

DISTRICT OF ALABAMA SOUTHERN DIVISION

In re Citation Corporation, <i>et al.</i> ,	Chapter 11 Case No.07-1153-TOM11 (Jointly Administered)
Debtors.	

INTERIM ORDER (I) AUTHORIZING DEBTORS (A) TO OBTAIN POST-PETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363, (II) GRANTING ADEQUATE PROTECTION TO PRE-PETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, 363 AND 364 AND (III) SCHEDULING FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(b) AND (c)

Upon the motion (the “**Motion**”), dated March 12, 2007, of Citation Corporation (the “**Borrower**”) and its affiliated debtors, each as debtor and debtor-in-possession (collectively, the “**Debtors**”), in the above-captioned cases (the “**Cases**”) pursuant to sections 105, 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “**Bankruptcy Code**”), and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), seeking, among other things:

- (1) authorization for the Borrower to obtain post-petition financing (the “**Financing**”), and for all of the other Debtors (the “**Guarantors**”) to guaranty the Borrower’s obligations in connection with the Financing, up to the aggregate principal amount of \$25,000,000 (the actual available principal amount at any time being subject to those conditions set forth in the DIP Documents (as defined below)), from JPMorgan

Chase Bank, N.A. (“**JPMCB**”), acting as Administrative Agent and Collateral Agent (in such capacities, the “**Agent**”), for itself and a syndicate of financial institutions (together with JPMCB and including the fronting and issuing banks for the letters of credit, the “**DIP Lenders**”) to be arranged by J.P. Morgan Securities Inc.;

(2) authorization for the Debtors to execute and enter into the DIP Documents and to perform such other and further acts as may be required in connection with the DIP Documents;

(3) the granting of adequate protection to the lenders (the “**Pre-Petition Secured Lenders**”) under or in connection with that certain Amended and Restated Credit Agreement, dated as of May 23, 2005 (as heretofore amended, supplemented or otherwise modified, the “**Pre-Petition Credit Agreement**”), among the Borrower, the lenders from time-to-time party thereto and JPMCB, as administrative agent for the Pre-Petition Secured Lenders (the “**Pre-Petition Agent**”), that certain Pre-Petition Revolver Lenders Security Agreement, dated as of May 23, 2005, between the Borrower and JPMCB as Collateral Agent (as heretofore amended, supplemented or otherwise modified, the “**Revolver Security Agreement**”), and that certain Term Lenders Security Agreement, dated as of May 23, 2005, between the Borrower and JPMCB as Collateral Agent (as heretofore amended, supplemented or otherwise modified and, collectively with the Revolver Security Agreement, the “**Security Agreements**”; the Pre-Petition Credit Agreement, the Security Agreements, and the mortgages and all other documentation executed in connection therewith (including, for the avoidance of doubt, all Security Documents (as defined in the Pre-Petition Credit Agreement)), the “**Existing Agreements**”), whose liens and security interests are being primed by the Financing;

(4) authorization for the Debtors to use cash collateral (as such term is defined in the Bankruptcy Code) in which the Pre-Petition Secured Lenders have an interest, and the

granting of adequate protection to the Pre-Petition Secured Lenders with respect to, *inter alia*, such use of their cash collateral and all use and diminution in the value of the Pre-Petition Collateral (as defined below);

(5) the granting of superpriority claims to the DIP Lenders payable from, and having recourse to, all pre-petition and post-petition property of the Debtors' estates and all proceeds thereof (including, subject only to and effective upon entry of the Final Order, any Avoidance Proceeds (as defined below)), subject to the Carve Out (as defined below);

(6) pursuant to Bankruptcy Rule 4001, that an interim hearing (the “**Interim Hearing**”) on the Motion be held before this Court to consider entry of the proposed interim order annexed to the Motion (the “**Interim Order**”) (a) authorizing the Borrower, on an interim basis, to forthwith borrow or obtain letters of credit from the DIP Lenders under the DIP Documents up to an aggregate principal or face amount not to exceed \$20,000,000 (subject to any limitations of borrowings under the DIP Documents), (b) authorizing the Debtors' use of cash collateral, and (c) granting the adequate protection described herein; and

(7) that this Court schedule a final hearing (the “**Final Hearing**”) to be held within 45 days of the entry of the Interim Order to consider entry of a final order authorizing the balance of the borrowings and letter of credit issuances under the DIP Documents on a final basis, as set forth in the Motion and the DIP Documents filed with this Court.

Notice of this Motion, the relief requested therein and the Interim Hearing has been given to (1) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, (2) the Agent, (3) the DIP Lenders, (4) the Pre-Petition Agent, (5) the Pre-Petition Secured

Lenders, (6) the Debtors' twenty (20) largest unsecured creditors (on a consolidated basis) and (7) the District Director of Internal Revenue Service for the Northern District of Alabama. The Debtors submit that given the circumstances and the notice of the relief requested herein, no other or further notice is required.

The Interim Hearing having been held by this Court on March 13, 2007.

Upon the record made by the Debtors at the Interim Hearing and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Jurisdiction.* This Court has core jurisdiction over the Cases, this Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. *Notice.* Under the circumstances, the notice given by the Debtors of the Motion and the Interim Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 4001(b) and (c).

