IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: America's Gardening Resource, Inc., *et al.*, Debtors.[1]	Chapter 11 Case No. 25-11180 (BLS) (Joint Administration Requested)

MOTION OF DEBTORS AND DEBTORS-IN-POSSESSION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS USE OF CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") state the following in support of this motion. In further support of this motion, the Debtors respectfully submit the *Declaration of David M. Baker, Chief Restructuring Officer, in Support of the Chapter 11 Petitions and First Day Motions* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated by reference herein.[2]

Preliminary Statement

1. America's Gardening Resource, Inc. ("**AGR**") was founded in 1983 and is commonly known as "Gardener's Supply". AGR and its wholly owned subsidiaries (which are co-Debtors) develop and manufacture gardening products, and purchase earth-friendly gardening equipment and related supplies for resale on a direct-to-consumer (i.e. mail order/ Internet), retail, and wholesale basis. The mix between sales channels from 2021 through 2023 were approximately as follows:

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: America's Gardening Resource, Inc. (9604); Gardener's Home LLC (0498); Serac Corporation (9800); IGH, Inc. (9336); Innovative Gardening Solutions, Inc. (3325). The location of the Debtors' corporate headquarters and the Debtors' service address in these chapter 11 cases is 128 Intervale Road, Burlington, Vermont 05401.

AGR's Sales Channels

Sales Channel	2021	2022	2023
Direct to Consumer (Mail Order/ Internet)	79%	79%	74%
Retail Stores	19%	19%	24%
Wholesale	2%	2%	2%
Total	100%	100%	100%

The company's website, catalogs and garden centers carry a wide range of gardening tools and accessories to help gardeners in every phase of the growing cycle, from seed-starting to composting.

2. The Debtors' business is highly cyclical because the Debtors primarily offer garden supply products. The Debtors enjoy the "garden season" between March and June of each year, and the "holiday season" between November and December. Between these two "hot" seasons, the Debtors funded their businesses with a line of credit through the Bank of America which they no longer have access to, as further described below.

3. As described more fully in the First Day Declaration, the Debtors commenced these chapter 11 cases to fund a brief marketing process and ultimately seek to consummate a value-maximizing sale (or sales) of all or substantially all of their assets. To accomplish that, the Debtors will need to use their existing cash on hand and cash generated from operations - both of which represent collateral securing the Debtors' prepetition credit facility - to fund payroll obligations, maintain insurance coverage, pay taxes, and satisfy other critical obligations of the Debtors during the pendency of these chapter 11 cases.

4. Such cash currently represents the only available source of funding for the Debtors' operations and these chapter 11 cases. As described more fully in the First Day Declaration, prior to the Petition Date, the Debtors and their advisors, including Tower Partners, thoroughly canvassed the market pursuant to several marketing processes and evaluated and explored various new-money

financing options, including potential debtor-in-possession financing, with both the Debtors' existing lenders and third parties. However, as of the date hereof, the Debtors have not obtained any actionable third-party postpetition financing proposals whether on a junior debt basis or otherwise.

5. Accordingly, given the necessity of Cash Collateral (as defined herein) to preserve the Debtors' going-concern value during these chapter 11 cases and lack of an alternative source of funding, the Debtors quickly engaged with the Prepetition Secured Parties (as defined herein) on the consensual use of Cash Collateral during these chapter 11 cases. As of the filing of this motion, the Debtors have obtained the consent of the Prepetition Secured Parties for the use of Cash Collateral.

6. Without access to Cash Collateral, the Debtors' business operations would otherwise grind to a halt, and the Debtors would be unable to pay the administrative expenses of these chapter 11 cases. To avert this outcome and the consequential irreparable harm to the Debtors and their estates, approval of the relief requested herein is necessary and unquestionably in the best interests of the Debtors, their estates, and their creditors, and therefore should be approved.

Relief Requested

7. The Debtors seek entry of an interim order (the "**Interim Order**"), substantially in the form attached hereto as **Exhibit A**, and a final order (the "**Final Order**," and together with the Interim Order, the "**Cash Collateral Orders**"), (a) authorizing the Debtors to use cash collateral (as defined in section 363(a) of the Bankruptcy Code, "**Cash Collateral**") of the Prepetition Secured Parties (as defined herein), (b) granting adequate protection, solely to the extent provided in the Cash Collateral Orders, to the Prepetition Secured Parties, (c) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms of the Cash Collateral Orders, (d) scheduling a final hearing (the "Final

Hearing”) to consider approval of this motion on a final basis pursuant to entry of the Final Order, and (e) granting related relief.

Jurisdiction and Venue

8. The United States District Court for the District of Delaware has jurisdiction over this matter pursuant to 28 U.S.C. §1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the “**Court**”) under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. The Debtors confirm their consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

9. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The statutory bases for the relief requested herein are sections 105, 361, 362, 363, 503, 507, and 552 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Local Rules 2002-1, 4001-2, 9006-1, and 9013-1.

Background

11. The Debtors maintain their headquarters in Vermont along with 6 brick and mortar locations in Vermont, New Hampshire and Massachusetts. As of the Petition Date, the Debtors employ four hundred seventeen (417) individuals (collectively, the “**Employees**”). Currently, one hundred twenty-six (126) Employees are employed full-time, and two hundred ninety-one (281) Employees are employed part-time. For the fiscal year 2024, total revenue was approximately

$71.5 million. As of the Petition Date, the Debtors have approximately $8.0 million of secured debt.

12. As described more fully in the First Day Declaration, the Debtors commenced these chapter 11 cases to run an expedited bidding process and ultimately seek consummation of one or more value-maximizing sale transactions, with the goal of preserving, among other things, the brand, businesses, and workforce to the greatest extent possible. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, and the Debtors filed a motion requesting joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated.

The Debtors Have an Immediate Need for Use of Cash Collateral

13. The Debtors require immediate access to liquidity to ensure that they can continue operating during these chapter 11 cases, preserve the value of their estates for the benefit of all stakeholders, and seek consummation of a value-maximizing sale transaction. Without prompt access to Cash Collateral, the Debtors would be unable to, among other things, make payroll and satisfy related employee compensation obligations, satisfy vendor expenses incurred in the ordinary course of business, including certain payments that are essential for the ongoing operations of the Debtors' businesses, and fund the administration of these chapter 11 cases. In such event, the Debtors would be unable to preserve and maximize the value of their estates, which would cause immediate and irreparable harm to the value of the Debtors' estates to the detriment of all stakeholders.

Concise Statement of Material Terms of the Interim Order

14. Pursuant to Bankruptcy Rule 4001(b)(1)(B) and Local Rule 4001-2(a)(i), the below chart contains a summary of the material terms of the proposed use of Cash Collateral.[2]

Summary of Material Terms		**Location**
Parties with an Interest in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)	"Prepetition Secured Parties": Includes Bank of America, N.A.; and Banc of America Leasing & Capital, LLC.	p. 1
Amount of Cash Collateral and Purposes for Use of Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(ii) Local Rule 4001-2(a)(i)(A)	Authority to use all of the Debtors' cash and cash equivalents constituting Cash Collateral in accordance with the terms and conditions of the Interim Order for (a) ordinary course expenses, general corporate purposes, and chapter 11 administrative costs and expenses, (b) satisfaction of Adequate Protection owed to the Prepetition Secured Parties, and (c) to fund the Carve-Out Reserves in accordance with the Interim Order, subject to a 10% variance.	¶3
Adequate Protection Bankruptcy Rule 4001(b)(1)(B)(iv) Local Rules 4001-2(a)(i)(B),(G), (K)	In consideration for the Debtors' use of Cash Collateral and subordination of the Prepetition Liens to the Carve-Out, and as protection against the possibility of diminution in value of the Prepetition Secured Parties' interest in the Prepetition Collateral (the "Diminution in Value"), whether or not such Diminution in Value results from the sale, lease or use by the Debtors of the Prepetition Collateral (including, without limitation, Cash Collateral) or the stay of enforcement of any Prepetition Liens arising from section 362 of the Bankruptcy Code, or otherwise, the Prepetition Secured Parties shall receive the following (collectively, the "Adequate Protection Obligations"): (a) *Replacement Liens*. Upon the date of entry of this Interim Order, subject to the Carve-Out (as defined below), the LOC Lender is granted (without the necessity of execution by the Debtors of mortgages,	¶4

[2] The summaries contained in this motion are qualified in their entirety by the provisions of the Interim Order. To the extent anything in this motion is inconsistent with the Interim Order, the terms of the Interim Order shall control.

Summary of Material Terms		Location
	security agreements, pledge agreements, financing statements, and other agreements or instruments) valid, effective, and fully perfected postpetition security interests in and liens in all property, assets or interests in property or assets of the Debtors and each Debtor's "estate" (as defined in the Bankruptcy Code), in each case, whether now existing or hereafter acquired, and all proceeds thereof, including, for the avoidance of doubt, the Cash Collateral, *provided* that any liens on proceeds and property recovered in respect of claims and causes of action arising under sections 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code shall be subject to entry of the Final Order (such postpetition security interests and liens, the "Replacement Liens" and such collateral, the "Adequate Protection Collateral" and together with the Prepetition BofA Collateral, the "Secured Party Collateral"). (b) *Postpetition Payments*. In accordance with the Approved Budget,[3] Debtors shall make the following payments to the Prepetition Secured Parties from and after the Petition Date: (1) accrued and unpaid interest on the LOC Loan on the last day of each calendar month commencing June 30, 2025, at the contract rate, (2) monthly payments of principal and interest on the Equipment Loan in the amount of $20,471.81 on the twenty-seventh (27th) day of each month commencing June 27, 2025, each such payment subject to a grace period of ten (10) days in accordance with Section 10(1) of the Equipment Loan Agreement, and (3) all monthly payments billed under the Card Agreement (collectively, the "Adequate Protection Payments"). (c) *Superpriority Claims*. To the extent of any Diminution in Value, the Prepetition Secured Parties are granted superpriority administrative expense claims under section 507(b) of the Bankruptcy Code (the "Superpriority Claims") against the Debtors' estates, having priority over any and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all	

Summary of Material Terms		Location
	administrative expenses of the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 363, 503(b), 506(c), 507, 546(c), 726, 1113, and 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, subject only to the Carve-Out, which allowed claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof.	
Limitation of the Court's Power and/or Discretion Local Rule 4001-2(a)(i)(C)	The Interim Order does not contain any provisions that specifically limit the Court's authority to enter future orders in the Debtors' chapter 11 cases.	N/A
Budget Bankruptcy Rule 4001(b)(1)(B)(ii)-(iii) **Local Rules** 4001-2(a)(i)(E) and 4001-2(a)(iii)	The use of Cash Collateral is subject to a Budget approved by each of the Prepetition Secured Parties in writing in its sole discretion.	¶3(a)
Carve-Out Bankruptcy Rule 4001(b)(1)(B)(iii) Local Rule 4001-2(a)(i)(F)	The Interim Order provides a "Carve-Out" of certain statutory fees and allowed professional fees of the Debtors and any Committee appointed in these chapter 11 cases pursuant to section 1103 of the Bankruptcy Code and a Post-Carve-Out Trigger Date Cap, all as detailed in the Interim Order.	¶4(e)
Postpetition Liens on Unencumbered Assets Local Rule 4001-2(a)(i)(D), (G)	The Adequate Protection Collateral includes unencumbered estate assets, excluding avoidance actions, but including, subject entry of the Final Order, the proceeds of avoidance actions.	¶4(a)

Summary of Material Terms		Location
Milestones Bankruptcy Rule 4001(c)(1)(B) Local Rules 4001-2(a)(i)(H), 4001-2(a)(ii)	The Interim Order contains the following milestones: (i) Bidding Procedures Order shall be entered on or before July 10, 2025; (ii) The Auction, if any, shall be conducted before July 18, 2025; (iii) The Order approving the Sale shall be entered on or before August 1, 2025; and (iv) The Sale shall close before August 6, 2025;	¶9(h)-(k)
Payment of Adequate Protection Fees Without Review Local Rule 4001-2(a)(i)(K)	The Interim Order does not provide for the payment of any fees and expenses as adequate protection without review	N/A
Limitation on Estate Funds Related to the Challenge Period Local Rule 4001-2(a)(i)(L)	The limitation on use of estate funds related to the Challenge Period is $25,000.	¶11, 12
Termination Date/Remedies Bankruptcy Rule 4001(b)(1)(B)(iii) Local Rules 4001-2(a)(i)(M), (S)	The Debtors' authorization to use Cash Collateral on an interim basis shall terminate immediately without notice or proceeding upon the earlier of (i) July 18, 2025**,** which date may be extended with the express written consent of the Prepetition Secured Parties (which consent may be granted via electronic mail) or Final Order and (ii) the occurrence of Termination Event. Termination Event (as defined herein) unless: (i) such occurrence is cured; (ii) such occurrence is waived; or (iii) the Court rules that a Termination Event has not occurred or has extended the period. Upon the occurrence of the Termination Date, the Debtors' authorization to use Cash Collateral shall automatically terminate (subject only to the Carve-Out) immediately without further notice or court proceeding, and the Prepetition Secured Parties may exercise their rights and remedies under the BofA Loan Documents, the Interim Order, and applicable law (subject only to the Carve-Out).	¶8

