, has been duly entered, is valid, subsisting and continuing and has not been vacated, reversed, or modified by any order of the Bankruptcy Court (other than as consented to by Lender) and is not subject to any pending appeal or stay;

9.5 a cash management order amending and ratifying the cash management arrangements of Borrower on terms acceptable to Lender has been duly entered, is valid, subsisting and continuing and has not been vacated, reversed, or modified by any order of the Bankruptcy Court (other than as consented to by Lender) and is not subject to any pending appeal or stay;

9.6 Lender shall have received this Agreement, duly executed and delivered by Borrower;

9.7 Lender shall have received, in form and substance acceptable to Lender, the Tranche B DIP Term Loan Participation Agreement, duly authorized, executed and delivered by Tranche B DIP Term Loan Participant;

9.8 Lender shall have received by wire transfer to a deposit account of Lender in cash or immediately available funds the initial amount of the Tranche B DIP Term Loan Commitment Amount required by Section 2.8(b) of the Loan Argeement;

9.9 Lender shall have received, in form and substance acceptable to Lender, the Tranche A DIP Term Note, duly executed and delivered by Borrower;

9.10 Lender shall have received, in form and substance acceptable to Lender, the Tranche B DIP Term Note, duly executed and delivered by Borrower;

9.11 the implementation of the terms of the Ratification Agreement and the other Financing Agreements, as modified pursuant to the Ratification Agreement, all of which contains provisions, representations, warranties, covenants and Events of Default, as are satisfactory to Lender and its counsel;

9.12 Borrower shall have fully complied with all notice and other requirements of the Bankruptcy Code and the applicable Bankruptcy Rules with respect to any relevant Financing Order in a manner prescribed by the Bankruptcy Code and the applicable Bankruptcy Rules;

9.13 receipt by Lender, each in form and substance satisfactory to Lender, of (i) the initial Budget (it being understood and agreed that the Budget, as approved by Lender and attached to the Ratification Agreement as Exhibit A, shall satisfy this condition);

9.14 other than the voluntary commencement of the Chapter 11 Case, no material impairment of the priority of Lender's security interests in the Collateral shall have occurred from August 6, 2025, being the completion date of the latest field examination of Lender to the Petition Date;

9.15 other than the Bankruptcy Events, no Material Adverse Effect shall have occurred since August 1, 2025;

9.16 none of the materials previously furnished to Lender by Borrower contains any material misstatements in, or omit to state, any material facts necessary to make the statements therein taken as a whole, in the light of the circumstances under which they were made, not misleading in any material respect;

9.17 Lender shall hold perfected, first priority security interests in and liens upon the Collateral and Lender shall have received such evidence thereof as it requires; and

9.18 other than the Specified Defaults, no Default or Event of Default shall have occurred or be existing under any of the Financing Agreements, as modified pursuant hereto, and assumed by Borrower.

10. <u>ADDITIONAL CONDITIONS PRECEDENT TO ALL LOANS.</u>

In addition to the satisfaction of the conditions precedent under Section 9 of the Ratification Agreement with respect to the effectiveness of the noted Sections of the Ratification Agreement, the following are conditions to Lender's obligation to extend further loans, advances or other financial accommodations to Borrower pursuant to the Loan Agreement:

10.1 with respect to further credit after expiration of the Interim Financing Order, on or before the expiration of the Interim Financing Order, the Bankruptcy Court shall have entered the Final Financing Order; Lender shall not provide any Revolving Loans (or other financial accommodations) other than those authorized under the Interim Financing Order unless, on or before the expiration of the Interim Financing Order, the Final Financing Order shall have been entered, and there shall be no appeal or other contest with respect to either the Interim Financing Order or the Final Financing Order and the time to appeal to contest such order shall have expired;

10.2 requests for further credit shall be for purposes and in amounts in accordance with the Budget (subject to the variances permitted under Section 5.3(c) of the Ratification Agreement);

10.3 the representations and warranties of Debtor contained in the Ratification Agreement and the other Financing Agreements shall be true and correct in all material respects on and as of the date of any such further credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date);

10.4 subject to the Financing Order, all fees and expenses required to be paid to Lender pursuant to the Ratification Agreement and the Loan Agreement, as amended thereby, shall have been paid or shall be paid concurrently with the making of the Revolving Loans after the Ratification Effective Date; and

10.5 other than the Specified Defaults, no Default or Event of Default shall have occurred or be existing under any of the Financing Agreements, as amended, supplemented or otherwise modified pursuant the Ratification Agreement and assumed by Borrower.