3. *Debtors' Stipulations.* Without prejudice to the rights of any other party (but subject to the limitations thereon contained in paragraph 17), the Debtors admit, stipulate and agree that:

(a) (i) as of the filing of the Debtors' chapter 11 petitions (the "**Petition Date**"), the Borrower was indebted and liable to the Pre-Petition Secured Lenders, without defense, counterclaim or offset of any kind, (x) in the aggregate principal amount of approximately \$38,779,508.32 in respect of revolving loans (including any swingline loans) made, (y) in the aggregate principal amount of approximately \$12,652,719.97 in respect of letters of credit issued and (z) in the aggregate principal amount of approximately \$192,887,160.87 in respect of term loans made, in each case, by the Pre-Petition Secured Lenders pursuant to, and in accordance

with the terms of, the Existing Agreements, plus, in each case, interest thereon and fees, expenses (including any attorneys', accountants', appraisers' and financial advisors' fees that are chargeable or reimbursable under the Existing Agreements), charges and other obligations incurred in connection therewith as provided in the Existing Agreements (collectively, the "**Pre-Petition Debt**"), (ii) the Pre-Petition Debt constitutes the legal, valid and binding obligation of the Debtors, enforceable in accordance with its terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code), (iii) no portion of the Pre-Petition Debt is subject to avoidance, recharacterization, recovery or subordination pursuant to the Bankruptcy Code or applicable nonbankruptcy law and (iv) the Debtors do not have, and hereby forever release, any claims, counterclaims, causes of action, defenses or setoff rights, whether arising under the Bankruptcy Code or otherwise, against the Pre-Petition Secured Lenders, the Pre-Petition Agent and their respective affiliates, agents, officers, directors, employees and attorneys;

(b) the liens and security interests granted to the Pre-Petition Agent pursuant to and in connection with the Existing Agreements (including, without limitation, all security agreements, pledge agreements, mortgages, deeds of trust and other security documents executed by any of the Debtors in favor of the Pre-Petition Agent, for its benefit and for the benefit of the Pre-Petition Secured Lenders) in connection with the Existing Agreements, are (i) valid, binding, perfected, enforceable, first-priority liens and security interests in the personal and real property described in the Existing Agreements (the "**Pre-Petition Collateral**"), (ii) not subject to avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or applicable nonbankruptcy law and (iii) subject and subordinate only to (A) the DIP Liens (as defined below), (B) the Carve Out (as defined below) to which the DIP Liens are subject

and (C) valid, perfected and unavoidable liens permitted under the Existing Agreements to the extent such permitted liens are senior to or *pari passu* with the liens of the Pre-Petition Agent on the Pre-Petition Collateral; and

(c) the aggregate value of the Revolver Lenders' (as defined in the Pre-Petition Credit Agreement, hereinafter referred to as the "**Pre-Petition Revolver Lenders**") interest in the Pre-Petition Collateral substantially exceeds the aggregate amount of the Pre-Petition Debt held by the Pre-Petition Revolver Lenders.

4. Findings Regarding the Financing.

(a) Good cause has been shown for the entry of this Interim Order.

(b) The Debtors have an immediate need to obtain the Financing and use Cash Collateral (as defined below) in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures and to satisfy other working capital and operational needs. The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral, incurrence of new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the going concern values of the Debtors and to a successful reorganization of the Debtors.

(c) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without the Debtors granting to the Agent and the DIP Lenders, subject to the Carve Out

as provided for herein, the DIP Liens and the Superpriority Claims (as defined below) under the terms and conditions set forth in this Order and in the DIP Documents.

(d) The terms of the Financing and the use of Cash Collateral are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

(e) The Financing has been negotiated in good faith and at arm's length among the Debtors, the Agent and the DIP Lenders, and all of the Debtors' obligations and indebtedness arising under, in respect of or in connection with the Financing and the DIP Documents, including without limitation, (i) all loans made to, and all letters of credit issued for the account of, the Debtors pursuant to the Revolving Credit Agreement substantially in the form attached as Exhibit A to the Motion (the "**DIP Credit Agreement**"), and (ii) any "**Obligations**" (as defined in the DIP Credit Agreement), including credit extended in respect of overdrafts and related liabilities and other depository, treasury, and cash management services and other clearing services provided by JPMCB or its affiliates (all of the foregoing in clauses (i) and (ii) collectively, the "**DIP Obligations**"), shall be deemed to have been extended by the Agent and the DIP Lenders and their affiliates in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

(f) The Debtors have requested entry of this Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2). Absent granting the relief sought by this Order, the Debtors' estates will be immediately and irreparably harmed. Consummation

of the Financing and the use of Cash Collateral in accordance with this Order and the DIP Documents is therefore in the best interest of the Debtors' estates.

5. Authorization of the Financing and the DIP Documents.

(a) The Debtors are hereby authorized to enter into the DIP Documents. The Borrower is hereby authorized to borrow money and obtain letters of credit pursuant to the DIP Credit Agreement, and the Guarantors are hereby authorized to guaranty such borrowings and the Borrower's obligations with respect to such letters of credit, up to an aggregate principal or face amount of \$20,000,000 (plus interest, fees and other expenses and amounts provided for in the DIP Documents), in accordance with the terms of this Order and the DIP Documents, which shall be used for all purposes permitted under the DIP Documents, including, without limitation, to provide working capital for the Borrower and the Guarantors and to pay interest, fees and expenses in accordance with this Order and the DIP Documents. In addition to such loans and obligations, the Debtors are authorized to incur overdrafts and related liabilities arising from treasury, depository and cash management services including any automated clearing house fund transfers provided to or for the benefit of the Debtors by JPMCB or any of its affiliates; *provided, however*, that nothing herein shall require JPMCB or any other party to incur overdrafts or to provide any such services or functions to the Debtors.