Summary of Material Terms		Location
Termination Events Bankruptcy Rule 4001(b)(1)(B)(iii) Local Rule 4001-2(a)(i)(M)	The events set forth in paragraph 9 of the Interim Order are collectively referred to as the "Termination Events" and include termination events that are customary in a cash collateral order, such as: • the Court shall have entered an order, or the Debtors shall not have filed a motion or application seeking an order (without the prior written consent of each of the Prepetition Secured Parties), (a) converting one or more of these chapter 11 cases of a Debtor to a case under chapter 7 of the Bankruptcy Code, (b) appointing an examiner with expanded powers beyond those set forth in sections 1106(A)(3) and (4) of the Bankruptcy Code, a trustee, or a responsible officer in one or more of the chapter 11 cases of a Debtor, or (c) dismissing these chapter 11 cases; • the failure of the Debtors to comply with any of the milestones, unless such milestone is extended or waived with the written consent of the Prepetition Secured Parties; • the Court enters an order invalidating, disallowing, subordinating, recharacterizing, or limiting, as applicable, any of the Prepetition BofA Indebtedness, the liens securing such debt, or the Adequate Protection Liens granted in any Cash Collateral Order, or any official committee or other person obtains standing to pursue any Challenge • any Debtor grants any liens, security interest, or encumbrance other than those existing immediately prior to the date of the entry of, or arising under, the Interim Order; • the Interim Order or the Final Order (once entered) ceases to be in full force and effect for any reason or an order shall be entered (or the Debtors seek an order) reversing, amending, supplementing, staying, vacating, or otherwise modifying the Interim Order or the Final Order without the written consent of each of the Prepetition Secured Parties; • the Debtors file or support any plan of liquidation or reorganization in these chapter 11 cases that is not acceptable to the Prepetition Secured Parties; and • failure of the Debtors to make any payment under the Interim Order to the Prepetition Secured Parties as and when due; provided that the Debtors have not remedied such failure to pay within five business days' notice thereof.	¶9

Summary of Material Terms		Location
Validity, Perfection, and Amount of Obligations Securing Prepetition Liens, Binding Effect of Stipulations on Third Parties, and Challenge Period Bankruptcy Rule 4001(b)(1)(B)(iii) Local Rule 4001-2(a)(i)(Q)	The Debtors' Stipulations, admissions, agreements, and releases contained in the Interim Order, shall be binding upon the Debtors, their estates, their affiliates, and any successors thereto (including, without limitation, any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors) in all circumstances and for all purposes. The Debtors' Stipulations, admissions, agreements, and releases contained in the Interim Order shall be binding upon all other parties in interest, including, without limitation, a Committee, if any, unless: (a) such other party in interest with requisite standing (subject in all respects to any agreement or applicable law that may limit or affect such entity's right or ability to do so), other than the Debtors (or if the chapter 11 cases are converted to cases under chapter 7 prior to the expiration of the Challenge Period, the chapter 7 trustee in such Successor Case), has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, inter alia, in this paragraph) before the expiration of the Challenge Period. The deadline for parties to investigate and challenge the Prepetition Secured Parties' liens and security interests in accordance with Del. Bankr. L.R. 4001-2 shall be the earlier of 75-days from the date of this Interim Order and the entry of a Sale Order or Confirmation Order (the "<u>Investigation Termination Date</u>"), and the rights of all parties (other than the Debtors) in accordance therewith are expressly preserved. Any assertion of claims or causes of action of the Debtors or their estates against any of the Prepetition Secured Parties by any party in interest (a "<u>Challenge</u>") must be made by commencing an adversary proceeding on or before the Investigation Termination Date. Except with respect to any party who, with proper standing, files such an action on or before the Investigation Termination Date, all persons and entities shall be forever barred from bringing or taking such action against any of the Prepetition Secured Parties. For the avoidance of doubt, any trustee appointed or elected in these Chapter 11 Cases shall, until the Investigation Termination Date, and thereafter for the duration of any adversary proceeding or contested matter that was commenced prior to the Investigation Termination Date pursuant to this paragraph (whether commenced by such trustee or commenced by any other party in interest on behalf of	¶¶6, 12, 15

Summary of Material Terms		Location
	the Debtors' estates), be deemed to be a party other than the Debtors and shall not, for purposes of such adversary proceeding or contested matter, be bound by the acknowledgments, admissions, confirmations and stipulations of the Debtors in paragraph E of the Interim Order	
Waiver/Modification of Automatic Stay Bankruptcy Rule 4001(b)(1)(B)(iii) Local Rule 4001-2(a)(i)(S)	The automatic stay under section 362 of the Bankruptcy Code is hereby deemed modified and vacated to the extent necessary or appropriate to permit the termination of the use of Cash Collateral.	¶10
Provisions Limiting the Rights of Parties in Interest Local Rule 4001-2(a)(i)(T)	If the Debtors request an emergency hearing to consider relief from the automatic stay or any other appropriate relief in connection with delivery of the Default Notice within the Default Notice Period but such hearing is scheduled for a later date by the Court (not requested by the Debtors), the Default Notice Period shall be automatically extended to the date of such hearing.	¶9
Section 506(c) and 552(b) Waiver Local Rule 4001-2(a)(i)(V), (W)	Section 506(c) Waiver: Subject to entry of the Final Order, except to the extent of the Carve-Out, and the rights of all parties in interest, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases at any time (including, without limitation, any costs and expenses incurred in connection with the preservation, protection, or enhancement of value by the Prepetition Secured Parties upon the Prepetition Collateral) shall be charged against any of the Prepetition Secured Parties, or any of the Prepetition Obligations or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior express written consent of the affected Prepetition Secured Parties, in their sole discretion, and no such consent shall be implied, directly or indirectly, from any other action, inaction, or acquiescence by any such agents or creditors (including, without limitation, the approval of any budget hereunder). Subject to entry of the Final Order and the	¶14

Summary of Material Terms		Location
	rights of all parties in interest, the Prepetition Secured Parties are (i) entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, subject to the Carve-Out, and the "equities of the case" exception shall not apply and (ii) released from any application of the equitable doctrine of "marshalling" or any other similar doctrine with respect to any of the Prepetition Collateral.	
Marshaling Waiver Local Rule 4001-2(a)(i)(X)	The Interim Order provides for a customary waiver of the equitable doctrine of "marshaling" against the Prepetition Collateral (including Cash Collateral).	¶14

<u>Explanation for Inclusion of Significant Provisions Pursuant to Local Rule 4001-2(a)(i)</u>

I. The Significant Provisions Are Appropriate and Justified Under the Circumstances of These Chapter 11 Cases.

15. Local Rule 4001-2(a)(i) requires that the Debtors explain the reason for including certain significant provisions described in Local Rules 4001-2(a)(i)(N)–(X) (collectively, the "**<u>Significant Provisions</u>**").[4] The Debtors believe that each of the Significant Provisions, as well as the Carve-Out, is justified and necessary in the context and circumstances of these chapter 11 cases.

A. The Scope of the Carve-Out Is Appropriate (Local Rule 4001-2(a)(i)(F)).

16. The proposed Adequate Protection is subject to the Carve-Out. Without the Carve-Out, the Debtors and other parties in interest may be deprived of certain rights and powers because the services for which professionals may be paid in these chapter 11 cases would be restricted. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (observing that courts insist

[4] Local Rules 4001-2(a)(i)(N), (O), and (R) are not applicable to the Interim Order. In addition, as further explained above, Local Rule 4001-2(a)(i)(P) does not apply and Local Rules 4001-2(a)(i)(U)–(X) are only applicable upon entry of the Final Order.

on carve-outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve-Out does not directly or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers. Additionally, the Carve-Out protects against administrative insolvency during the course of these chapter 11 cases by ensuring that assets remain for any payment owing to the Clerk of the Court, payable to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930, and professional fees of the Debtors and any statutory committee.

B. The Findings of Validity, Perfection, or Amount of Prepetition Liens and Challenge Period Are Appropriate (Local Rule 4001-2(a)(i)(Q)).

17. Local Rule 4001-2(a)(i)(Q) requires explicit disclosure of provisions that bind the estate or other parties in interest with respect to the validity, perfection, or amount of the secured creditor's prepetition lien or the waiver of claims against the secured creditor without first giving parties in interest at least seventy-five days from the entry of the order to investigate such matters. Here, the Interim Order complies with this requirement by providing any committee appointed in these chapter 11 cases and other parties in interest, in each case, with requisite standing, to file an adversary proceeding challenging the validity, extent, perfection, or priority of the Prepetition Liens on the Prepetition Collateral, the validity, allowability, priority, or amount of the Prepetition Secured Debt, or the Debtors' Stipulations by the earlier of (a) seventy-five days after the entry of the Interim Order and (b) the date of entry of an order confirming a chapter 11 plan or the Sale Order.

C. The Provisions Modifying the Automatic Stay, Providing for a Remedies Notice Period, and Providing for a Default Notice Hearing Are Appropriate (Local Rules 4001-2(a)(i)(S), (T)).

18. Local Rules 4001-2(a)(i)(S) and (T) require explicit disclosure of provisions that modify the automatic stay upon a Termination Event without a remedies notice period and provisions that seek to limit what parties in interest may raise at an emergency hearing during a remedies notice period. The Interim Order provides for a standard five-business-day remedies

notice period for all Termination Events and standard limitations on what parties in interest may raise during an emergency hearing scheduled during a remedies notice period.

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

The Debtors' Prepetition Indebtedness and Need to Use Cash Collateral

II. The Debtors' Prepetition Capital Structure.

20. As of the Petition Date, the Debtors have approximately $8.2 million of funded secured debt obligations and approximately $4.0 million of cash on hand. The following table depicts the Debtors' prepetition capital structure, exclusive of accrued but unpaid cash interest and fees:

Debt Instrument	Maturity	Outstanding Amount
Bank of America ("**BofA**") LOC Loan (principal, interest and fees)	June 29, 2025	$4,421,223.61
BofA Equipment Loan (principal, interest and fees)	January 27, 2028	$616,089.92
Northfield Savings Bank		$3,168,930.26
Total Funded Debt:	$8,206,243.79	

A. *The LOC Loan with BofA.*

21. American Gardening Resources, Inc, Serac, Corporation, IGH, Inc. and Innovative Gardening Solutions, Inc. (collectively, the "***BofA Borrowers***") entered into a certain Amended and Restated Loan Agreement dated as of June 30, 2020, between the LOC Lender and BofA Borrowers (together with any prior amendments and/or modifications thereto, the "**LOC Loan Agreement**"), pursuant to which the LOC Lender made a line of credit loan to BofA Borrowers in the original maximum principal amount of $7,000,000.00 (the "**LOC Loan**"), as further evidenced by a certain Promissory Note dated February 9, 2023, in the original amount of

$7,000,000.00 (together with any prior amendments and/or modifications thereto, the "**LOC Note**").[5]

22. The LOC Loan Agreement amended and restated a prior Loan Agreement between America's Gardening Resource, Inc., Dutch Gardens, Inc., Flower Power Fundraising Inc., Serac, Corporation, Innovative Gardening Solutions, Inc., and the LOC Lender (together with any subsequent amendments and/or modifications thereto, the "**Prior LOC Agreement**").

23. In connection with the Prior Agreement, (i) BofA Borrowers each executed and delivered to the LOC Lender a Security Agreement dated as of June 29, 2007, and (ii) IGH executed and delivered to LOC Lender a Security Agreement dated as of April 25, 2014 (collectively, the "**Borrower Security Agreements**") granting the LOC Lender a security interest in and lien on substantially all of BofA Borrowers' business assets as further described therein ("**BofA Borrower Collateral**"), which BofA Borrower Security Agreements were ratified and affirmed in a certain Ratification of Security Agreements dated as of June 30, 2020 (the

[5] The LOC Loan Agreement was amended by (i) a certain Amendment No. 1 to Amended and Restated Loan Agreement dated as of December 18, 2020 ("Amend. No. 1"), (ii) a certain Amendment No. 2 to Amended and Restated Loan Agreement dated as of May 28, 2021 ("Amend. No. 2"), (iii) a certain Amendment No. 3 to Amended and Restated Loan Agreement dated as of October 20, 2021 ("Amend. No. 3"), (iv) a certain Amendment No. 4 to Amended and Restated Loan Agreement dated as of September 13, 2022 ("Amend. No. 4"), and (v) a certain Amendment No. 5 to Amended and Restated Loan Agreement dated as of February 9, 2023 ("Amend. No. 5" and, together with Amend. No. 1, Amend. No. 2, Amend. No. 3, and Amend. No. 4, the "LOC Amendments").

"**Ratification**"), and remain in effect and continue to secure the LOC Loan Agreement and the LOC Loan.

24. The LOC Lender perfected its liens against the BofA Borrower Collateral by filing UCC financing statements and various continuations with the Delaware Secretary of State and the Vermont Secretary of State.[6]

25. Gardener's Home, as guarantor, executed and delivered to LOC Lender a Continuing and Unconditional Guaranty dated as of October 16, 2024 (the "**Gardener's Home Guaranty**"), pursuant to which Guarantor guarantied BofA Borrowers' obligations to the LOC Lender pursuant to the LOC Loan Agreement.

26. To secure the Gardener's Home Guaranty, Gardener's Home executed and delivered to the LOC Lender a Mortgage, Security Agreement, Assignment of Rents and Fixture Filing, dated as of October 16, 2024, and recorded with the Clerk of Chittenden County on November 26, 2024, in Book 1763, Page 233 (the "**Mortgage**") granting Bank a second priority lien on and security interest in the real property owned by Guarantor and located at 128 Intervale Road, Burlington, Vermont 05401 (the "**Intervale Property**").

27. The LOC Loan Agreement, the LOC Note, the LOC Amendments, the BofA Borrower Security Agreements, the Ratification, the Gardener's Home Guaranty, the Mortgage,

[6] Specifically, the LOC Lender filed (a) an initial UCC Financing Statement against AGR with the Delaware Secretary of State (the "DE Recording Office") on June 26, 2007 (No 20072434255), which was amended and continued by UCC Amendments filed on December 16, 2009 (No. 20094021678), August 30, 2010 (No. 20103032954), January 4, 2012 (No. 20120038838), January 3, 2017 (No. 20170030962), and December 29, 2021 (No. 20210680636), (b) an initial UCC Financing Statement against IGH with the Vermont Secretary of State, Corporations/UCC Division (the "VT Recording Office") on April 28, 2014 (No. 14-268807), which was continued by UCC Amendments filed on November 1, 2018 and November 2, 2023, (c) an initial UCC Financing Statement against IGS with the VT Recording Offices on June 27, 2007 (No. 07-210093), which was amended and continued by UCC Amendments filed on December 17, 2009, April 6, 2012, January 3, 2017, and December 30, 2021, and (d) an initial UCC Financing Statement against Serac with the VT Recording Office on June, 27, 2007 (No. 07-210092), which was amended and continued by UCC Amendments filed on December 17, 2009, April 6, 2012, January 3, 2017, and December 30, 2021.

and any other documents executed by any Obligor in connection with the LOC Loan shall be referred to collectively herein as the "**LOC Loan Documents**".