11. MISCELLANEOUS.

11.1 Amendments and Waivers. Neither the Ratification Agreement nor any other instrument or document referred to herein or therein may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11.2 Further Assurances. Borrower shall, at its expense, at any time or times duly execute and deliver, or shall use its best efforts to cause to be duly executed and delivered, such further agreements, instruments and documents, including, without limitation, additional security agreements, collateral assignments, UCC financing statements or amendments or continuations thereof, landlord's or mortgagee's waivers of liens and consents to the exercise by Lender of all the rights and remedies hereunder, under any of the other Financing Agreements, any Financing Order or applicable law with respect to the Collateral, and do or use its best efforts to cause to be done such further acts as may be reasonably necessary or proper in Lender's opinion to evidence, perfect, maintain and enforce the security interests of Lender, and the priority thereof, in the Collateral and to otherwise effectuate the provisions or purposes of this Ratification Agreement, any of the other Financing Agreements or the Financing Order. Upon the request of Lender, at any time and from time to time, Borrower shall, at its cost and expense, do, make, execute, deliver and record, register or file updates to the filings of Lender with respect to the Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office, the financing statements, mortgages, deeds of trust, deeds to secure debt, and other instruments, acts, pledges, assignments and transfers and will deliver to Lender such instruments evidencing items of Collateral as may be requested by Lender.

11.3 Headings. The headings used herein are for convenience only and do not constitute matters to be considered in interpreting the Ratification Agreement.

11.4 Counterparts. This Ratification Agreement, any documents executed in connection herewith and any notices delivered under this Ratification Agreement, may be executed by means of (a) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (b) an original manual signature; or (c) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Lender reserves the right, in its sole discretion, to accept, deny, or condition acceptance of any electronic signature on the Ratification Agreement or on any notice delivered to Lender under the Ratification Agreement. The Ratification Agreement and any notices delivered under the Ratification Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. Delivery of an executed counterpart of a signature page of the Ratification Agreement and any notices as set forth herein will be as effective as delivery of a manually executed counterpart of the Ratification Agreement or notice.

11.5 Additional Events of Default. The parties hereto acknowledge, confirm and agree that the failure of Borrower to comply with any of the covenants, conditions and agreements contained herein or in any other agreement, document or instrument at any time executed by Borrower in connection herewith shall constitute an Event of Default under the Financing Agreements.

11.6 Costs and Expenses. Subject to the terms of the Financing Order, Borrower shall pay to Lender and any Lender on demand all costs and expenses that Lender pays or incurs in connection with the negotiation, preparation, consummation, administration, enforcement, and termination of the Ratification Agreement and the other Financing Agreements and the Financing Order. Subject to the terms of the Financing Order, the foregoing shall not be construed to limit any other provisions of the Financing Agreements regarding costs and expenses to be paid by Borrower. Subject to the terms of the Financing Order, all sums provided for in this Section 11.6 shall be part of the Obligations, shall be payable on demand, and shall accrue interest after demand for payment thereof at the highest rate of interest then payable under the Financing Agreements. Lender is hereby irrevocably authorized to charge any amounts payable hereunder directly to any of the account(s) maintained by Lender with respect to Borrower.

11.7 Effectiveness. The Ratification Agreement shall become effective upon the execution hereof by the Debtor and Lender and the entry of the Interim Financing Order.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Ratification Agreement to be duly executed as of the day and year first above written.

BORROWER:

US MAGNESIUM LLC, as Debtor and Debtor-in-Possession

By: ______________________________
Name:
Title:

[Signatures Continue on the Following Page]

LENDER: WELLS FARGO BANK, N.A.,
as Lender

By: ______________________________
Name:
Title:

EXHIBIT A
to
RATIFICATION AND AMENDMENT AGREEMENT

Budget

(See attached)