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the Financing, including, without limitation:

(i) the execution, delivery and performance of the Loan

Documents (as defined in the DIP Credit Agreement) and any exhibits attached thereto, including, without limitation, the DIP Credit Agreement, the Security Agreement (as defined in the DIP Credit Agreement) and any mortgages contemplated thereby (collectively, and together with the letter agreements referred to in clause (iii) below, the “**DIP Documents**”),

(ii) the execution, delivery and performance of one or more amendments to the DIP Credit Agreement for, among other things, the purpose of adding additional financial institutions as DIP Lenders and reallocating the commitments for the Financing among the DIP Lenders, in each case in such form as the Debtors, the Agent and the DIP Lenders may agree (it being understood that no further approval of the Court shall be required for amendments to the DIP Credit Agreement that do not shorten the maturity of the extensions of credit thereunder or increase the commitments, the rate of interest or the letter of credit fees payable thereunder),

(iii) the non-refundable payment to the Agent or the DIP Lenders, as the case may be, of the fees referred to in the DIP Credit Agreement (and in any separate letter agreements between them in connection with the Financing) and reasonable costs and expenses as may be due from time to time, including, without limitation, fees and expenses of the professionals retained as provided for in the DIP Documents, and

(iv) the performance of all other acts required under or in connection with the DIP Documents.

(c) Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute valid and binding obligations of the Debtors, enforceable against each Debtor party thereto in accordance with the terms of the DIP Documents. No obligation, payment, transfer or grant of security under the DIP Documents or this Order

shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under section 502(d) of the Bankruptcy Code), or subject to any defense, reduction, setoff, recoupment or counterclaim.

6. Superpriority Claims.

(a) Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed claims against the Debtors with priority over any and all administrative expenses, diminution claims (including all Adequate Protection Obligations (as defined below)) and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (the “**Superpriority Claims**”), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtors and all proceeds thereof, subject only to the payment of the Carve Out to the extent specifically provided for herein.

(b) For purposes hereof, the “**Carve Out**” means (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the Office of the Bankruptcy Administrator under section 1930(a) of title 28 of the United States Code and (ii) after the occurrence and during the continuance of an Event of Default (as defined in the DIP Credit Agreement) an amount not exceeding \$2,000,000 in the aggregate, which amount may be used subject to the terms of this Order, including, without limitation, paragraph 17 hereof, to pay any fees or expenses incurred by the Debtors and any statutory committees appointed in the Cases (each, a “**Committee**”) that remain unpaid

subsequent to the payment, pro rata with other nonpriority administrative creditors, of such fees and expenses from available funds remaining in the Debtors' estates for such creditors, in respect of (A) allowances of compensation for services rendered or reimbursement of expenses awarded by the Bankruptcy Court to the Debtors' or any Committee's professionals and (B) the reimbursement of expenses allowed by the Bankruptcy Court incurred by Committee members in the performance of their duties (but excluding fees and expenses of third party professionals employed by such members); *provided, however*, (w) that notwithstanding the foregoing, \$900,000 of such \$2,000,000 Carve Out amount shall be available solely for the payment of unpaid fees and expenses incurred by Latham & Watkins LLP, (x) that the dollar limitation in this clause 6(b)(ii) on fees and disbursements shall neither be reduced nor increased by the amount of any compensation or reimbursement of expenses incurred, awarded or paid prior to the occurrence of an Event of Default in respect of which the Carve Out is invoked or by any fees, expenses, indemnities or other amounts paid to any Agent, Lender or their respective attorneys and agents under the DIP Credit Agreement or otherwise, (y) that nothing herein shall be construed to impair the ability of any party to object to any of the fees, expenses, reimbursement or compensation described in clauses (A) and (B) above and (z) that cash or other amounts on deposit in the Letter of Credit Collateral Account (as defined in the DIP Credit Agreement), shall not be subject to the Carve Out.

7. DIP Liens.

As security for the DIP Obligations, effective and perfected upon the date of this Order and without the necessity of the execution, recordation of filings by the Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the Agent of, or

over, any Collateral (as defined below), the following security interests and liens are hereby granted to the Agent for its own benefit and the benefit of the DIP Lenders (all property identified in clauses (a), (b) and (c) below being collectively referred to as the “**Collateral**”),¹ subject to the payment of the Carve Out (all such liens and security interests granted to the Agent, for its benefit and for the benefit of the DIP Lenders, pursuant to this Order and the DIP Documents, the “**DIP Liens**”):

(a) First Lien on Cash Balances and Unencumbered Property.

Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all pre- and post-petition property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected and non-avoidable liens (collectively, “**Unencumbered Property**”), including without limitation, all cash and cash collateral of the Debtors (whether maintained with the Agent or otherwise) and any investment of such cash and cash collateral, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, capital stock of subsidiaries, and the proceeds of all the foregoing. Unencumbered Property shall exclude the Debtors’ claims and causes of action under sections 502(d), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, “**Avoidance Actions**”), but,

¹ Notwithstanding anything contained herein to the contrary, the Borrower and the Guarantors shall not be required to pledge to the Agent in excess of 65% of the voting capital stock of its direct foreign subsidiaries or any of the capital stock or interests of indirect foreign subsidiaries (if, in the good faith judgment of the Borrower, adverse tax consequences would result to the Borrower).

subject only to and effective upon entry of the Final Order, shall include any proceeds or property recovered, unencumbered or otherwise the subject of successful Avoidance Actions, whether by judgment, settlement or otherwise, (“**Avoidance Proceeds**”).