B. ***The Equipment Loans with BofA.***

28. On or about December 8, 2009, AGR and Equipment Lender separately entered into a Master Loan and Security Agreement Number 20661-70000 (as amended, supplemented, restated, extended and/or renewed, the "**Equipment Loan Agreement**").

29. Pursuant to the Equipment Loan Agreement, the Equipment Lender and America's Gardening Resource subsequently entered into (i) a certain Equipment Security Note Number 70004 dated as of January 26, 2023 ("**Equipment Note**"), pursuant to which Equipment Lender made an equipment loan to America's Gardening Resource in the original principal amount of $1,039,059.08 (the "**Equipment Loan**") secured by specific equipment identified in the Equipment Note (the "**Equipment**") and the rents, profits and proceeds thereof (together with the Equipment, the "**Equipment Collateral**").

30. The Equipment Loan Agreement, the Equipment Note, and any other documents executed by any of the Debtors in connection with the Equipment Loans shall be referred to collectively herein as the "**Equipment Loan Documents**".

31. The Equipment Lender perfected its liens against the Equipment Collateral by filing UCC financing statements and various continuations with the Delaware Secretary of State.[7]

[7] Specifically, the Equipment Lender filed (a) a UCC Financing Statement against AGR with respect to the Equipment with the DE Recording Office on January 27, 2023 (No. 20230715010), (b) a UCC Financing Statement against Serac with respect to the Equipment with the VT Recording Office on January 30, 2023 (No. 23-418418), and (c) a UCC Financing Statement against IGS and Serac with the VT Recording Office on December 17, 2009 (No. 09-231107).

C. ***The Credit Card Loan with BofA.***

32. In addition to the LOC Loan Agreement and the Equipment Loan Agreement, America's Gardening Resource and BofA entered into a Corporate Card Services Agreement, dated April 30, 2019 (the "**Card Agreement**" and, together with the LOC Loan Agreement and Equipment Loan Agreement, the "**BofA Loan Agreements**"), pursuant to which BofA provided AGR with a revolving credit card loan with a current maximum principal amount of $1,500,000, which is contemporaneously being reduced to a maximum principal amount of $750,000 (the "**Credit Card Loan**" and, together with the LOC Loan and the Equipment Loans, the "BofA Loans").

33. The Card Agreement, together with any related or ancillary documents pertaining thereto shall be referred to collectively as the "**Credit Card Loan Documents**".

34. The LOC Loan Documents, the Equipment Loan Documents and the Credit Card Loan Documents shall be referred to collectively herein as the "**BofA Loan Documents**".

35. As of the Petition Date June 20, 2025, BofA Borrowers indebtedness to BofA totaled $5,148,190.70, consisting of (I) (A) principal on the LOC Loan of $4,400,000, (B) accrued and unpaid interest on the LOC Loan of $21,190.28, and (C) Bank fees and other charges due to the LOC Lender pursuant to the LOC Loan Agreement of $33.33, and (D) unreimbursed attorneys' fees and cost incurred by BofA in connection with the LOC Loan (collectively, the "**LOC Prepetition Indebtedness**"), (II) (A) principal on the Equipment Loans of $597,671.94, (B) accrued and unpaid interest on the Equipment Loans of $2,480.06, (C) Bank fees and other charges due to the Equipment Lender pursuant to the Equipment Loan Agreement and the Notes in the amount of $15,937.92, and (D) unreimbursed attorneys' fees and cost incurred by BofA in connection with the Equipment Loans (the "**Equipment Loan Prepetition Indebtedness**"), (III) billed and unpaid charges under the Credit Card Agreement of $110,867.17 (the "**Prepetition**

Card Indebtedness" and, together with the LOC Prepetition Indebtedness and the Equipment Loan Prepetition Indebtedness, the "**Prepetition BofA Indebtedness**").

36. The LOC Prepetition Indebtedness is secured by first priority liens on substantially all of the Borrowers' assets, including the Cash Collateral, and a second priority lien on the Intervale Property (the "**Prepetition LOC Liens**").

37. The Equipment Loans are secured by a first priority lien on the Equipment and a second priority lien on substantially all of Borrowers' assets (the "**Prepetition Equipment Liens**" and, together with the Prepetition LOC Liens, the "**Prepetition BofA Liens**").

38. The Prepetition BofA Liens (I) are valid, binding, enforceable, and perfected liens in the Borrower Collateral, the Intervale Property, and the Equipment Collateral (collectively, the "**Prepetition BofA Collateral**"), (II) were granted to BofA for fair consideration and reasonably equivalent value, and (III) are not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

39. The value of the BofA Collateral exceeds the amount of the Prepetition BofA Indebtedness based on the purchase price for the Debtors' assets set forth in the Stalking Horse Agreement, to wit, $9,000,000.00 (subject to adjustments).

D. The Northfield Saving Bank ("NSB", and together with BofA, the "Prepetition Secured Parties") loans.

40. As of the Petition Date, America's Gardening Resource, Inc and Gardener's Home, LLC's (the "**NSB Borrowers**") indebtedness to NSB totaled $3,168,930.26, consisting of (I) (A) principal on an initial Commercial Real Estate Term Loan ("**CREM I**") dated December 19, 2017 of $1,094,295.29, (B) accrued and unpaid interest on the CREM I of $7,310.50, and (C) fees and other charges due to NSB pursuant to the CREM I Loan Agreement of $552.66, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM I

(collectively, the "**CREM I Prepetition Indebtedness**"), (II) (A) principal on an initial second Commercial Real Estate Term Loan ("**CREM II**") dated December 19, 2017 of $790,354.15, (B) accrued and unpaid interest on the CREM II of $5,280.01, and (C) fees and other charges due to NSB pursuant to the CREM II Loan Agreement of $326.93, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM II (collectively, the "**CREM II Prepetition Indebtedness**"), (III) (A) principal on a third Commercial Real Estate Term Loan ("**CREM III**") dated February 2, 2020 of $399,633.97, (B) accrued and unpaid interest on the CREM III of $2,163.35, and (C) fees and other charges due to NSB pursuant to the CREM III Loan Agreement of $160.03, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM III (collectively, the "**CREM III Prepetition Indebtedness**"), (IV) principal on a fourth Commercial Real Estate Term Loan ("**CREM IV**") dated December 19, 2023 of $409,270.26, (B) accrued and unpaid interest on the CREM IV of $4,721.95, and (C) fees and other charges due to NSB pursuant to the CREM IV Loan Agreement of $157.87, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM IV (collectively, the "**CREM IV Prepetition Indebtedness**"), and (**V**) (A) principal on a fifth Commercial Real Estate Term Loan ("**CREM V**") dated April 26, 2024 of $449,397.98, (B) accrued and unpaid interest on the CREM V of $5,047.24, and (C) fees and other charges due to NSB pursuant to the CREM V Loan Agreement of $258.07, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM V (collectively, the "**CREM V Prepetition Indebtedness**" and, together with the CREM I Prepetition Indebtedness, the CREM II Prepetition Indebtedness, the CREM III Prepetition Indebtedness and the CREM IV Prepetition Indebtedness, the "**NSB Prepetition Indebtedness**").

41. The NSB Prepetition Indebtedness is secured by first priority lien on the Intervale Property and subordinate liens on substantially all of the Debtors' assets, including the Cash Collateral, (the "**NSB Prepetition Liens**").

42. The NSB Prepetition Liens (I) are valid, binding, enforceable, and perfected liens in the Intervale Property and collateral (together, the "**NSB Prepetition Collateral**"), (II) were granted to NSB for fair consideration and reasonably equivalent value, and (III) are not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

43. The NSB Prepetition Indebtedness constitutes legal, valid and binding obligations of the NSB Borrowers, enforceable in accordance with the terms of the applicable NSB loan documents. No setoffs, recoupments, offsets, defenses or counterclaims to any of the NSB Prepetition Indebtedness exist and no portion of the NSB Prepetition Indebtedness or any payments made to or for the benefit of the NSB are subject to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense or "claim" (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

III. The BofA Forbearance Agreements.

44. Borrowers failed to comply with the Fixed Charge Coverage Ratio Covenant set forth in Section 7.5 of the LOC Loan Agreement for the period ending September 30, 2023, and December 31, 2023, each of which constituted an event of default pursuant to Section 8.12 of the LOC Loan Agreement, the "**LOC Loan Defaults").** The LOC Loan Defaults each constituted an Event of Default pursuant to Section 10(8) of the Equipment Loan Agreement, the "**Equipment Loan Cross-Default**" and, together with the LOC Loan Default, the "**Specified Defaults**").

45. As a result of the Specified Defaults, the Borrowers and BofA entered into a certain Forbearance Agreement dated as of April 25, 2024 (the "**First Forbearance Agreement**"),

between the LOC Lender, AGR, Serac, IGH and IGS pursuant to which, among other things, LOC Lender agreed to forbear from enforcing its rights under the LOC Loan Agreements until September 30, 2024, on the terms and conditions set forth in the First Forbearance Agreement.

46. Thereafter, the Borrowers and the LOC Lender entered into a certain Second Forbearance Agreement dated as of July 1, 2024 (the "**Second Forbearance Agreement**"), pursuant to which the LOC Lender agreed to temporarily increase the commitment amount of the LOC Loan and to continue to forbear from enforcing its rights under the LOC Loan Agreements until September 30, 2024, on the terms and conditions set forth in the Second Forbearance Agreement.

47. Thereafter, BofA and Borrowers entered into a Third Forbearance Agreement and Loan Agreement Modification dated as of October 16, 2024 (the "**Third Forbearance Agreement**"), pursuant to which BofA agreed to continue to forbear from enforcing its rights under the LOC Agreement, the Equipment Loan Agreement and the Card Agreement until June 30, 2025, on the terms and conditions set forth in the Third Forbearance Agreement.[8]

48. Among the conditions of the Third Forbearance Agreement was Gardener's Home executing and delivering to the LOC Lender, the Gardener's Home Guaranty and the Mortgage. Based on the Debtors' projections and lack of liquidity, the Debtors' could not pay off the amounts owed under the Third Forbearance Agreement before the expiration date on June 29, 2025.

IV. The Debtors' Immediate Need to Use Cash Collateral.

49. As set forth in the First Day Declaration, and as described herein, the Debtors need to use cash on hand and cash flow from operations to fund their business throughout these chapter 11 cases and pursue a value-maximizing transaction. As of the Petition Date, the Debtors estimate

[8] Importantly, the LOC Agreement matures by its own terms as of June 29, 2025.

that they have approximately $4.0 million of available cash on hand, all of which is subject to the Prepetition Secured Parties' security interests and, thus, constitutes the Prepetition Secured Parties' Cash Collateral. The Debtors have determined that access to Cash Collateral will be sufficient to continue operating their remaining business during these chapter 11 cases for approximately thirty days as the Debtors seek to obtain approval, and ultimately consummate, a value-maximizing sale to preserve the Debtors' businesses to the greatest extent possible. Without access to Cash Collateral, the Debtors would be unable to operate their businesses, resulting in immediate and irreparable harm to their estates.

50. The Debtors, with the assistance of their advisors, have developed a 13-week cash flow forecast and the Budget for the use of Cash Collateral during the interim period. The Debtors believe that the Budget establishes that the Debtors will have adequate liquidity during the interim period as required by Local Rule 4001-2(a)(iii). The Budget contains line items for cash flows anticipated to be received and disbursed during the time period for which the Budget is prepared. The Debtors believe that the Budget includes all reasonable, necessary, and foreseeable expenses to be incurred in connection with the operation of their business for the period set forth in the Budget.

Basis for Relief

V. The Debtors' Request to Use Cash Collateral and Proposed Adequate Protection Is Appropriate.

51. Section 363 of the Bankruptcy Code governs the Debtors' use of property of their estates, including Cash Collateral.[9] Pursuant to section 363(c)(2) of the Bankruptcy Code, a debtor

[9] The Bankruptcy Code defines "cash collateral" as follows:

> Cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties subject to a security

may use cash collateral as long as "(A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section." 11 U.S.C. § 363(c)(2). As noted above, the Debtors have obtained the Prepetition Secured Parties' consent to the Debtors' use of Cash Collateral.

52. Section 363(e) of the Bankruptcy Code provides for adequate protection of interests in property when a debtor uses cash collateral. Further, section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont'l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996). While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *See, e.g.*, *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Satcon Tech. Corp.*, 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012); *In re N.J. Affordable Homes Corp.*, 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006); *In re Columbia Gas Sys., Inc.*, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *see also In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) (citing 2 Collier on Bankruptcy ¶ 361.01 [1] at 361-66 (15th ed. 1993) (explaining that adequate protection can take many forms and "must be determined based upon equitable considerations arising from the particular facts of each proceeding")).

53. The concept of adequate protection is designed to shield a secured creditor from diminution in the value of its interest in collateral during the period of a debtor's use. *See In re Carbone Cos.*, 395 B.R. 631, 635 (Bankr. N.D. Ohio 2008) ("The test is whether the secured

interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title.

11 U.S.C. § 363(a).

party's interest is protected from diminution or decrease as a result of the proposed use of cash collateral."); *see also In re Cont'l Airlines, Inc.*, 154 B.R. 176, 180–81 (Bankr. D. Del. 1993) (holding that adequate protection for use of collateral under section 363 of the Bankruptcy Code is limited to use-based decline in value).

E. The Proposed Adequate Protection for the Prepetition Secured Parties Is Sufficient.

54. As described above, and as set forth in the Interim Order, the Debtors propose to provide the Prepetition Secured Parties with several forms of adequate protection (collectively, the "**Adequate Protection**"):

55. **Adequate Protection Superpriority Claims**. Solely to the extent of any diminution in value, the Debtors will grant the Prepetition Secured Parties allowed superpriority administrative claims pursuant to section 507(b) of the Bankruptcy Code, which superpriority claims shall have priority over all administrative expenses of the kind specified in, or ordered pursuant to, any provision of the Bankruptcy Code, subject only to the Carve-Out.