Draft for Review - Subject to Change

		In Court Forecast	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*In Court Forecast*	*DIP Budget Total*
US Magnesium	Forecast Week #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
DIP Budget	Week Start	9/8/2025	9/15/2025	9/22/2025	9/29/2025	10/6/2025	10/13/2025	10/20/2025	10/27/2025	11/3/2025	11/10/2025	11/17/2025	11/24/2025	12/1/2025	12/8/2025	12/15/2025	12/22/2025	12/29/2025	1/5/2026	9/8/2025
($ in 000s)	Week End	9/14/2025	9/21/2025	9/28/2025	10/5/2025	10/12/2025	10/19/2025	10/26/2025	11/2/2025	11/9/2025	11/16/2025	11/23/2025	11/30/2025	12/7/2025	12/14/2025	12/21/2025	12/28/2025	1/4/2026	1/11/2026	1/11/2026
																				Total
Sales Forecast																				
Envirotech - Mag Chloride		25,923	25,938	25,453	25,891	26,070	25,772	26,045	25,870	25,863	25,852	25,909	25,912	25,889	25,906	25,886	25,888	25,892	25,897	465,858
Broken Arrow - Sodium Chloride		70,370	70,270	67,910	70,332	70,598	70,812	71,006	70,418	70,214	70,195	70,185	70,470	70,487	70,474	70,431	70,359	70,352	70,369	1,265,252
Lithium Sales		-	-	-	-	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	1,573,000
Albemarle Sales		-	-	-	-	-	-	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	2,400,000
Total Gross Sales		**$ 96,293**	**$ 96,209**	**$ 93,363**	**$ 96,222**	**$ 239,668**	**$ 239,584**	**$ 297,051**	**$ 439,288**	**$ 439,077**	**$ 439,047**	**$ 439,095**	**$ 296,382**	**$ 439,376**	**$ 439,379**	**$ 439,317**	**$ 439,247**	**$ 296,244**	**$ 439,267**	**$ 5,704,111**
Collection on Mag Chloride		11,262	23,861	27,269	25,923	25,938	25,453	25,891	26,070	25,772	26,045	25,870	25,863	25,852	25,909	25,912	25,889	25,906	25,886	450,573
Collection on Sodium Chloride		28,466	89,158	48,533	68,204	68,880	69,261	75,712	72,045	70,370	70,270	67,910	70,332	70,598	70,812	71,006	70,418	70,214	70,195	1,222,384
Collections on Lithium Sales		-	-	-	-	-	-	-	-	-	143,000	143,000	-	143,000	143,000	143,000	143,000	-	143,000	1,001,000
Albemarle Collections		-	-	-	-	-	-	-	-	-	-	-	-	200,000	200,000	200,000	200,000	200,000	200,000	1,200,000
Paydown of Pre-Petition Revolver		(39,728)	(113,019)	(75,803)	(94,127)	(94,818)	(94,715)	(101,603)	(98,116)	(96,142)	(239,316)	(236,780)	(96,195)	(439,450)	(439,721)	(439,918)	(439,307)	(296,120)	(439,081)	(3,873,957)
Total Cash Receipts (Note 1)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Payroll & Benefits		-	190,000	-	190,000	-	190,000	-	190,000	-	190,000	-	190,000	-	-	190,000	-	190,000	95,000	1,615,000
Albemarle Project		-	-	-	-	-	15,000	-	-	-	15,000	-	-	-	-	15,000	-	-	7,500	52,500
Utilities / Energy		-	78,500	-	-	-	78,500	-	-	-	78,500	-	-	-	78,500	-	-	-	55,000	369,000
Communciations / Internet		-	15,000	-	-	-	15,000	-	-	-	15,000	-	-	-	15,000	-	-	-	15,000	75,000
Warehouse fees		-	-	30,000	-	1,200	-	30,000	-	1,200	-	30,000	-	1,200	-	30,000	-	-	91,200	214,800
Credit Card Purchases		-	-	-	-	7,500	-	-	-	7,500	-	-	-	7,500	-	-	-	-	-	22,500
Equipment Loans in Use		-	-	-	-	2,500	-	-	-	2,500	-	-	-	2,500	-	-	-	-	-	7,500
Royalties		-	-	-	-	-	-	-	-	-	-	-	170,918	-	-	-	-	-	350,869	521,787
Fuel		-	-	-	45,000	-	-	-	-	-	-	-	-	-	30,000	-	-	-	-	75,000
IT Consultants		-	-	-	-	17,000	-	-	-	17,000	-	-	-	17,000	-	-	-	17,000	-	68,000
Energy Consultant		-	-	5,500	-	-	-	-	5,500	-	-	-	5,500	-	-	-	-	5,500	-	22,000
Wastewater Monitoring		-	-	-	-	-	-	-	7,500	-	-	-	-	-	-	-	-	-	-	7,500
Consent Decree Environmental Report		-	35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	35,000
Administrative Costs / Office Building		-	-	5,000	-	-	-	-	5,000	-	-	-	5,000	-	-	-	-	5,000	-	20,000
County Property Tax Settlement (Note 2)		-	50,000	-	-	-	-	50,000	-	-	-	50,000	311,000	-	-	50,000	-	-	-	511,000
Insurance (Note 3)		36,000	-	-	318,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	354,000
Insurance D&O		-	100,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100,000
Property Insurance		40,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	40,000
Insurance Deductible for Current Claims		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	.	125,000	125,000
Independent Manager		-	-	-	25,000	-	-	-	-	25,000	-	-	-	25,000	-	-	-	25,000	-	100,000