(b) Liens Priming Pre-Petition Secured Lenders’ Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all pre- and post-petition property of the Debtors (including, without limitation, cash collateral, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, capital stock of subsidiaries, and the proceeds of all the foregoing), whether now existing or hereafter acquired, that is subject to the existing liens presently securing the Pre-Petition Debt (including in respect of issued but undrawn letters of credit). Such security interests and liens shall be senior in all respects to the interests in such property of the Pre-Petition Secured Lenders arising from current and future liens of the Pre-Petition Secured Lenders (including, without limitation, adequate protection liens granted hereunder), but shall not be senior to any valid, perfected and unavoidable interests of other parties arising out of liens, if any, on such property existing immediately prior to the Petition Date, or to any valid, perfected and unavoidable interests in such property arising out of liens to which the liens of the Pre-Petition Secured Lenders become subject subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

(c) Liens Junior to Certain Other Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected security interest in and lien upon all pre- and post-petition property of the Debtors (other

than the property described in clauses (a) or (b) of this paragraph 7, as to which the liens and security interests in favor of the Agent will be as described in such clauses), whether now existing or hereafter acquired, that is subject to valid, perfected and unavoidable liens in existence immediately prior to the Petition Date or to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which security interests and liens in favor of the Agent are junior to such valid, perfected and unavoidable liens.

(d) Liens Senior to Certain Other Liens. The DIP Liens and the Adequate Protection Liens (as defined below) shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (ii) any liens arising after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors.

8. Protection of DIP Lenders' Rights.

(a) So long as there are any borrowings or letters of credit or other amounts (other than contingent indemnity obligations as to which no claim has been asserted when all other amounts have been paid and no letters of credit are outstanding) outstanding, or the DIP Lenders have any Revolving Commitments (as defined in the DIP Credit Agreement, the "**DIP Commitments**") under the DIP Credit Agreement, the Pre-Petition Agent and Pre-Petition Secured Lenders shall (i) take no action to foreclose upon or recover in connection with the liens granted thereto pursuant to the Existing Agreements or this Order, or otherwise exercise remedies against any Collateral, except to the extent authorized by an order of this Court; (ii) be deemed to have consented to

any release of Collateral authorized under the DIP Documents; and (iii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the Collateral unless, solely as to this clause (iii), the DIP Lenders file financing statements or other documents to perfect the liens granted pursuant to this Order, or as may be required by applicable state law to continue the perfection of valid and unavoidable liens or security interests as of the Filing Date.

(b) The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the Agent and the DIP Lenders to exercise, (i) immediately upon the occurrence of an Event of Default, all rights and remedies under the DIP Documents other than those rights and remedies against the Collateral as provided in clause (ii) below and (ii) upon the occurrence and during the continuance of an Event of Default and the giving of five business days prior notice to the Debtors, all rights and remedies against the Collateral provided for in the DIP Documents (including, without limitation, the right to setoff monies of the Debtors in accounts maintained with the Agent or any DIP Lender). In any hearing regarding any exercise of rights or remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred and is continuing, and the Debtors and the Pre-Petition Secured Lenders hereby waive their right to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the Agent or the DIP Lenders set forth in this Order or the DIP Documents. In no event shall the Agent, the DIP Lenders, the Pre-Petition Agent or the Pre-Petition Secured Lenders be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the Collateral.

9. *Limitation on Charging Expenses Against Collateral.* Except to the extent of the Carve Out, no expenses of administration of the Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the Agent or the Pre-Petition Agent, as the case may be, and no such consent shall be implied from any other action, inaction, or acquiescence by the Agent, the DIP Lenders, the Pre-Petition Agent or the Pre-Petition Secured Lenders.

10. *The Cash Collateral.* To the extent any funds were on deposit with any Pre-Petition Secured Lender as of the Petition Date, including, without limitation, all funds deposited in, or credited to, an account of any Debtor with any Pre-Petition Secured Lender immediately prior to the filing of the Debtors' bankruptcy petitions (the "**Petition Time**") (regardless of whether, as of the Petition Time, such funds had been collected or made available for withdrawal by any such Debtor), such funds (the "**Deposited Funds**") are subject to rights of setoff. By virtue of such setoff rights, the Deposited Funds are subject to a lien in favor of such Pre-Petition Secured Lenders pursuant to sections 506(a) and 553 of the Bankruptcy Code. The Pre-Petition Secured Lenders are obligated, to the extent provided in the Existing Agreements, to share the benefit of such liens and setoff rights with the other Pre-Petition Secured Lenders party to such Existing Agreements. Any proceeds of the Pre-Petition Collateral (including the Deposited Funds or any other funds on deposit at the Pre-Petition Secured Lenders or at any other institution as of the Petition Date) are cash collateral of the Pre-Petition Secured Lenders within the meaning of section 363(a) of the Bankruptcy Code. The Deposited Funds and all such proceeds of Pre-Petition Collateral are referred to herein as "**Cash Collateral.**"