56. **Adequate Protection Liens**. The Debtors will provide adequate protection liens to the Prepetition Secured Parties, solely to the extent of any diminution in value of their interests in the Prepetition Collateral, including Cash Collateral, from and after the Petition Date, subject to the Carve-Out.

57. **Other Adequate Protection**. The Debtors will provide additional adequate protection to the Prepetition Secured Parties in the form of: (a) the provision of certain financial and other reporting; and (b) compliance with certain milestones applicable to the chapter 11 cases (unless extended or waived by each of the Prepetition Administrative Agents), all as set forth in the Interim Order.

58. The Debtors respectfully submit that the proposed Adequate Protection is sufficient to protect the Prepetition Secured Parties from any diminution in value to Cash Collateral. Considering the foregoing, the Debtors submit that the proposed Adequate Protection to be provided for the benefit of the Prepetition Secured Parties is appropriate. The Debtors' proposed Adequate Protection is not only necessary to protect the Prepetition Secured Parties against any diminution in value but is also fair and appropriate under the circumstances of these chapter 11 cases to ensure the Debtors are able to continue using Cash Collateral, subject to the terms and limitations set forth in the Interim Order, for the benefit of their estates and all parties in interest.

F. Failure to Obtain the Immediate Interim Use of Cash Collateral Would Cause Immediate and Irreparable Harm.

59. Bankruptcy Rule 4001(b) provides that a final hearing on a motion to use cash collateral pursuant to section 363 of the Bankruptcy Code may not be commenced earlier than fourteen days after the service of such motion. Upon request, however, the Court is authorized to conduct a preliminary expedited hearing on this motion and authorize the Debtors' proposed use of Cash Collateral to the extent necessary to avoid immediate and irreparable harm to the Debtors' estates. *See* Fed. R. Bankr. P. 4001(b)(2); Local Rule 4001-2(b). Section 363(c)(3) of the Bankruptcy Code authorizes the Court to conduct a preliminary hearing and to authorize the use of cash collateral "if there is a reasonable likelihood that the [debtor] will prevail at the final hearing under [section 363(e) of the Bankruptcy Code]." 11 U.S.C. § 363(c)(3).

60. The Debtors have an immediate postpetition need to use Cash Collateral. The Debtors cannot maintain the value of their estates during the pendency of these chapter 11 cases without access to cash. The Debtors need cash to, among other things, make payroll, satisfy payments to certain vendors critical to the Debtors' operations, and fund the administration of these chapter 11 cases in which the Debtors seek a value-maximizing transaction for the benefit of

their estates and parties in interest. The Debtors believe that all or substantially all of their available cash constitutes the Prepetition Lenders' cash collateral, as that term is used by section 363(c) of the Bankruptcy Code. The Debtors will therefore be unable to operate and proceed as a going-concern or otherwise fund these chapter 11 cases without access to Cash Collateral and will suffer immediate and irreparable harm to the detriment of all stakeholders. In short, the Debtors' access to Cash Collateral is vital to preserve and maximize the value of the Debtors' estates.

61. The Debtors therefore seek immediate authority to use Cash Collateral as set forth in this motion and in the Interim Order to prevent immediate and irreparable harm to their estates pending the Final Hearing pursuant to Bankruptcy Rule 4001(b) and Local Rule 4001-2(b)(ii). Accordingly, to the extent that the Debtors require the use of Cash Collateral, the Debtors respectfully submit that they have satisfied the requirements of Bankruptcy Rule 4001 and Local Rule 4001-2 to support an expedited preliminary hearing and immediate Cash Collateral availability on an interim basis.

VI. The Automatic Stay Should Be Modified on a Limited Basis.

62. The relief requested herein contemplates modification of the automatic stay to the extent necessary to implement and effectuate the terms and provisions of the Interim Order, and specifically permit the Prepetition Secured Parties, in their sole discretion, to file such financing statements, mortgages, security agreements, notices of liens, or other similar documents as necessary. The Interim Order further provides that, upon the expiration of the remedies notice period, the automatic stay will be automatically modified to permit the Prepetition Secured Parties to immediately retain and apply payments and otherwise enforce their respective rights and remedies under and in accordance with the Interim Order and the BofA Loan Documents, subject and subordinate to the Carve-Out.

The Requirements of Bankruptcy Rule 6003(b) Are Satisfied

63. Bankruptcy Rule 6003 empowers a court to grant certain relief within the first twenty-one days after the petition date only "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations, and the failure to receive the requested relief during the first twenty-one days of these chapter 11 cases would severely disrupt the Debtors' operations at this important juncture and irreparably harm the Debtors and their estates. The requested relief is necessary for the Debtors to operate their businesses in the ordinary course, preserve the ongoing value of their operations, and maximize the value of their estates for the benefit of all stakeholders. The Debtors have demonstrated that the requested relief is "necessary to avoid immediate and irreparable harm," as contemplated by Bankruptcy Rule 6003, and the Court should grant the requested relief.

Reservation of Rights

64. Nothing contained in this motion or any order granting the relief requested in this motion, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with any such order), is intended as, or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim, or otherwise of a type specified or defined in this motion or any order granting the relief requested by this motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) other than with respect to the liens in favor of the Prepetition Agents, an

admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (h) a waiver or limitation of any claims, causes of action, or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

Notice

65. The Debtors will provide notice of this motion to: (a) the United States Trustee for the District of Delaware; (b) counsel to the Debtors' Prepetition Secured Parties and Northfiled Savings Bank; (c) the parties included on the Debtors' consolidated list of their thirty (30) largest unsecured creditors; (d) the United States Securities and Exchange Commission; (e) the Internal Revenue Service; (f) the Office of the United States Attorney for the District of Delaware; (g) the Delaware State Treasury; (h) the Delaware Secretary of State; (i) the office of the attorney general of each of the states in which the Debtors operate; and (j) all parties that have requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking "first day" relief, the Debtors will serve this Motion and any order entered with respect to this Motion as required by Local Rule 9013-1(m). The Debtors submit that no other or further notice is required under the circumstances.

No Prior Request

66. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request entry of the Interim Order, substantially in the form attached hereto as **Exhibit A**, (a) granting the relief requested herein and (b) granting such other relief as is just and proper.

Dated: June 20, 2025
Wilmington, Delaware

COLE SCHOTZ P.C.

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Proposed Counsel for Debtors and Debtors-in-Possession

Exhibit A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: America's Gardening Resource, Inc., *et al.*, Debtors.[1]	Chapter 11 Case No. 25-11180 (BLS) (Jointly Administered) **Re: Docket No. ___**

INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY; (IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF

Upon consideration of the motion (the "***Motion***") of the above-captioned debtors and debtors in possession (collectively, the "***Debtors***") in the above-referenced chapter 11 cases (the "***Chapter 11 Cases***"), pursuant to sections 105, 361, 362, 363, 503, 506, 507, and 552 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "***Bankruptcy Code***"), Rules 2002, 4001, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), and Rules 2002-1, 4001-1, 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 this interim order ("***Interim Order***") and entry of the Final Order (as defined below) by the Court (i) authorizing the Debtors to use cash collateral as defined in section 363 of the Bankruptcy Code (the "***Cash Collateral***"), upon which Bank of America, N.A. ("***LOC Lender***"), Banc of America Leasing & Capital, LLC ("***Equipment Lender***" and, together with LOC Lender, "***BofA***") and Northfield Savings Bank ("***NSB***" and together with BofA, the "***Prepetition Secured Parties***") have asserted perfected security interests and liens solely in accordance with this Interim Order, (ii) granting adequate protection as set forth in this Interim Order, (iii) modifying the automatic stay

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: America's Gardening Resource, Inc. (9604); Gardener's Home LLC (0498); IGH, Inc. (9336); Serac Corporation (9800); Innovative Gardening Solutions, Inc. (3325). The location of the Debtors' corporate headquarters and the Debtors' service address in these chapter 11 cases is 128 Intervale Road, Burlington, Vermont 05401.

imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order, (iv) waiving any applicable stay (including under Bankruptcy Rules 4001 and 6004), (v) authorizing the Debtors to use Cash Collateral during the period commencing on the date of the Court's entry of this Interim Order and ending on the earlier of (a) the date the Court enters its order approving the requested relief on a final basis (the "***Final Order***") and (b) the date on which the Debtors' right to use Cash Collateral terminates under the terms of this Interim Order, and (vi) scheduling a final hearing (the "***Final Hearing***") to consider entry of the Final Order granting the relief requested in the Motion on a final basis; and an initial hearing on the Motion having been held by this Court on June ___, 2025 (the "***Interim Hearing***") on notice to (i) the Prepetition Secured Parties, (ii) the United States Trustee for the District of Delaware (the "***U.S. Trustee***"), (iii) the holders of the thirty (30) largest unsecured claims against the Debtors (the "***30 Largest Unsecured Creditors***"), and (iv) certain other parties identified on the certificate of service filed with the Court, including, without limitation, all creditors who have filed or recorded prepetition liens or security agreements against the Debtors' assets (the "***Noticed Parties***"); and based upon all of the pleadings filed with the Court, the evidence presented at the Interim Hearing and the entire record herein; and the Court having heard and resolved or overruled all objections to the interim relief requested in the Motion; and the Court having noted the appearances of all parties-in-interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors, and other parties-in-interest; and the Debtors having provided sufficient notice of the Motion as set forth in the Motion and it appearing that no further or other notice of the Motion need be given; and after due deliberation and consideration, and sufficient cause appearing therefor:

BASED ON THE RECORD ESTABLISHED AT THE INTERIM HEARING BY THE DEBTORS, INCLUDING THE SUBMISSIONS OF THE DECLARATIONS, THE FACTS

IN THE MOTION AND THE REPRESENTATIONS OF COUNSEL, THE BANKRUPTCY COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. *PETITION*. On June 20, 2025 (the "***Petition Date***"), each of the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the "***Court***") a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

B. *DEBTORS IN POSSESSION*. The Debtors are continuing to operate their respective businesses and to manage their respective properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed for any of the Debtors and no official committee of unsecured creditors, as provided for under section 1102 of the Bankruptcy Code has been appointed in the Chapter 11 Cases (any such committee which may hereinafter be appointed, the "***Committee***").

C. *DISPOSITION*. The Motion is hereby granted in accordance with and to the extent set forth in this Order. Any objections to the Motion with respect to the entry of the Order that have not been withdrawn, waived, resolved or settled are hereby denied and overruled.

D. *JURISDICTION; VENUE*. The Court has jurisdiction over this matter and the parties and property affected hereby 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 February 29, 2012. The Debtors have confirmed their consent, pursuant to Bankruptcy Rule 7008, to the entry of a final order by the Bankruptcy Court in connection with the Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief requested herein are sections 105, 361, 362, 363, 506, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, 9013 and 9014, and the Local Bankruptcy Rules.

E. *NOTICE*. The Notice given by the Debtors of the Motion, the Interim Hearings and the relief granted under this Interim Order constitute due and sufficient notice thereof and complies with Bankruptcy Rule 4001(c). No other or further notice of the Motion with respect to the relief requested at the Hearing or the entry of this Order shall be required.

F. *CASH COLLATERAL*. The Debtors require the use of Cash Collateral to operate their businesses and pay certain prepetition obligations and the administrative expenses of the cases.

G. *IRREPARABLE HARM*. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and the Debtors' estates as more fully set forth below.

H. *BOFA, THE BOFA PREPETITION COLLATERAL AND THE BOFA PREPETITION INDEBTEDNESS*. After consultation with their attorneys and financial advisors, and without prejudice to the rights of any Committee appointed in these Chapter 11 cases or other non-Debtor party in interest (but subject to the limitations thereon contained in paragraph 12 below), the Debtors on their behalf and on behalf of their estates admit, stipulate, acknowledge and agree as follows with respect to the Debtors' obligations to BofA:

(1) The LOC Loan.

a. American Gardening Resources, Inc, Serac, Corporation, IGH, Inc. and Innovative Gardening Solutions, Inc. (collectively, the "***BofA Borrowers***") entered into a certain Amended and Restated Loan Agreement dated as of June 30, 2020, between the LOC Lender and BofA Borrowers (together with any prior amendments and/or modifications thereto, the "***LOC Loan Agreement***"), pursuant to which the LOC Lender made a line of credit loan to BofA Borrowers in the original maximum principal amount of $7,000,000.00 (the "***LOC Loan***"), as further evidenced by a certain Promissory Note dated February 9, 2023, in the original amount of $7,000,000.00 (together with any prior amendments and/or modifications thereto, the "***LOC Note***").[2]

b. The LOC Loan Agreement amended and restated a prior Loan Agreement between America's Gardening Resource, Inc., Dutch Gardens, Inc., Flower Power Fundraising Inc., Serac, Corporation, Innovative Gardening Solutions, Inc., and the LOC Lender (together with any subsequent amendments and/or modifications thereto, the "***Prior LOC Agreement***").

c. In connection with the Prior Agreement, (i) the BofA Borrowers each executed and delivered to the LOC Lender a Security Agreement dated as of June 29, 2007, and (ii) IGH executed and delivered to LOC Lender a Security Agreement dated as of April 25, 2014 (collectively, the "***Borrower Security Agreements***") granting the LOC Lender a security interest in and lien on substantially all of Borrowers' business assets as further described therein ("***BofA Borrower Collateral***"), which Borrower Security Agreements were ratified and affirmed in a certain Ratification of Security Agreements dated as of June 30, 2020 (the "***Ratification***"), and remain in effect and continue to secure the LOC Loan Agreement and the LOC Loan.