Budget Contingencies		-	5,000	5,000	6,343	5,000	5,000	5,000	6,343	5,000	5,000	5,000	6,343	5,000	5,000	5,000	5,000	6,343	5,000	90,372
Total Operating Disbursements		**76,000**	**473,500**	**45,500**	**584,343**	**33,200**	**303,500**	**85,000**	**214,343**	**58,200**	**303,500**	**85,000**	**688,761**	**58,200**	**128,500**	**290,000**	**5,000**	**248,843**	**744,569**	**4,425,959**
Financing Costs																				
Revolver Interest		-	-	-	187,202	-	-	-	184,877	-	-	-	181,393	-	-	-	-	214,891	41,127	809,490
DIP Interest (8.5%) Plus LC fees		-	-	-	72,740	-	-	-	88,024	-	-	-	99,712	-	-	-	-	142,784	32,611	435,870
DIP Exit Fee $200K		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	200,000	200,000
KEIP		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100,000	100,000
Total Financing Costs		-	-	-	259,943	-	-	-	272,901	-	-	-	281,104	-	-	-	-	357,675	373,737	1,545,360
Ordinary Course Professionals																				
Blank Rome		-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	85,000
Dorsey		-	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	102,000
Parr Waddoups		-	-	20,000	-	-	-	20,000	-	-	-	-	20,000	-	-	-	-	20,000	-	80,000
PR Firm		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other / Cushion		-	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	15,000	10,000	10,000	10,000	305,000
Total Ordinary Course Professionals		-	31,000	51,000	31,000	31,000	31,000	51,000	31,000	31,000	31,000	31,000	51,000	31,000	31,000	26,000	21,000	41,000	21,000	572,000
Restructuring Costs																				
GSBB		20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	360,000
Carl Marks		30,000	48,000	48,000	48,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	678,000
Lender Counsel - Otterbourg		-	-	-	-	250,000	-	-	-	250,000	-	-	-	200,000	-	-	-	-	200,000	900,000
Great American		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SSG		-	50,000	-	-	-	50,000	-	-	-	50,000	-	-	-	-	50,000	-	-	350,000	550,000
UCC		-	-	-	31,250	-	-	-	31,250	-	-	-	31,250	-	-	-	-	31,250	-	125,000
Claims Agent		-	-	-	31,250	-	-	-	31,250	-	-	-	31,250	-	-	-	-	31,250	-	125,000
Bankruptcy Utility Deposit		-	-	45,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	45,000
US Trustee (Note 5)		-	-	-	-	-	-	-	26,511	-	-	-	-	-	-	-	-	-	46,962	73,474
BR Plan / Cure Cost / Estate Winddown Fundin		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	600,000	600,000
Total Restructuring Professional Fees		50,000	118,000	113,000	130,500	306,000	106,000	56,000	145,011	306,000	106,000	56,000	118,500	256,000	56,000	106,000	56,000	118,500	1,252,962	3,456,474
Net Expenses		**126,000**	**622,500**	**209,500**	**1,005,786**	**370,200**	**440,500**	**192,000**	**663,255**	**395,200**	**440,500**	**172,000**	**1,139,365**	**345,200**	**215,500**	**422,000**	**82,000**	**766,018**	**2,392,269**	**9,999,792**
Net Operating Cash Flow		**($126,000)**	**($622,500)**	**($209,500)**	**($1,005,786)**	**($370,200)**	**($440,500)**	**($192,000)**	**($663,255)**	**($395,200)**	**($440,500)**	**($172,000)**	**($1,139,365)**	**($345,200)**	**($215,500)**	**($422,000)**	**($82,000)**	**($766,018)**	**($2,392,269)**	**($9,999,792)**

Note 1: All cash receipts are being swept to the Revolver Loan and are not available to fund Post petition operations
Note 2: $50K per month relects payment plan of past due property taxes. The November 2025 property tax payment of $311,000 is based on the Company's calculation of the amount due in its tax appeal, which has not been agreed to by the County
Note 3: Assumed premium financing will not be available due to the bankruptcy and entire amount of the renewal premiums are paid when due
Note 4: DIP Credit Agreement specifies a $200K DIP Exit Fee
Note 5: US Trustee payments are based on cash disbursements only and excludes from disbursements the net cash receipts that are swept by Wells Fargo and reduce the outstanding prepetition revolver balance
Note 6: Environmental fees are excluded under the assumption that, at the conclusion of the bankruptcy case,
the buyer is expected to assume these liabilities as part of their purchase or be resolved and settled as part of the Bankruptcy Plan
Note 7: There are $821,588 of outstanding letters of credit as of the petition date