11. *Use of Cash Collateral.* The Debtors are hereby authorized to use all Cash Collateral of the Pre-Petition Secured Lenders, and the Pre-Petition Secured Lenders are directed promptly to turn over to the Debtors all Cash Collateral received or held by them, *provided* that the Pre-Petition Secured Lenders are granted adequate protection as hereinafter set forth. The Debtors' right to use Cash Collateral shall terminate (a) automatically on the Termination Date (as defined in the DIP Credit Agreement) or (b) unless the Required Revolver Lenders (as defined in the Pre-Petition Credit Agreement) consent in writing to an extension of the Debtors' right to use Cash Collateral, (i) 90 days following the Petition Date or (ii) if the Borrowing Base Shortfall exceeds the sum of the Revolving Exposures under and as defined in the DIP Credit Agreement plus \$5 million. "**Borrowing Base Shortfall**" means at any time the amount by which (x) the sum of the Revolving Exposures under and as defined in the Pre-Petition Credit Agreement plus the Revolving Exposures under and as defined in the DIP Credit Agreement exceeds (y) the sum of the Borrowing Base (as defined in the DIP Credit Agreement) plus any remaining proceeds of Borrowing Base Collateral (as defined in the DIP Credit Agreement). In addition, if the Borrower voluntarily terminates the Revolving Commitment prior to the Revolving Maturity Date (as each such term is defined in the DIP Credit Agreement), the Debtors shall, for the benefit of the Pre-Petition Secured Lenders, continue to comply with the requirements of Articles 5 and 6 of the DIP Credit Agreement and, upon any failure by the Debtors to observe any such requirement or upon the occurrence of any event that would have constituted an Event of Default under the DIP Credit Agreement prior to the termination of the DIP Commitment, the Pre-Petition Agent, upon direction of the Required Lenders (as defined in the Pre-Petition Credit Agreement), shall have the immediate right to terminate the Debtors' right to use Cash Collateral.

12. *Adequate Protection.* The Pre-Petition Secured Lenders are entitled, pursuant to sections 361, 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of their interest in the Pre-Petition Collateral, including the Cash Collateral, for and equal in amount to the aggregate diminution in the value of the Pre-Petition Secured Lenders' interest in the Pre-Petition Collateral, including, without limitation, any such diminution resulting from the sale, lease or use by the Debtors (or other decline in value) of Cash Collateral and any other Pre-Petition Collateral, the priming of the Pre-Petition Agent's security interests and liens in the Pre-Petition Collateral by the Agent and the DIP Lenders pursuant to the DIP Documents and this Order, and the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Pre-Petition Agent and the Pre-Petition Secured Lenders are hereby granted the following (collectively, the "**Adequate Protection Obligations**"):

(a) Adequate Protection Liens. The Pre-Petition Agent (for itself and for the benefit of the Pre-Petition Secured Lenders) is hereby granted (effective and perfected upon the date of this Order and without the necessity of the execution by the Debtors of mortgages, security agreements, pledge agreements, financing statements or other agreements) a replacement security interest in and lien upon all the Collateral, subject and subordinate only to (i) the security interests and liens granted to the Agent for the benefit of the DIP Lenders in this Order and pursuant to the DIP Documents and any liens on the Collateral to which such liens so granted to the Agent are junior and (ii) the Carve Out (such security interests and liens in favor of the Pre-Petition Revolver Lenders, the "**Revolver Lender Adequate Protection Lien**" and such security interests and liens in favor of the Term Lenders (as defined in the Pre-Petition Credit Agreement, hereinafter referred to as the "**Pre-Petition Term Lenders**"), the "**Term Lender Adequate Protection Lien**" and, together with the Revolving Lender Adequate

Protection Lien, the “**Adequate Protection Liens**”). The Revolver Lender Adequate Protection Lien on all pre- and post-petition Borrowing Base Collateral (as defined in the Pre-Petition Credit Agreement) shall be senior to the Term Lender Adequate Protection Lien thereon. The Revolver Lender Adequate Protection Lien on all pre- and post-petition Other Collateral (as defined in the DIP Credit Agreement), shall, solely to the extent of any Borrowing Base Shortfall, be senior to the pre- and post-petition liens securing the Pre-Petition Term Loans (including, without limitation, the Term Lender Adequate Protection Lien) thereon and shall otherwise be junior to the Term Lender Adequate Protection Lien thereon;

(b) Section 507(b) Claim. The Pre-Petition Agent and the Pre-Petition Secured Lenders are hereby granted, subject to the payment of the Carve Out, a superpriority claim as provided for in section 507(b) of the Bankruptcy Code, immediately junior to the claims under section 364(c)(1) of the Bankruptcy Code held by the Agent and the DIP Lenders; *provided, however*, that the Pre-Petition Agent and the Pre-Petition Secured Lenders shall not receive or retain any payments, property or other amounts in respect of the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder or under the Existing Agreements unless and until the DIP Obligations have indefeasibly been paid in cash in full; *provided, further*, that the superpriority claims under section 507(b) of the Bankruptcy Code granted hereunder to the Pre-Petition Revolver Lenders, on the one hand, and the Pre-Petition Term Lenders, on the other, shall have the same relative priority as between the Pre-Petition Revolver Lenders and the Pre-Petition Term Lenders as their liens on the Collateral to which such superpriority claims relate;

(c) Interest, Fees and Expenses. (i) The Pre-Petition Agent shall receive from the Debtors (x) for the benefit of the Pre-Petition Revolver Lenders,