[2] The LOC Loan Agreement was amended by (i) a certain Amendment No. 1 to Amended and Restated Loan Agreement dated as of December 18, 2020 ("***Amend. No. 1***"), (ii) a certain Amendment No. 2 to Amended and Restated Loan Agreement dated as of May 28, 2021 ("***Amend. No. 2***"), (iii) a certain Amendment No. 3 to Amended and Restated Loan Agreement dated as of October 20, 2021 ("***Amend. No. 3***"), (iv) a certain Amendment No. 4 to Amended and Restated Loan Agreement dated as of September 13, 2022 ("***Amend. No. 4***"), and (v) a certain Amendment No. 5 to Amended and Restated Loan Agreement dated as of February 9, 2023 ("***Amend. No. 5***" and, together with Amend. No. 1, Amend. No. 2, Amend. No. 3, and Amend. No. 4, the "***LOC Amendments***").

d. The LOC Lender properly perfected its liens against the BofA Borrower Collateral by filing UCC financing statements and various continuations with the Delaware Secretary of State and the Vermont Secretary of State.[3]

e. Gardener's Home, as guarantor, executed and delivered to LOC Lender a Continuing and Unconditional Guaranty dated as of October 16, 2024 (the "***Gardener's Home Guaranty***"), pursuant to which Guarantor guarantied the BofA Borrowers' obligations to the LOC Lender pursuant to the LOC Loan Agreement.

f. To secure the Gardener's Home Guaranty, Gardener's Home executed and delivered to the LOC Lender a Mortgage, Security Agreement, Assignment of Rents and Fixture Filing, dated as of October 16, 2024, and recorded with the Clerk of Chittenden County on November 26, 2024, in Book 1763, Page 233 (the "***Mortgage***") granting Bank a second priority lien on and security interest in the real property owned by Guarantor and located at 128 Intervale Road, Burlington, Vermont 05401 (the "***Intervale Property***").

g. The LOC Loan Agreement, the LOC Note, the LOC Amendments, the BofA Borrower Security Agreements, the Ratification, the Gardener's Home Guaranty, the Mortgage, and any other documents executed by any obligor in connection with the LOC Loan shall be referred to collectively herein as the "***LOC Loan Documents***".

[3] Specifically, the LOC Lender filed (a) an initial UCC Financing Statement against AGR with the Delaware Secretary of State (the "***DE Recording Office***") on June 26, 2007 (No 20072434255), which was amended and continued by UCC Amendments filed on December 16, 2009 (No. 20094021678), August 30, 2010 (No. 20103032954), January 4, 2012 (No. 20120038838), January 3, 2017 (No. 20170030962), and December 29, 2021 (No. 20210680636), (b) an initial UCC Financing Statement against IGH with the Vermont Secretary of State, Corporations/UCC Division (the "***VT Recording Office***") on April 28, 2014 (No. 14-268807), which was continued by UCC Amendments filed on November 1, 2018 and November 2, 2023, (c) an initial UCC Financing Statement against IGS with the VT Recording Offices on June 27, 2007 (No. 07-210093), which was amended and continued by UCC Amendments filed on December 17, 2009, April 6, 2012, January 3, 2017, and December 30, 2021, and (d) an initial UCC Financing Statement against Serac with the VT Recording Office on June, 27, 2007 (No. 07-210092), which was amended and continued by UCC Amendments filed on December 17, 2009, April 6, 2012, January 3, 2017, and December 30, 2021.

(2) *The Equipment Loans*.

a. On or about December 8, 2009, America's Gardening Resource and Equipment Lender separately entered into a Master Loan and Security Agreement Number 20661-70000 (as amended, supplemented, restated, extended and/or renewed, the "***Equipment Loan Agreement***").

b. Pursuant to the Equipment Loan Agreement, the Equipment Lender and America's Gardening Resource subsequently entered into a certain Equipment Security Note Number 70004 dated as of January 26, 2023 (the "***Equipment Note***"), pursuant to which Equipment Lender made an equipment loan to America's Gardening Resource in the original principal amount of $1,039,059.08 (the "***Equipment Loan***") secured by specific equipment identified in Note No. 4 (the "***Note 4 Equipment***") and the rents, profits and proceeds thereof (together with the Note 4 Equipment, the "***Equipment Collateral***").

c. The Equipment Loan Agreement, the Equipment Note, and any other documents executed by any of the Debtors in connection with the Equipment Loan shall be referred to collectively herein as the "***Equipment Loan Documents***".

d. The Equipment Lender properly perfected its liens against the Equipment Collateral by filing UCC financing statements and various continuations with the Delaware Secretary of State.[4]

(3) *The Credit Card Loan*.

[4] Specifically, the Equipment Lender filed (a) a UCC Financing Statement against AGR with respect to the Note 4 Equipment with the DE Recording Office on January 27, 2023 (No. 20230715010), (b) a UCC Financing Statement against Serac with respect to the Note 4 Equipment with the VT Recording Office on January 30, 2023 (No. 23-418418), and (c) a UCC Financing Statement against IGS and Serac with the VT Recording Office on December 17, 2009 (No. 09-231107).

a. In addition to the LOC Loan Agreement and the Equipment Loan Agreement, America's Gardening Resource and BofA entered into a Corporate Card Services Agreement, dated April 30, 2019 (the "***Card Agreement***" and, together with the LOC Loan Agreement and Equipment Loan Agreement, the "***BofA Loan Agreements***"), pursuant to which BofA provided America's Gardening Resource with a revolving credit card loan with a current maximum principal amount of $1,500,000, which is contemporaneously being reduced to a maximum principal amount of $750,000 (the "***Credit Card Loan***" and, together with the LOC Loan and the Equipment Loan, the "***BofA Loans***").

b. The Card Agreement, together with any related or ancillary documents pertaining thereto shall be referred to collectively as the "***Credit Card Loan Documents***".

c. The LOC Loan Documents, the Equipment Loan Documents and the Credit Card Loan Documents shall be referred to collectively herein as the "***BofA Loan Documents***".

(4) *Validity and Enforceability of the BofA Loan Documents*. As of June 17, 2025, the BofA Borrowers' indebtedness to BofA totaled $5,148,190.70 (excluding unreimbursed attorneys' fees and costs), consisting of (I) (A) principal on the LOC Loan of $4,400,000, (B) accrued and unpaid interest on the LOC Loan of $21,190.28, and (C) Bank fees and other charges due to the LOC Lender pursuant to the LOC Loan Agreement of $33.33, and (D) unreimbursed attorneys' fees and cost incurred by BofA in connection with the LOC Loan (collectively, the "***LOC Prepetition Indebtedness***"), (II) (A) principal on the Equipment Loans of $597,671.94, (B) accrued and unpaid interest on the Equipment Loans of $2,480.06, (C) Bank fees and other charges due to the Equipment

Lender pursuant to the Equipment Loan Agreement and the Notes in the amount of $15,937.92, and (D) unreimbursed attorneys' fees and cost incurred by BofA in connection with the Equipment Loans (the "***Equipment Loan Prepetition Indebtedness***"), (III) billed and unpaid charges under the Credit Card Agreement of $110,867.17 (the "***Prepetition Card Indebtedness***" and, together with the LOC Prepetition Indebtedness and the Equipment Loan Prepetition Indebtedness, the "***Prepetition BofA Indebtedness***").

a. The LOC Prepetition Indebtedness is secured by first priority liens on substantially all of the BofA Borrowers' assets, including the Cash Collateral, and a second priority lien on the Intervale Property (the "***Prepetition LOC Liens***").

b. The Equipment Loan is secured by a first priority lien on the Equipment and a second priority lien on substantially all of BofA Borrowers' assets (the "***Prepetition Equipment Liens***" and, together with the Prepetition LOC Liens, the "***Prepetition BofA Liens***").

c. The Prepetition BofA Liens (I) are valid, binding, enforceable, and perfected liens in the Borrower Collateral, the Intervale Property, and the Equipment Collateral (collectively, the "***Prepetition BofA Collateral***"), (II) were granted to BofA for fair consideration and reasonably equivalent value, and (III) are not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

d. (I) The Prepetition BofA Indebtedness constitutes legal, valid and binding obligations of the Debtors, enforceable in accordance with the terms of the applicable BofA Loan Documents, (II) no setoffs, recoupments, offsets, defenses or counterclaims to any of the Prepetition BofA Indebtedness exist, and (III) no portion of the Prepetition BofA Indebtedness or any payments made to or for the benefit of BofA are subject to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense or "claim" (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

e. The value of the Prepetition BofA Collateral exceeds the amount of the Prepetition BofA Indebtedness based on the purchase price for the Debtors' assets set forth in the Stalking Horse Agreement, to wit, $9,000,000.00 (subject to adjustments).

f. The foregoing acknowledgments by Debtors of the Prepetition BofA Indebtedness and the rights, priorities and protections granted to BofA pursuant to the BofA Loan Documents shall be deemed a timely filed proof of claim on behalf of BofA in these Chapter 11 Cases, and BofA shall not be required to file any additional proofs of claim with respect to the Prepetition BofA Indebtedness.

I. *THE NSB PREPETITION COLLATERAL AND PREPETITION INDEBTEDNESS.* As of the Petition Date, the indebtedness of America's Gardening Resource, Inc and Gardener's Home, LLC (the "***NSB Borrowers***") to NSB totaled $3,168,930.26, consisting of (I) (A) principal on an initial Commercial Real Estate Term Loan ("***CREM I***") dated December 19, 2017 of $1,094,295.29, (B) accrued and unpaid interest on the CREM I of $7,310.50, and (C) fees and other charges due to NSB pursuant to the CREM I Loan Agreement of $552.66, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM I (collectively, the "***CREM I Prepetition Indebtedness***"), (II) (A) principal on an initial second Commercial Real Estate Term Loan ("***CREM II***") dated December 19, 2017 of $790,354.15, (B) accrued and unpaid interest on the CREM II of $5,280.01, and (C) fees and other charges due to NSB pursuant to the CREM II Loan Agreement of $326.93, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM II (collectively, the "***CREM II Prepetition Indebtedness"),*** (III) (A) principal on a third Commercial Real Estate Term Loan ("***CREM III***") dated February 2, 2020 of $399,633.97, (B) accrued and unpaid interest on the CREM III of $2,163.35, and (C) fees and other charges due to NSB pursuant to the CREM III Loan Agreement of $160.03, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM III (collectively, the "***CREM III Prepetition Indebtedness***"), (IV) principal on a fourth Commercial Real Estate Term Loan ("***CREM IV***") dated December 19, 2023 of $409,270.26, (B) accrued and unpaid interest on the CREM IV of $4,721.95, and (C) fees and other charges due to NSB pursuant to the CREM IV Loan Agreement of $157.87, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM IV (collectively, the "***CREM IV Prepetition Indebtedness***"), and (**V**) (A) principal on a fifth Commercial Real Estate Term Loan ("***CREM V***") dated April 26, 2024 of $449,397.98, (B) accrued and unpaid interest on the CREM V of $5,047.24, and (C) fees and other charges due to NSB pursuant to the CREM V Loan Agreement of $258.07, and (D) unreimbursed attorneys' fees and cost incurred by NSB in connection with the CREM V (collectively, the "***CREM V Prepetition Indebtedness***" and, together with the CREM I Prepetition Indebtedness, the CREM II Prepetition Indebtedness, the CREM III Prepetition Indebtedness and the CREM IV Prepetition Indebtedness, the "***NSB Prepetition Indebtedness***").

a. The NSB Prepetition Indebtedness is secured by first priority lien on Intervale Property and subordinate liens on substantially all of the Debtors' assets, including the Cash Collateral, (the "***NSB Prepetition Liens***").

b. The NSB Prepetition Liens (I) are valid, binding, enforceable, and perfected liens in the Intervale Property and collateral (together, the "***NSB Prepetition Collateral"),*** (II) were granted to NSB for fair consideration and reasonably equivalent value, and (III) are not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

c. The NSB Prepetition Indebtedness constitutes legal, valid and binding obligations of the NSB Borrowers, enforceable in accordance with the terms of the applicable NSB loan documents. No setoffs, recoupments, offsets, defenses or counterclaims to any of the NSB Prepetition Indebtedness exist and no portion of the NSB Prepetition Indebtedness or any payments made to or for the benefit of the NSB are subject to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense or "claim" (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

J. *Adequate Protection*. The Adequate Protection Obligations (as defined below) are intended to protect the interests of the Prepetition Secured Parties in the BofA Prepetition Collateral and NSB Prepetition Collateral (together the "***Prepetition Secured Party Collateral***") respectively, subject to the rights of the Prepetition Secured Parties to request additional adequate protection as provided herein.

K. *Immediate Entry of Interim Order*. The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2), upon notice provided as set forth in the Motion, which is, in the Debtors' belief, the best available under the circumstances. The permission granted herein to utilize Cash Collateral is necessary to avoid immediate and irreparable harm to the Debtors. The Debtors have an immediate need to use Cash Collateral to permit the orderly continuation of the operation of their businesses. The Debtors do not have sufficient available sources of working capital and financing to carry on the operation of their businesses without the Debtors' continued ability to use Cash Collateral. Among other things, entry of the Order will minimize disruption of the Debtors' businesses and operations and permit them to pay their operating expenses, in accordance with the Approved Budget attached as **Exhibit 1** to this Interim Order (the "***Approved Budget***"), including, without limitation, to retain their employees, maintain business relationships with their vendors, and maintain customer and vendor confidence by demonstrating an ability to maintain operations. The Prepetition Secured Parties are relying upon the Debtors' agreement to comply with the Approved Budget in determining to consent to the use of Cash Collateral subject to the terms of this Order. The Approved Budget is an integral part of this Order and has been relied upon by the Prepetition Secured Parties to permit the use of Cash Collateral and consent to this Order. The Debtors represented and warranted to the Prepetition Secured Parties and this Court that the Approved Budget includes and contains the Debtors' best estimate of all operational receipts that are unencumbered and unrestricted and all operational disbursements, fees, costs and other expenses that will be payable, incurred and/or accrued by any of the Debtors during the period covered by the Approved Budget and that such operational disbursements, fees, costs and other expenses will be timely paid in the ordinary course of business solely pursuant to and in accordance with the Approved Budget unless such operational disbursements, fees, costs and other expenses are not incurred or otherwise payable. The Debtors further represented that the Approved Budget is achievable and will allow the Debtors to operate in the Chapter 11 cases and pay postpetition obligations as they come due. Based upon the foregoing findings, acknowledgements, and conclusions, and upon the record made before the Bankruptcy Court at the Interim Hearing, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED:

1. *DISPOSITION*. The Motion is granted on an interim basis and on the terms set forth herein. Any objections to the Motion that have not previously been withdrawn, waived, settled, or resolved and all reservations of rights included therein are hereby denied and overruled on their merits, but without prejudice to relief that may be granted on a final basis.