immediate cash payment of all accrued and unpaid interest on the Pre-Petition Revolving Loans (as defined below) and letter of credit fees at the non-default rates provided for in the Existing Agreements, and all other accrued and unpaid fees and disbursements (including, but not limited to, fees owed to the Pre-Petition Agent) owing to the Pre-Petition Agent under the Existing Agreements and incurred prior to the Petition Date, (y) current cash payments of all fees and expenses payable to the Pre-Petition Agent under the Existing Agreements, including, but not limited to, the reasonable fees and disbursements of counsel, financial and other consultants for the Pre-Petition Agent promptly upon receipt of invoices therefor and (z) for the benefit of the Pre-Petition Revolver Lenders, on the first business day of each month, all accrued but unpaid interest on the Pre-Petition Revolving Loans, and letter of credit and other fees at the non-default contract rate applicable on the Petition Date (including LIBOR pricing options available in accordance with the Existing Agreements) under the Existing Agreements (the “**Non-Default Rate**”), *provided* that, without prejudice to the rights of any other party to contest such assertion, the Pre-Petition Secured Lenders reserve their rights to assert claims for the payment of additional interest calculated at any other applicable rate of interest (including, without limitation, default rates), or on any other basis, provided for in the Existing Agreements, and for the payment of any other amounts provided for in the Existing Agreements; *provided, further*, that, if there has been no Event of Default (as defined in the DIP Credit Agreement) and the effective date (the “**Effective Date**”) of the Debtors’ plan of reorganization in the form accepted by all of the Pre-Petition Revolver Lenders, occurs within 90 days after the Petition Date, the Pre-Petition Revolver Lenders will be deemed to have waived any additional interest calculated at any other applicable rate of interest (including, without limitation, default rates) accruing during the pendency of the Cases;

(d) Segregation of Cash Collateral. All Net Proceeds of Other Collateral (as each such term is defined in the Pre-Petition Credit Agreement) shall be deposited in a segregated account (the “**Other Collateral Account**”), and any cash otherwise received by the Debtors shall be conclusively and finally presumed to be proceeds of Borrowing Base Collateral (as defined in the Pre-Petition Credit Agreement). The Net Proceeds of Other Collateral shall be used, first, to pay in full any outstanding DIP Obligations and, thereafter, may be used by the Borrower for general corporate purposes, but solely to the extent the borrower continues to be authorized to use Cash Collateral pursuant to paragraph 11 of this Order. If there are no funds in the Other Collateral Account, the proceeds of the Borrowing Base Collateral shall be used, first, to pay in full any outstanding DIP Obligations and, second, by the Debtors for general corporate purposes;

(e) Take-Out Election. At any time, some or all of the Pre-Petition Term Lenders may (without any further consent of the Pre-Petition Revolver Lenders or the DIP Lenders) elect (such election, a “**Take-Out Election**”), by the delivery to the Agent and the Pre-Petition Agent of a notice, in form and substance reasonably satisfactory to the Agent and the Pre-Petition Agent (a “**Take-Out Notice**”), to (i) purchase through assignment, at par plus accrued interest (with respect to the Pre-Petition Revolving Loans, at the Non-Default Rate), fees and expenses, all of the Revolving Loans and Swingline Loans under and as defined in the Existing Agreements (collectively, the “**Pre-Petition Revolving Loans**”) and all of the Revolving Loans and Swingline Loans under and as defined in the DIP Credit Agreement, (ii) assume the DIP Commitments and (iii) cash collateralize or replace any outstanding letters of credit (whether issued under the DIP Documents or the Existing Agreements) in a manner reasonably satisfactory to the issuing bank (collectively, (i), (ii) and (iii) referred to as the

“**Take-Out Transaction**”); *provided*, that if a Take-Out Notice is so delivered and not withdrawn, the Take-Out Transaction must be consummated in its entirety; *provided, further*, that promptly after receiving a Take-Out Notice, the Pre-Petition Agent shall notify each Pre-Petition Term Lender that a Take-Out Election has been made, and each Pre-Petition Term Lender shall be afforded the opportunity to participate pro rata in the Take-Out Transaction, with allocations to be determined based on the amount of Term Loans (as defined in the Pre-Petition Credit Agreement, the “**Pre-Petition Term Loans**”) held by such Pre-Petition Term Lender relative to the aggregate amount of Pre-Petition Term Loans held by Pre-Petition Term Lenders that participate in the Take-Out Transaction.

(f) Monitoring of Collateral. The Pre-Petition Secured Lenders shall be permitted to retain expert consultants and financial advisors at the expense of the Debtors to the extent provided in Section 9.03 of the Pre-Petition Credit Agreement, which consultants and advisors shall be given reasonable access for purposes of monitoring the business of the Debtors and the value of the Collateral; and

(g) Information. The Debtors shall provide the Pre-Petition Agent with any written financial information or periodic reporting that is provided to, or required to be provided to, the Agent or the DIP Lenders.

13. *Reservation of Rights of Pre-Petition Secured Lenders.* Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is, at the current time, reasonable and sufficient to protect the interests of the Pre-Petition Secured Lenders. However, the Pre-Petition Agent and the Pre-Petition Secured Lenders may request further or different adequate protection, and the Debtors or any other party may contest any such request. Except as expressly

provided herein, nothing contained in this Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to the Pre-Petition Agent, any Pre-Petition Secured Lender, the Agent or any DIP Lender including, without limitation, rights of a party to a swap agreement, securities contract, commodity contract, forward contract or repurchase agreement with a Debtor to assert rights of setoff or other rights with respect thereto as permitted by law (or the right of a Debtor to contest such assertion).

14. Perfection of DIP Liens and Adequate Protection Liens.

(a) Subject to the provisions of paragraph 8(a) above, the Agent, the DIP Lenders, the Pre-Petition Agent and the Pre-Petition Secured Lenders 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. Whether or not the Agent on behalf of the DIP Lenders or the Pre-Petition Agent on behalf of the Pre-Petition Secured Lenders 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 them hereunder, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge dispute or subordination, at the time and on the date of entry of this Order. Upon the request of the Agent, each of the Pre-Petition Agent and Pre-Petition Secured Lenders, without any further consent of any party, is authorized to take, execute, deliver and file such instruments (in each case without representation or warranty of any kind) to enable the Agent to further validate, perfect, preserve and enforce DIP Liens.

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

(c) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other post-petition collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code. Any such provision shall have no force and effect with respect to the transactions granting post-petition liens, in such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor, in favor of the DIP Lenders in accordance with the terms of the DIP Credit Agreement or this Order.

15. Preservation of Rights Granted Under the Order.

(a) No claim or lien having a priority superior to or *pari passu* with those granted by this Order to the Agent and the DIP Lenders or to the Pre-Petition Agent and the Pre-Petition Secured Lenders, respectively, shall be granted or allowed while any portion of the Financing (or any refinancing thereof), the DIP Commitments, the DIP Obligations or the Adequate Protection Obligations remain outstanding, and the DIP Liens and the Adequate Protection Liens shall not be (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code or (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or

otherwise.

(b) Unless all DIP Obligations shall have been paid in full (and, with respect to outstanding letters of credit issued pursuant to the DIP Credit Agreement, cash collateralized in accordance with the provisions of the DIP Credit Agreement) and the Adequate Protection Obligations shall have been paid in full, the Debtors shall not seek, and it shall constitute an Event of Default and terminate the right of the Debtors to use Cash Collateral if any of the Debtors seeks, or if there is entered, (i) any modifications or extensions of this Order without the prior written consent of the Agent, and no such consent shall be implied by any other action, inaction or acquiescence by the Agent, or (ii) an order converting or dismissing any of the Cases. If an order dismissing any of the Cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the Superpriority Claims, priming liens, security interests and replacement security interests granted to the Agent and the DIP Lenders and, as applicable, the Pre-Petition Agent and the Pre-Petition Lenders pursuant to this Order shall continue in full force and effect and shall maintain their priorities as provided in this Order until all DIP Obligations and Adequate Protection Obligations shall have been paid and satisfied in full (and that such Superpriority Claims, priming liens and replacement security interests, shall, notwithstanding such dismissal, remain binding on all parties in interest) and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in (i) above.

(c) If any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacation shall not affect (i) the validity of any DIP Obligations or Adequate Protection Obligations incurred prior to the actual receipt of written notice by the Agent or Pre-Petition Agent, as applicable,

of the effective date of such reversal, stay, modification or vacation or (ii) the validity or enforceability of any lien or priority authorized or created hereby or pursuant to the DIP Credit Agreement with respect to any DIP Obligations or Adequate Protection Obligations. Notwithstanding any such reversal, stay, modification or vacation, any use of Cash Collateral, or DIP Obligations or Adequate Protection Obligations incurred by the Debtors to the Agent, the DIP Lenders, the Pre-Petition Agent or the Pre-Petition Secured Lenders prior to the actual receipt of written notice by the Agent and Pre-Petition Agent of the effective date of such reversal, stay, modification or vacation shall be governed in all respects by the original provisions of this Order, and the Agent, DIP Lenders, Pre-Petition Agent and Pre-Petition Secured Lenders shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code, this Order and pursuant to the DIP Documents with respect to all uses of Cash Collateral, DIP Obligations and Adequate Protection Obligations.

(d) Except as expressly provided in this Order or in the DIP Documents, the DIP Liens, the Superpriority Claims and all other rights and remedies of the Agent and the DIP Lenders granted by the provisions of this Order and the DIP Documents shall survive, and shall not be modified, impaired or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, or (ii) the entry of an order confirming a plan of reorganization in any of the Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations. The terms and provisions of this Order and the DIP Documents shall continue in these Cases, in any successor cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens, the Superpriority Claims and all other rights

and remedies of the Agent and the DIP Lenders granted by the provisions of this Order and the DIP Documents shall continue in full force and effect until the DIP Obligations are indefeasibly paid in full.

16. *Effect of Stipulations on Third Parties.* The stipulations and admissions contained in this Order, including, without limitation, in paragraph 3 of this Order, shall be binding upon the Debtors in all circumstances. The stipulations and admissions contained in this Order, including, without limitation, in paragraph 3 of this Order, shall be binding upon all other parties in interest, including, without limitation, any Committee, unless (a) a party in interest has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in paragraph 17) by no later than the date that is 60 days after the appointment of an Official Committee of Unsecured Creditors (the “**Creditors’ Committee**”) if one is appointed in the Cases (or, if earlier, 5 days prior to commencement of the hearing on confirmation of a plan of reorganization in any of the Cases) or such later date (x) as has been agreed to, in writing, by the Pre-Petition Agent in its sole discretion or (y) as has been ordered by the Court (i) challenging the validity, enforceability, priority or extent of the Pre-Petition Debt or the Pre-Petition Agent’s or the Pre-Petition Secured Lenders’ liens on the Pre-Petition Collateral or (ii) otherwise asserting or prosecuting any action for preferences, fraudulent conveyances, other avoidance power claims or any other any claims, counterclaims or causes of action, objections, contests or defenses (collectively, “**Claims and Defenses**”) against the Pre-Petition Agent or any of the Pre-Petition Secured Lenders or their affiliates, representatives, attorneys or advisors in connection with matters related to the Existing Agreements, the Pre-Petition Debt, the Pre-Petition Collateral, and (b) there is a final order in favor of the plaintiff sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter, *provided* that, in the case of