2. *EFFECTIVENESS*. This Interim Order shall constitute findings of fact (subject to the terms set forth herein) and conclusions of law and shall take effect and be fully enforceable dating back to the Petition Date immediately upon entry of this Interim Order. Notwithstanding Bankruptcy Rule 4001(a)(3) 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.

3. *AUTHORIZATION TO USE CASH COLLATERAL*. Pursuant to the terms and conditions of this Interim Order, and in accordance with the Approved Budget, subject to the Permitted Variance (as defined below), the Debtors are authorized to use Cash Collateral to pay their fees, costs and expenses in the ordinary course during their Chapter 11 Cases through the Termination Date (as defined below).

(a) *APPROVED BUDGET*. The Prepetition Secured Parties and the Debtors have agreed to the Approved Budget (Ex. 1), for the period from the Petition Date through and including **July 27, 2024** (the *"**Budget Period**"*), which reflects on a line-item basis the Debtors' anticipated disbursements through such date. Any amounts reflected on the Approved Budget after July 27, 2025, have not been approved by the Prepetition Secured Parties and shall not bind the Prepetition Secured Parties. All disbursements of Cash Collateral by the Debtors pursuant to the terms of this Interim Order must be pursuant to the Approved Budget, subject to a permitted variance of **10**% per budget line item on a monthly basis (the "***Permitted Variance***"). The Debtors may use Cash Collateral only to satisfy items in the Approved Budget and only in the amounts provided in the Approved Budget, subject to the Permitted Variance. The Approved Budget may only be modified with the Prepetition Secured Parties' prior written consent. The Debtors have reason to believe that the Approved Budget will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period covered by the Approved Budget.

(b) *REQUIRED REPORTING*. While this Interim Order is in effect, by no later than 5:00 p.m. (prevailing Eastern time) on the fourth business day of each week, commencing on Thursday, July 3, 2025, the Debtors shall provide the Prepetition Secured Parties, the Office of the United States Trustee and any Committee, an internally-prepared, consolidated, rolling 13-week cash flow projection (the "***Cash Flow Projection***"), which shall include Obligors' actual, consolidated net cash flow from the prior week, along with a variance column comparing the actual cash flow to the Approved Budget and an explanation column setting for the reasons for any variance (the "***Cash Flow Variance Report***").

(c) *CASH MANAGEMENT*. While this Interim Order remains in effect, the Debtors shall continue to deposit all collections, receipts, and other Cash Collateral in deposit accounts with the LOC Lender in accordance with the LOC Loan Agreement, this Interim Order, the Interim Cash Management Order [Docket No. ___], and any further interim or final cash management order entered in the Chapter 11 Cases. The Debtors will not use any funds made available to them except as specified in the Approved Budget and in accordance with the Permitted Variance.

(d) COLLECTIONS AND DISBURSEMENTS. From the Petition Date until the Prepetition Indebtedness has been paid in full in cash, all cash receipts, Cash Collateral and all proceeds from the sale or other disposition of, or other revenue of any kind attributable to, any Prepetition Collateral that is now in, or shall hereafter come into, the possession or control of any of the Debtors, or to which any of the Debtors is now or shall hereafter become entitled shall be subject to the Adequate Protection Liens, and shall be treated in accordance with this Interim Order.

4. *ADEQUATE PROTECTION OF PREPETITION SECURED PARTIES*. In consideration for the Debtors' use of Cash Collateral and subordination of the Prepetition Liens to the Carve-Out, and as protection against the possibility of diminution in value of the Prepetition Secured Parties' interest in the Prepetition Collateral (the "***Diminution in Value***"), whether or not such Diminution in Value results from the sale, lease or use by the Debtors of the Prepetition Collateral (including, without limitation, Cash Collateral) or the stay of enforcement of any Prepetition Liens arising from section 362 of the Bankruptcy Code, or otherwise, the Prepetition Secured Parties shall receive the following (collectively, the "***Adequate Protection Obligations***"):

(a) *REPLACEMENT LIENS*. Upon the date of entry of this Interim Order, subject to the Carve-Out (as defined below), the LOC Lender is granted (without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements, and other agreements or instruments) valid, effective, and fully perfected postpetition security interests in and liens in all property, assets or interests in property or assets of the Debtors and each Debtor's "estate" (as defined in the Bankruptcy Code), in each case, whether now existing or hereafter acquired, and all proceeds thereof, including, for the avoidance of doubt, the Cash Collateral, *provided* that any liens on proceeds and property recovered in respect of claims and causes of action arising under sections 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code shall be subject to entry of the Final Order (such postpetition security interests and liens, the "***Replacement Liens***" and such collateral, the "***Adequate Protection Collateral***" and together with the Prepetition BofA Collateral, the "***Secured Party Collateral***"). NSB shall be granted the same liens as rights as set forth in this paragraph except NSB's liens and rights are subordinate to the liens and rights of BofA and the Carve-Out.

(b) *POSTPETITION PAYMENTS*. In accordance with the Approved Budget, Debtors shall make the following payments to the Prepetition Secured Parties from and after the Petition Date: (1) accrued and unpaid interest on the LOC Loan on the last day of each calendar month commencing June 30, 2025, at the contract rate, (2) monthly payments of principal and interest on the Equipment Loan in the amount of $20,471.81 on the twenty-seventh (27th) day of each month commencing June 27, 2025, each such payment subject to a grace period of ten (10) days in accordance with Section 10(1) of the Equipment Loan Agreement, (3) all monthly payments billed under the Card Agreement, and (4) monthly interest payments to NSB at the contract rate on the last day of each calendar month (collectively, the "***Adequate Protection Payments***").

(c) *SUPERPRIORITY CLAIMS*. To the extent of any Diminution in Value, the Prepetition Secured Parties are granted superpriority administrative expense claims under section 507(b) of the Bankruptcy Code (the "***Superpriority Claims***") against the Debtors' estates, having priority over any and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kinds specified in or arising or ordered under sections 105(a), 326, 328, 330, 331, 363, 503(b), 506(c), 507, 546(c), 726, 1113, and 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, subject only to the Carve-Out, which allowed claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof. Notwithstanding the foregoing, NSB's claims shall be subordinate to claims of BofA and the Carve-Out (as defined in paragraph 4(e)).

(d) FEES OF PREPETITION SECURED PARTIES. As additional adequate protection, the Debtors shall be obligated to pay, as adequate protection, all fees and expenses of the Prepetition Secured Parties, including attorneys' fees, whether pre- or post-petition. Notwithstanding the foregoing, the Prepetition Secured Parties do not waive any right to receive fees, expenses or similar charges as provided for in the Prepetition Loan Documents to the extent such fees, expenses and similar charges are allowable under the Bankruptcy Code, all of which shall remain subject to review by the U.S. Trustee and Committee, if any. The reasonable fees and expenses of the Prepetition Secured Parties shall be paid in cash, and on a current basis, however, such fees and expenses shall remain subject to review by the U.S. Trustee and Committee, if any.

(e) CARVE-OUT. For purposes hereof, the "***Carve-Out***" shall mean the sum of: (A) all fees required to be paid to the clerk of the Court and the U.S. Trustee without regard to the Carve-Out Trigger Notice (as defined in this paragraph 4(e)) ("***Statutory Fees***"); (B) reasonable fees and expenses up to $25,000 in the aggregate incurred by a trustee appointed under Bankruptcy Code section 726(b) (without regard to the Carve-Out Trigger Notice) ("***Ch. 7 Fees***"); (C) subject in all respects to the Approved Budget, and limited to the Budget Period, to the extent allowed, whether by interim order, procedural order or otherwise, all accrued and unpaid reasonable fees, costs, and expenses (the "***Professional Fees***") incurred by persons or firms retained by the Debtors or any Committee pursuant to section 327, 328, or 363 of the Bankruptcy Code (collectively, the "***Professional Persons***") at any time before or on the day of delivery by the Prepetition Secured Parties of a Carve-Out Trigger Notice (the "***Pre-Trigger Date Budgeted Fees");*** and (D) after the delivery by the Prepetition Secured Parties of the Carve-Out Trigger Notice (such date of delivery, the "***Trigger Date***"), to the extent allowed at any time, whether by interim order, procedural order or otherwise, the payment of (1) all Professional Fees incurred by any Professional Persons retained by the Debtors after the Trigger Date and (2) the payment of Professional Fees of Professional Persons incurred by any Committee after the Trigger Date, not to exceed $100,000 in the aggregate for clauses (1) and (2) (the amount set forth in this clause (D) being the "***Post-Trigger Date Cap***"). With respect to the foregoing clause (C), any Professional Fees thereunder incurred in excess of the aggregate amount permitted for such Professional Persons in the Approved Budget shall not be included in the Carve-Out. Nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described in clauses (C) or (D) above, on any grounds. On the day on which a Carve-Out Trigger Notice is given to the Debtors, such Carve-Out Trigger Notice also shall constitute a demand to the Debtors, and the Debtors agree, to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an aggregate amount equal to the accrued and unpaid Pre-Trigger Date Budgeted Fees plus the Post-Trigger Date Cap, and the Debtors shall deposit and hold any such amounts in the "Carve-Out Reserve Account" (as defined in Paragraph 4(f) below), which shall be a segregated account at a financial institution selected by the Debtors for such purpose and solely for the benefit of the Professional Persons entitled thereto. The reserved funds shall be released from time to time from the segregated account to pay when due any Pre-Trigger Date Budgeted Fees and any fees and expenses incurred after Trigger Date that are included in the Post-Tigger Date Cap under clause (D) above.

The Carve-Out Reserve Account and amounts therein shall be free and clear of all liens, claims and interests of any party other than the Professional Persons entitled thereto. If the amount in the Carve-Out Reserve Account exceeds the actual amount of fees and expenses incurred of the type described in clause (C) and clause (D), then such excess will be paid to the Prepetition Secured Parties and applied in accordance with the Prepetition Loan Documents. Notwithstanding the foregoing, the Carve-Out shall not include, apply to or be available for any fees or expenses incurred by any party in connection with (1) the preparation, initiation or prosecution of any claims, causes of action, proceeding, adversary proceeding or other litigation against any of the Prepetition Secured Parties (in such capacity), including challenging the amount, validity, perfection, priority or enforceability of or asserting any defense, counterclaim or offset to, the Prepetition Secured Party Indebtedness and the Prepetition Secured Party Liens granted under the Prepetition Loan Documents in favor of the Prepetition Secured Parties, including, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise; (2) attempts to modify any of the rights granted to the Prepetition Secured Parties in this Interim Order (other than with the consents contemplated hereunder); (3) attempts to prevent, hinder or otherwise delay any of the Prepetition Secured Parties' enforcement or realization upon any Secured Party Collateral in accordance with the Prepetition Loan Documents and this Interim Order; or (4) paying any amount on account of any claims arising before the Petition Date unless such payments are approved by an order of this Court, in the Approved Budget or otherwise consented to by the Prepetition Secured Parties in their sole discretion. For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean a written notice delivered by the Prepetition Secured Parties to the Debtors, Debtors' counsel, the U.S.

Trustee, and counsel to the Committee (if any), upon the occurrence and during the continuance of a Termination Event (as defined in Paragraph 9 below), stating that the Post-Trigger Date Cap has been invoked. For the avoidance of doubt and notwithstanding anything to the contrary herein or in the Prepetition Loan Documents, the Carve-Out shall be senior to all liens and claims arising out of the Prepetition Loan Documents, including the Prepetition Liens, the Adequate Protection Liens, the Superpriority Claims, and any and all other forms of adequate protection, liens or claims securing or relating to the Prepetition BofA Indebtedness, but only to the extent that the value of the Secured Party Collateral is less than sum of (A) the outstanding amount of the Prepetition BofA Indebtedness, (B) the Statutory Fees, (C) the Ch.7 Fees, if applicable, (D) Pre-Trigger Date Budgeted Fees and (E) the Post-Trigger Date Cap. For the avoidance of doubt, to the extent that the budgeted amounts for a Professional Person for any Approved Budget period ending prior to the Trigger Date exceeds the actual fees and expenses incurred by such Professional for that period, such excess may be carried forwards, or backwards, to the immediately prior or subsequent payment period under the Approved Budget (but only for periods ending prior to the Trigger Date), and be applied to any fees or expenses that exceeded the budgeted amounts for such prior or later period(s).

(f) PAYMENTS FROM CARVE-OUT. The Debtors shall maintain a segregated account or accounts for the payment of allowed Pre-Trigger Date Budgeted Fees and, subject to the Post-Trigger Date Cap, Professional Fees incurred after the Trigger Date (the "***Carve-Out Reserve Account***"), which account shall be funded from the Debtors' cash receipts in accordance with the Approved Budget on a weekly basis, in advance, until the occurrence of the Trigger Date. After the Trigger Date, the Carve-Out Reserve Account may continue to be funded, up to the Post-Trigger Date Cap. The Debtors shall pay

Professional Persons Professional Fees using funds in the Carve-Out Reserve Account in compliance with the Approved Budget, this Interim Order and any interim compensation procedures; provided, however, that, prior to payment in full of the Prepetition BofA Indebtedness and the occurrence of the Trigger Date, to the extent that any Professional Fees that have accrued from the Petition Date through and including the Trigger Date are less than the amounts funded into the Carve-Out Reserve Account, the excess amounts in the Carve-Out Reserve Account shall be (A) first, applied to fund the Post-Trigger Date Cap; (B) second, remitted to the Prepetition Secured Parties to apply to reduce the Prepetition BofA Indebtedness.