the Debtors, all such Claims and Defenses are hereby irrevocably waived and relinquished by the Debtors as of the Petition Date. If no such adversary proceeding or contested matter is timely filed, (x) the Pre-Petition Debt and all related obligations of the Debtors (the “**Pre-Petition Obligations**”) shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in the Cases and any subsequent chapter 7 cases, (y) the Pre-Petition Agent’s and the Pre-Petition Secured Lenders’ liens on the Pre-Petition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected, not subject to recharacterization, subordination or avoidance and (z) the Pre-Petition Obligations, the Pre-Petition Agent’s and the Pre-Petition Secured Lenders’ liens on the Pre-Petition Collateral and the Pre-Petition Agent and the Pre-Petition Secured Lenders shall not be subject to any other or further challenge by any party in interest seeking to exercise the rights of the Debtors’ estates, including, without limitation, any successor thereto (including, without limitation, any chapter 7 or 11 trustee appointed or elected for any of the Debtors). If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph 3 of this Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any official committee (including the Creditors’ Committee, if any) and on any other person or entity, except to the extent that such findings and admissions were expressly challenged in such adversary proceeding or contested matter. Nothing in this Order vests or confers on any Person (as defined in the Bankruptcy Code), including any Committee, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation, Claims and Defenses with respect to the Existing Agreements or the Pre-Petition Obligations.

17. *Limitation on Use of Financing Proceeds and Collateral.*

Notwithstanding anything herein or in any other order by this Court to the contrary, no borrowings, letters of credit, Cash Collateral, Collateral or the Carve Out may be used to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the DIP Documents or the Existing Agreements, or the liens or claims granted under this Order, the DIP Documents or the Existing Agreements, (b) assert any Claims or Defenses or causes of action against the Agent, the DIP Lenders, the Pre-Petition Agent or the Pre-Petition Secured Lenders or their respective agents, affiliates, representatives, attorneys or advisors, (c) prevent, hinder or otherwise delay the Agent's or the Pre-Petition Agent's assertion, enforcement or realization on the Cash Collateral or the Collateral in accordance with the DIP Documents, the Existing Agreements or this Order, (d) seek to modify any of the rights granted to the Agent, the DIP Lenders, the Pre-Petition Agent or the Pre-Petition Secured Lenders hereunder or under the DIP Documents or the Existing Agreements, in each of the foregoing cases without such parties' prior written consent or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are approved by an Order of this Court.

18. *Priorities Among Pre-Petition Secured Lenders.* Except as otherwise provided herein or in any other order of this Court, in determining the relative priorities and rights of the Pre-Petition Secured Lenders, such priorities and rights shall continue to be governed by the Existing Agreements.

19. *JPMCB as Administrative Agent and Collateral Agent.* To the extent JPMCB, in its role as Administrative Agent or Collateral Agent under the Existing Agreements, is the secured party under any Existing Agreement or listed as loss payee under the Debtors' insurance policies as required under either Security Agreement, JPMCB, in its role as Administrative Agent or Collateral Agent under the DIP Credit

Agreement, is also deemed to be the secured party under such Existing Agreement or loss payee under the Debtors' insurance policies, and shall act in that capacity and distribute any proceeds recovered or received first, for the benefit of the DIP Lenders in accordance with the DIP Credit Agreement and second, subsequent to indefeasible payment in full of all DIP Obligations, for the benefit of the Pre-Petition Secured Lenders under the Existing Agreements.

20. *Maintenance of Accounts.* The Debtors shall maintain all of their deposit, checking, concentration, operating, disbursement and other accounts with the Agent (or any affiliate thereof) or another financial institution acceptable to the Agent in its sole discretion.

21. *Order Governs.* In the event of any inconsistency between the provisions of this Order and the DIP Documents, the provisions of this Order shall govern.

22. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions of this Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including, without limitation, the Agent, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Secured Lenders, any Committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors) and shall inure to the benefit of the Agent, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Secured Lenders and the Debtors and their respective successors and assigns; *provided, however*, that the Agent and the DIP Lenders shall have no obligation to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan under the DIP Credit Agreement or in exercising any rights or remedies as and when permitted pursuant to this Order or the DIP Documents, the Agent and the DIP Lenders shall not be deemed

to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar federal or state statute).

23. *Final Hearing.* The Final Hearing is scheduled for April 5, 2007 at 1:00 p.m. before this Court.

The Debtors shall promptly mail copies of this Order (which shall constitute adequate notice of the Final Hearing, including without limitation, notice that the Debtors will seek approval at the Final Hearing of a waiver of rights under section 506(c) of the Bankruptcy Code), to the parties having been given notice of the Interim Hearing, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have been appointed. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections; which objections shall be served upon (a) David, S. Heller, Esq., Josef S. Athanas, Esq. and Caroline A. Reckler, Esq., Latham & Watkins, Sears Tower, Suite 5800, 233 South Wacker Drive, Chicago, IL 60606, attorneys for the Debtors; (b) Michael Leo Hall, Esq., Burr & Forman LLP, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, attorneys for the Debtors; (c) Donald S. Bernstein, Esq. and Brian M. Resnick, Esq., Davis Polk & Wardwell, 450 Lexington Avenue, New York, NY 10017, attorneys for JPMCB as Pre-Petition Agent and DIP Agent; (d) Robert H. Adams, Esq. and Kimberly B. Glass, Esq., Maynard Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 AmSouth/Harbert Plaza, Birmingham, AL 35203, attorneys for JPMCB as Pre-Petition Agent and DIP Agent; and (e) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern District of

Alabama, Southern Division; and shall be filed electronically with the Clerk of the United States Bankruptcy Court, Northern District of Alabama, Southern Division, in each case to allow actual receipt by the foregoing no later than 3:00 p.m., prevailing Central time, five business days prior to the date of the Final Hearing.

Dated: March 13, 2007

/s/ Tamara O. Mitchell
United States Bankruptcy Judge