(g) *Reservation of Rights.* Notwithstanding any other provision of this Interim Order to the contrary, the grant of Adequate Protection Obligations to the Prepetition Secured Parties pursuant to this Interim Order is without prejudice to the right of the Prepetition Secured Parties to seek different or additional adequate protection, including without limitation the current payment of postpetition interest (at the applicable default rate), to seek payments under section 506(b) of the Bankruptcy Code when this Interim Order or the Final Order, as applicable, is no longer in effect, or to withdraw their consent to any further use of Cash Collateral. Nothing herein shall preclude the Prepetition Secured Parties from asserting any additional claims, secured or unsecured, against the Debtors, their affiliates, or any other party under the Bankruptcy Code or applicable nonbankruptcy law. Except as expressly provided herein, nothing contained in this Interim Order (including without limitation, the authorization to use any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to the Prepetition Secured Parties. Nothing in this Interim Order shall constitute an admission that the Prepetition Secured Parties are not entitled to payment or allowance of claims under section 506(b) of the Bankruptcy Code. Nothing in this Interim Order shall prohibit any of the Prepetition Secured Parties from asserting and receiving (i) fees, expenses or similar charges as provided for in the Prepetition Loan Documents to the extent such fees, expenses and similar charges are allowable under the Bankruptcy Code or (ii) interest on its outstanding Prepetition Obligations at the default rate from and after the Petition Date to the extent it is determined by an Order of the Court that its Prepetition Obligations are oversecured.

5. *Additional Provisions Regarding the Adequate Protection Obligations.*

(a) The Replacement Liens shall cover all property and assets of the Debtors and their estates (now or hereafter acquired and all proceeds thereof), including property or assets, if any, that do not secure the Prepetition Obligations.

(b) Except as provided in this Interim Order, an subject to the Carve-Out, the Replacement Liens shall not at any time be (i) made subject or subordinated to, or made *pari passu* with any other lien, security interest or claim existing as of the Petition Date, or created under sections 363 or 364(d) of the Bankruptcy Code or otherwise or (ii) subject to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

(c) Subject to entry of the Final Order, any provision of any lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent or approval of one or more landlords, licensors, or other parties, or requires the payment of any fees or obligations to any governmental entity, non-governmental entity or any other person, in order for any of the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other collateral, shall have no force or effect with respect to the transactions granting the LOC

Lender, a priority security interest in such fee, leasehold or other interest or other collateral or the proceeds of any assignment, sale or other transfer thereof, by any of the Debtors.

(d) Unless expressly provided otherwise herein, the Replacement Liens, Superpriority Claims, Carve-Out, and other rights, benefits, and remedies granted under this Interim Order to the Prepetition Secured Parties, shall continue in these Chapter 11 Cases, in any superseding case or cases under the Bankruptcy Code (including without limitation any case under chapter 7 of the Bankruptcy Code) (a *"**Superseding Case**"*), and following any dismissal of the Chapter 11 Cases, and such liens and claims shall maintain their priority as provided in this Interim Order until all Adequate Protection Obligations and the Carve-Out have been indefeasibly paid in full in cash and completely satisfied.

(e) Notwithstanding anything to the contrary herein, the reasonable and documented fees, costs and out-of-pocket expenses of the Prepetition Secured Parties, whether incurred prior to or after the Petition Date, shall be deemed fully earned, nonrefundable, irrevocable, and non-avoidable as of the date of this Interim Order. All reasonable unpaid fees, costs, and expenses shall be included and constitute part of the Superpriority Claims and be secured by the Replacement Liens.

6. *No Liability to Third Parties*. The Debtors stipulate and the Court finds that in permitting the Debtors to use Cash Collateral, or in accepting the Approved Budget or any future supplemental Approved Budget, the Prepetition Secured Parties shall not be deemed to be in control of the operations of the Debtors or acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors.

7. *Perfection of Replacement Liens*.

(a) This Interim Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Replacement Liens, without the necessity of filing or recording any financing statement or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the Replacement Liens, or to entitle the Prepetition Secured Parties to the priorities granted herein.

(b) Without limiting the foregoing subparagraph, the LOC Lender and NSB are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder, in each case without the necessity to pay any mortgage recording fee or similar fee or tax. Whether or not the LOC Lender and NSB shall, in their sole discretion, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to it hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge dispute or subordination (except as specified herein), at the time and on the date of entry of this Interim Order. The Debtors shall, if requested, execute and deliver to the LOC Lender and/or NSB all such agreements, financing statements, instruments and other documents as the LOC Lender and/or NSB may reasonably request to more fully evidence, confirm, validate, perfect, preserve, and enforce the Replacement Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(c) A certified copy of this Interim Order may, in the discretion of the LOC Lender, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby directed to accept such certified copy of this Interim Order for filing and recording.

8. *Termination of Cash Collateral Authorization*. Notwithstanding anything in this Interim Order to the contrary, the Debtors' authority to use Cash Collateral pursuant to this Interim Order shall automatically terminate without any further action by the Court, upon the earliest to occur of (such date, the "***Cash Collateral Termination Date***"): (i) **July 18, 2025**, which date may be extended with the express written consent of the Prepetition Secured Parties (which consent may be granted via electronic mail) and (ii) the occurrence of Termination Event.

9. *Events of Default*. The occurrence of any event identified in this paragraph 9 (each, an "***Event of Default***") shall constitute a "***Termination Event***" upon five (5) days following delivery of written notice (a "***Termination Notice***"), including notice by e-mail, by any of the Prepetition Secured Parties to the Debtors, the Debtors' counsel, the U.S. Trustee, the other Prepetition Secured Parties, and counsel to any Committee (such period of time, the "***Waiting Period***"), unless such Event of Default has been cured by the Debtors or waived in writing by the Prepetition Secured Parties during the Waiting Period, *provided, however*, that there shall be no Waiting Period and a Termination Event shall automatically occur in the case of the events described in clauses d. through q. below unless otherwise agreed to in writing.

a. The Debtors fail to make any payment required under this Interim Order after such payment becomes due under the terms of this Interim Order.

b. The Debtors fail to comply in any material respect with any covenant, agreement, or provision of this Interim Order.

c. Any of the Debtors use Cash Collateral to fund any payments in respect of prepetition or postpetition claims other than (i) as permitted under this Interim Order or any other order of the Court consented to by the Prepetition Secured Parties; or (ii) as otherwise expressly contemplated by the Approved Budget.

d. Any of the Debtors seeks or obtains postpetition loans or other financial accommodations pursuant to section 364(c) or 364(d) of the Bankruptcy Code, unless such postpetition loans or other financial accommodations provide for the full and indefeasible payment and satisfaction of the Prepetition Indebtedness on terms and conditions acceptable to each of the Prepetition Secured Parties.

e. The Debtors propose or support or the Court confirms or approves a plan of reorganization or liquidation or a sale which does not provide for the full and indefeasible payment and satisfaction of the Prepetition Indebtedness on terms and conditions acceptable to each of the Prepetition Secured Parties.

f. Any of the Debtors or any Committee challenges the application of any payment authorized by this Interim Order pursuant to section 506(b) of the Bankruptcy Code or asserts that the value of the collateral subject to the Prepetition Liens of any of the Prepetition Secured Parties is less than the amount of the Prepetition Indebtedness due to that Prepetition Secured Party.

g. Any of the Debtors seek or the Court enters any Order which would restrict or impair the rights and remedies of the Prepetition Secured Parties as provided in the Loan Documents or this Interim Order.

h. The Court has not entered an order approving bidding procedures (the "***Bidding Procedures***") with respect to the proposed sale of substantially all of the Debtors' assets (the "***Sale Assets***") to Gardens Alive, Inc. (the "***Stalking Horse***") pursuant to section 363(b) of the Bankruptcy Code (the "***Proposed Sale***") on or before **July 10, 2025**.

i. If any Qualifying Bid (as defined in the Bidding Procedures) for the Sale Assets is received, the Debtor has not concluded an auction of the Sale Assets in accordance with the Bidding Procedures (the "***Auction Sale***") on or before **July 18, 2025**.

j. The Court has not entered an Order approving a sale of the Sale Assets on or before **August 1, 2025**.

k. The sale of the Sale Assets has not closed on or before **August 6, 2025**.

l. This Interim Order ceases, for any reason, to be in full force and effect in any respect, or the Replacement Liens or the Superpriority Claims created by this Interim Order cease in any respect to be enforceable and of the same effect and priority purported to be created hereby.

m. The Court shall enter an order amending, supplementing or otherwise modifying this Interim Order without the consent of the Prepetition Secured Parties.

n. The Court (or any court of competent jurisdiction) enters an order dismissing any of these Chapter 11 Cases.

o. The Court (or any court of competent jurisdiction) enters an order converting any of these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code.

p. The appointment under section 1104 of the Bankruptcy Code of a trustee or an examiner with expanded powers.

q. Any Debtor files a motion seeking or otherwise supports an effort to secure the occurrence of any of the events described in clauses e through h above.

The Debtors shall promptly (and in no event any later than two (2) Business Days following occurrence) provide written notice by email to counsel to the Prepetition Secured Parties (with a copy to counsel for the U.S. Trustee and any Committee) of the occurrence of any Event of Default. If the Debtors request an emergency hearing to consider any appropriate relief in connection with delivery of a Termination Notice within the Waiting Period but such hearing is scheduled for a later date by the Court (not requested by the Debtors), the period shall be automatically extended to the date of such hearing.

10. *Remedies Upon the Cash Collateral Termination Date*. Upon the Cash Collateral Termination Date: (a) the Debtors' right to use Cash Collateral shall terminate, (b) all outstanding Adequate Protection Obligations shall become immediately due and payable, and (c) the Prepetition Secured Parties may, within five (5) days after the occurrence of the Cash Collateral Termination Date, exercise the rights and remedies available under the Loan Documents, this Interim Order or applicable law, including without limitation, foreclosing upon and selling all or a portion of the Prepetition Secured Party Collateral or Adequate Protection Collateral in order to collect the Adequate Protection Obligations. The automatic stay under section 362(a) of the Bankruptcy Code is hereby deemed modified and vacated to the extent necessary or appropriate to permit such actions. Notwithstanding the occurrence of the Cash Collateral Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Prepetition Secured Parties under this Interim Order shall survive the Cash Collateral Termination Date

11. *Restriction on Use of Funds*. Notwithstanding anything herein to the contrary, unless otherwise consented to by the Prepetition Secured Parties in writing, no Adequate Protection Collateral, proceeds thereof, Cash Collateral, Carve Out, Prepetition Secured Party Collateral, or proceeds thereof, may be used by any of the Debtors, their estates, any affiliate of the Debtors, any Committee, any trustee or examiner appointed in these Chapter 11 Cases or any chapter 7 trustee, or any other person, party or entity to, directly or indirectly, (a) request authorization to obtain postpetition financing (whether equity or debt) or other financial accommodations pursuant to section 364(c) or (d) of Bankruptcy Code, or otherwise; (b) prosecute or support any action that has the effect of preventing, hindering, or delaying (whether directly or indirectly) the Prepetition Secured Parties in respect of their liens and security interests in the Adequate Protection Collateral or the Prepetition Secured Party Collateral or any of their rights, powers, or benefits hereunder or in the Loan Documents anywhere in the world (*provided*, *however*, that the Committee, if any, may use up to $25,000 in the aggregate from the Pre-Trigger Date Budgeted Fees or the Post-Trigger Date Cap to investigate, but not to prosecute or challenge, the Prepetition Secured Parties' liens in accordance with paragraph 12 below (the "***Investigation Budget***"); or (c) pay any claim of a prepetition creditor except as expressly allowed by this Interim Order or other order of the Court.

12. *Investigation and Challenge Rights*. The deadline for parties to investigate and challenge the Prepetition Secured Parties' liens and security interests in accordance with Del. Bankr. L.R. 4001-2 shall be the earlier of seventy-five (75) days from the date of this Interim Order and the date of entry of an order confirming a chapter 11 pan or the Sale Order (the "***Investigation Termination Date***"), and the rights of all parties (other than the Debtors) in accordance therewith are expressly preserved. Any claim incurred in connection with any

activities described in this paragraph shall not constitute an allowed administrative expense claim for purposes of section 1129(a)(9)(A) of the Bankruptcy Code. Any assertion of claims or causes of action of the Debtors or their estates against any of the Prepetition Secured Parties by any party in interest (a "***Challenge***") must be made by commencing an adversary proceeding on or before the Investigation Termination Date. Except with respect to any party who, with proper standing, files such an action on or before the Investigation Termination Date, all persons and entities shall be forever barred from bringing or taking such action against any of the Prepetition Secured Parties. For the avoidance of doubt, any trustee appointed or elected in these Chapter 11 Cases shall, until the Investigation Termination Date, and thereafter for the duration of any adversary proceeding or contested matter that was commenced prior to the Investigation Termination Date pursuant to this paragraph (whether commenced by such trustee or commenced by any other party in interest on behalf of the Debtors' estates), be deemed to be a party other than the Debtors and shall not, for purposes of such adversary proceeding or contested matter, be bound by the acknowledgments, admissions, confirmations and stipulations of the Debtors in paragraph E of this Interim Order.

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

14. *Section 506(c) and Other Waivers*. Subject to entry of the Final Order, except to the extent of the Carve-Out, and the rights of all parties in interest, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases at any time (including, without limitation, any costs and expenses incurred in connection with the preservation, protection, or enhancement of value by the Prepetition Secured Parties upon the Prepetition Secured Party Collateral) shall be charged against any of the Prepetition Secured Parties, or any of

the Prepetition Obligations or the Prepetition Secured Party Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior express written consent of the affected Prepetition Secured Parties, in their sole discretion, and no such consent shall be implied, directly or indirectly, from any other action, inaction, or acquiescence by any such agents or creditors (including, without limitation, the approval of any budget hereunder). Subject to entry of the Final Order and the rights of all parties in interest, the Prepetition Secured Parties are (i) entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, subject to the Carve-Out, and the "equities of the case" exception shall not apply and (ii) released from any application of the equitable doctrine of "marshalling" or any other similar doctrine with respect to any of the Prepetition Secured Party Collateral.

15. *BINDING EFFECT OF ORDER*. Immediately upon entry of an order approving this Interim Order (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Interim Order shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the Debtors, the Prepetition Senior Parties, all other creditors of the Debtors, any Committee, and each of their respective successors and assigns (including any trustee appointed under chapter 7 or chapter 11 of the Bankruptcy Code or any other fiduciary hereafter appointed in any of the Chapter 11 Cases), and shall inure to the benefit of the Debtors, the Prepetition Senior Parties, and each of their respective successors and assigns.

16. *RESERVATION OF RIGHTS*. The terms, conditions, and provisions of this Interim Order are in addition to and without prejudice to the rights of all parties.

17. *NO WAIVER*. This Interim Order shall not be construed in any way as a waiver or relinquishment of any rights that the Debtors or the Prepetition Secured Parties may have to bring or be heard on any matter brought before the Court, except as otherwise set forth herein. Nothing

herein shall preclude the Prepetition Secured Parties from asserting any additional claims, secured or unsecured, against the Debtors, their affiliates, or any other party under the Bankruptcy Code or applicable non-bankruptcy law. The rights of the Prepetition Secured Parties are expressly reserved and entry of this Interim Order shall be without prejudice to, and does not constitute a waiver, expressly or implicitly, of the following: (a) the Prepetition Secured Parties' rights under the Loan Documents; (b) the Prepetition Secured Parties' rights to seek any other or supplemental relief in respect of the Debtors; (c) any of the Prepetition Secured Parties' rights under the Bankruptcy Code or under non-bankruptcy law; or (d) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of the Prepetition Secured Parties.

18. *Priority of Terms*. To the extent of any conflict between or among (a) the express terms or provisions of the Motion, any other order of the Court, or any other agreements, on the one hand, and (b) the terms and provisions of this Interim Order, on the other hand, unless such term or provision herein is phrased in terms of "as defined in" or "as more fully described in" such other document, the terms and provisions of this Interim Order shall govern. To the extent there is any inconsistency between this Interim Order and any order concerning the Debtors' cash management systems or bank accounts or any other "first day" relief, this Interim Order shall control.

19. *No Direct Obligation to Pay Allowed Professional Fees*. The Prepetition Secured Parties shall not be responsible for the payment or reimbursement of any fees or disbursements of any Professional incurred in connection with these Chapter 11 Cases or any successor cases under any chapter of the Bankruptcy Code. Nothing in this Order or otherwise shall be construed to obligate the Prepetition Lender to pay compensation to, or reimburse expenses of, any Professional or to guarantee that the Debtors have sufficient funds to pay such

compensation or reimbursement. Further, all rights of the Prepetition Lender to object to the allowance of any Professional's fees, costs or expenses are preserved. Furthermore, none of the Carve-Out, Prepetition Secured Party Collateral or Cash Collateral shall be used to prevent, hinder or delay the Prepetition Lender from enforcing or realizing upon the Cash Collateral once an Event of Default has been determined by the Court to have occurred and to be continuing under this Order.

20. *No Third-Party Rights*. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any party, creditor, equity holder or other entity other than (i) the Prepetition Senior Parties, (ii) the Debtors, and (iii) the respective successors and assigns of each of the foregoing.

21. *Survival*. Except as otherwise provided herein, (a) the protections afforded to the Prepetition Senior Parties under this Interim Order, and any actions taken pursuant thereto, shall survive the entry of an order (i) dismissing any of the Chapter 11 Cases or (ii) converting the Chapter 11 Cases into a case pursuant to chapter 7 of the Bankruptcy Code.

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

23. *Final Hearing Date*. The Final Hearing to consider the entry of the Final Order approving the relief sought in the Motion shall be held on July ___, 2025 at __:00 _.m. before the Honorable ______________________ at the United States Bankruptcy Court for the District of Delaware, 824 Market St., 5th Floor Courtroom, Wilmington, Delaware 19801.

24. *Adequate Notice*. The notice given by the Debtors of the Interim Hearing was given in accordance with Bankruptcy Rules 2002 and 4001(b)(3), and the Local Bankruptcy Rules, and was adequate and sufficient. Under the circumstances, no further notice of the request for the

relief granted at the Interim Hearing is required. The Debtors shall promptly mail copies of this Interim Order and notice of the Final Hearing to the Noticed Parties and any other entity requesting notice after the entry of this Interim Order. Any objection to the relief sought at the Final Hearing shall be made in writing setting forth with particularity the grounds thereof, and filed with the Bankruptcy Court and served so as to be actually received no later than seven (7) days prior to the Final Hearing by the following: (i) the Debtors, Attn. Rebecca Gray, CEO, 128 Intervale Road, Burlington VT 05401; (ii) proposed counsel to the Debtors, Cole Schotz, P.C. Attn. Gary H. Leibowitz (gleibowitz@coleschotz.com) 1201 Wills Street, Suite 320, Baltimore, MD 21231 and Patrick J. Reilley (preilley@coleschotz.com), 500 Delaware Avenue, Suite 600, Wilmington, DE 19801; (iii) counsel to BofA, (a) Chapman and Cutler, LLP, Attn. Daniel F. Flores (dflores@chapman.com) and J. Alex Kress (akress@chapman.com) 1270 Avenue of the Americas, 30th Floor, New York, NY 10020 and (b) Morris James, LLP, Attn. Carl Kunz (ckunz@morrisjames.com), 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801-1494; (iv) counsel to Northfield Savings Bank, Dinse, Attn: Afi Ahmadi (aahmadi@dinse.com), 209 Battery Street, Burlington, VT 05401; (v) counsel to the Committee, if any; (vi) the Office of the United States Trustee for District of Delaware, Region 3, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: Hannah McCollum; and (vii) any party that has requested notice pursuant to Bankruptcy Rule 2002.

25. *Retention of Jurisdiction*. The Court shall retain exclusive jurisdiction overall all matters pertaining to the implementation, interpretation, and enforcement of this Interim Order, including following confirmation and consummation of any chapter 11 plan for any one or more of the Debtors.

EXHIBIT 1

APPROVED BUDGET

AMERICA'S GARDENING RESOURCES, INC.

CASH COLLATERAL BUDGET

ACTUAL/FORECAST -->	*Fcst*	*Fcst*	*Fcst*	*Fcst*	*Fcst*
WEEK NUMBER -->	2	3	4	5	6
WEEK ENDING DATE -->	6/29/2025	7/6/2025	7/13/2025	7/20/2025	7/27/2025
CASH RECEIPTS					
REVENUE IN	1,239,000	1,135,000	926,000	964,000	862,000
TOTAL CASH RECEIPTS	**1,239,000**	**1,135,000**	**926,000**	**964,000**	**862,000**
OPERATING DISBURSEMENTS					
COST OF GOODS SOLD	-	756,000	414,000	316,000	306,000
SG&A EXPENSES	-	-	295,000	321,000	151,000
PAYROLL	-	415,000	5,000	427,000	115,000
UTILITIES	-	80,000	-	-	-
SALES TAX	-	-	-	218,000	103,000
LEASES/RENT		224,000			
TRANSPORTATION	-	893,000	216,000	225,000	201,000
OTHER EXPENSES	-	5,000	5,000	5,000	5,000
TOTAL OPERATING DISBURSEMENTS	**-**	**2,373,000**	**935,000**	**1,512,000**	**881,000**
OPERATING CASH FLOW	**1,239,000**	**(1,238,000)**	**(9,000)**	**(548,000)**	**(19,000)**
CAPEX	-	-	10,000	-	-
INSURANCE					
INTEREST	-	69,000	-	-	-
TOTAL NON-OPERATING DISBURSEMENTS	**-**	**69,000**	**10,000**	**-**	**-**
RESTRUCTURING					
PROFESSIONALS	-	55,000	55,000	55,000	55,000
CRITICAL VENDOR PAYMENT					
TRANSPORTATION MOTION		495,000			
UTILITY DEPOSITS	-	33,000	-	-	-
TOTAL RESTRUCTURING	-	583,000	55,000	55,000	55,000
TOTAL DISBURSEMENTS	**-**	**3,025,000**	**1,000,000**	**1,567,000**	**936,000**
NET CASH FLOW	**1,239,000**	**(1,890,000)**	**(74,000)**	**(603,000)**	**(74,000)**
BOOK CASH BEGINNING BALANCE	4,259,000	5,498,000	3,608,000	3,534,000	2,931,000
NET CASH FLOW	1,239,000	(1,890,000)	(74,000)	(603,000)	(74,000)
DRAWS					
BOOK CASH ENDING BALANCE	**5,498,000**	**3,608,000**	**3,534,000**	**2,931,000**	**2,857,000**

AMERICA'S GARDENING RESOURCES, INC.
PROFESSIONAL/RESTRUCTURING FEES

WE	25-May	1-Jun	8-Jun	15-Jun	FILING DATE 6/20/25 22-Jun	29-Jun	6-Jul	13-Jul	20-Jul	27-Jul	3-Aug	10-Aug	17-Aug	24-Aug	31-Aug	7-Sep	14-Sep		13-Week
	Pre -Filing	Pre -Filing	Pre -Filing	Pre -Filing	1	2	3	4	5	6	7	8	9	10	11	12	13		Total
PROFESSIONAL FEES INCURRED																			
COLE SCHOTZ	100,000	-	-	100,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000		**325,000**
AURORA MANAGEMENT PARTNERS	75,000	-	-	75,000	25,000	25,000	25,000	25,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000		**235,000**
TOWER PARTNERS	-	-	15,000	-	-	-	10,000	-	-	-	10,000	-	-	-	-	10,000	-		**30,000**
DEVINE MILLIMET	-	-	-	-	-	-	5,000	-	-	-	5,000	-	-	-	-	5,000	-		**15,000**
UCC PROFESSIONALS	-	-	-	-	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		**65,000**
LIEN INVESTIGATIONS FEE	-	-	-	25,000	-	-	-	-	-	-	-	-	-	25,000	-	-	-		**25,000**
CLAIM AGENT								30,000				30,000				20,000			**80,000**
SECURED LENDER'S PROFESSIONALS	-	-	-	-	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000		**195,000**
US TRUSTEE	-	-	-	-	-	-	-	-	-	61,000	-	-	-	-	-	-	-		**61,000**
TOTAL FEES INCURRED	**175,000**	**-**	**15,000**	**200,000**	**70,000**	**70,000**	**85,000**	**100,000**	**60,000**	**121,000**	**75,000**	**90,000**	**60,000**	**85,000**	**60,000**	**95,000**	**60,000**		**1,031,000**
PROFESSIONAL FEE PAYMENTS																			
COLE SCHOTZ	100,000	-	-	100,000	-	-	-	-	-	60,000	-	-	-	-	80,000	-	15,000		**155,000**
AURORA MANAGEMENT PARTNERS	75,000	-	-	75,000	-	-	-	-	-	60,000	-	-	-	-	56,000	-	15,000		**131,000**
TOWER PARTNERS	-	-	15,000	-	-	-	-	-	-	10,000	-	-	-	-	10,000	-	-		**20,000**
DEVINE MILLIMET	-	-	-	-	-	-	-	-	-	4,000	-	-	-	-	4,000	-	1,000		**9,000**
UCC PROFESSIONALS	-	-	-	-	-	-	-	-	-	12,000	-	-	-	-	16,000	-	3,000		**31,000**
LIEN INVESTIGATIONS FEE	-	-	-	-	-	-	-	-	-	-	-	-	-	25,000	-	-	-		**25,000**
CLAIM AGENT				25,000	-	-	-	30,000	-	-	-	30,000	-	-	-	20,000	-		**80,000**
SECURED LENDER'S PROFESSIONALS	-	-	-	-	-	-	-	-	-	36,000	-	-	-	-	48,000	-	9,000		**93,000**
US TRUSTEE	-	-	-	-	-	-	-	-	-	61,000	-	-	-	-	-	-	-		**61,000**
TOTAL PROFESSIONAL PAYMENTS	**175,000**	**-**	**15,000**	**200,000**	**-**	**-**	**-**	**30,000**	**-**	**243,000**	**-**	**30,000**	**-**	**25,000**	**214,000**	**20,000**	**43,000**		**605,000**
PROFESSIONAL FEE ESCROW AMOUNT																			
BEGINNING BALANCE	-	-	-	-	-	-	55,000	110,000	135,000	190,000	2,000	57,000	82,000	137,000	167,000	8,000	43,000		**-**
DEPOSITS	-	-	-	-	-	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000		**660,000**
PAYMENTS	-	-	-	-	-	-	-	(30,000)	-	(243,000)	-	(30,000)	-	(25,000)	(214,000)	(20,000)	(43,000)		**(605,000)**
ENDING BALANCE	**-**	**-**	**-**	**-**	**-**	**55,000**	**110,000**	**135,000**	**190,000**	**2,000**	**57,000**	**82,000**	**137,000**	**167,000**	**8,000**	**43,000**	**55,000**		**55,000**

NOTES:

- PROFESSIONAL/RESTRUCTURING FEES SCHEDULE HEREIN IS A CONTINUATION OF THE DIP BUDGET. THE INDIVIDUAL LINE ITEMS ABOVE WILL BE SUBJECT TO THE VARIANCE RESTRICTIONS AS SET FORTH IN THE DIP TERM SHEET.
- ASSUMES FEE ESCROW ACCOUNT IS ESTABLISHED FOR PROFESSIONAL FEES WITH WEEKLY ESTIMATED DEPOSITS AS NOTED ABOVE.
- ASSUME MONTHLY PAYMENT OF FEES AT 80% OF THE INVOICED AMOUNT AND 100% OF OUT OF POCKET EXPENSES INCURRED. QUARTERLY HOLDBACKS PAID END OF SUBSEQUENT QUARTER.
- U.S. TRUSTEE FEE IS PAID IN THE MONTH AFTER THE END OF A CALENDAR QUARTER.
- DIFFERENCE BETWEEN TOTAL DEPOSITS AND PAYMENTS WITHIN THE PROFESSIONAL FEE ESCROW ROLLFORWARD IS DUE TO ROUDNING.
- LIEN INVESTIGATION FEE OF $25m COLLECTED AND PAID THE WEEK OF 8/24 OR 60 DAYS FROM FILING.