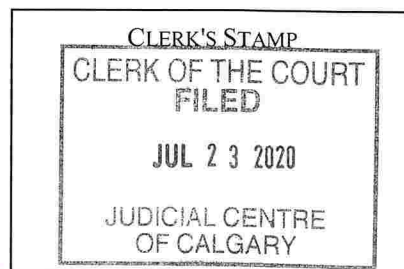


FORM 7  
[RULE 3.8]



COURT FILE NUMBER

2001-08972

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

**IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c C-36, as amended**

**APPLICATION OF BJ SERVICES  
HOLDINGS CANADA, ULC**

DOCUMENT

**ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**

Barristers and Solicitors

4500 Bankers Hall East

855-2<sup>nd</sup> Street SW

Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Keely Cameron

Telephone No.: 403-298-3323 / 403-298-3324

Fax No.: 403-265-7219

Client File No.: 78081-9

## **NOTICE TO THE RESPONDENTS**

This application is made against you. You are a respondent.  
You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date:	Tuesday, July 28, 2020
Time:	11:00 a.m.
Where:	Calgary Courts Centre, by videoconference
Before:	The Honourable Madam Justice J. E. Topolniski, as scheduled on the Commercial List

Go to the end of this document to see what you can do and when you must do it.

**Basis for this claim:**

1. The Applicant, BJ Services Holdings Canada, ULC ("**BJ Canada**") is a debtor pursuant to proceedings (the "**Chapter 11 Proceedings**") commenced under title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "**U.S. Bankruptcy Code**"), as are its affiliates, BJ Services, LLC, BJ Management Services, L.P., and BJ Services Management Holdings Corp. (collectively, and together with BJ Canada, the ("**Chapter 11 Debtors**").
2. BJ Canada is a Canadian company, incorporated pursuant to the laws of the Province of British Columbia, and extra-provincially registered in the Provinces of Alberta and Saskatchewan. Its Canadian headquarters are located in Calgary, Alberta, its operations and assets in Canada are primarily in the Province of Alberta, and all of its employees are employed in the Province of Alberta.
3. In an effort to ensure consistency, efficiency and cooperation, the Applicant is seeking an Order from this Honourable Court recognizing the Chapter 11 Proceedings with respect to BJ Canada as "foreign main proceedings" for the purposes of section 47 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), and that BJ Canada is the foreign representative entitled to bring this application pursuant to section 46 of the CCAA.
4. The Applicant also seeks recognition by this Honourable Court of certain "first-day Orders" granted by the U.S. Bankruptcy Court for the Southern District of Texas (the "**U.S. Bankruptcy Court**") in the Chapter 11 Proceedings.
5. BJ Canada seeks to protect its interests, and the interests of its creditors, in Canada. BJ Canada seeks to ensure that potential Canadian parties-in-interest have the opportunity to be heard in a convenient forum, and further, to ensure coordination and consistency as between these proceedings and the Chapter 11 Proceedings, so as to protect and maximize the value of the assets and estate of BJ Canada.
6. It is desirable that the going-concern sale or reorganization (and related wind-down) of the Chapter 11 Debtors (as is contemplated in the Chapter 11 Proceedings) be coordinated and that multiplicity of proceedings in two different jurisdictions be avoided,

and as such, BJ Canada seeks recognition by this Court of the Chapter 11 Proceedings with respect to its own estate.

7. Separate plenary proceedings in Canada pursuant to the CCAA would add to the already significant costs associated with winding down the business without any real attendant benefit to the stakeholders.

**Remedy sought:**

8. The Applicant applies for an Order:
  - (a) abridging the time for service and validating service of this Originating Application and the materials filed at this Court in support thereof, and dispensing with further service;
  - (b) declaring that pursuant to section 45 of the CCAA, the Applicant BJ Canada is a foreign representative with respect to the Chapter 11 Proceedings commenced by BJ Canada in the U.S. Bankruptcy Court, and that BJ Canada as the foreign representative is entitled to bring this application pursuant to section 46 of the CCAA;
  - (c) declaring that the Chapter 11 Proceedings are recognized as a “foreign main proceeding” for the purposes of Section 47 of the CCAA, or, in the alternative, that the Chapter 11 Proceedings are recognized as a “foreign non-main proceeding”;
  - (d) staying all proceedings taken or that might be taken against BJ Canada under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, or the *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended;
  - (e) restraining further proceedings and any action, suit or proceeding against BJ Canada;
  - (f) prohibiting the commencement of any action, suit or proceeding against BJ Canada;

- (g) prohibiting BJ Canada from selling or otherwise disposing of, outside of the ordinary course of business, any of BJ Canada's property in Canada that relates to the business of BJ Canada and prohibiting BJ Canada from selling or otherwise disposing of any of its other property in Canada except in accordance with orders of the U.S. Bankruptcy Court that are recognized by this Court or with the approval of this Honourable Court;
- (h) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of goods or services to BJ Canada;
- (i) recognizing and enforcing the Order Authorizing BJ Services Holdings Canada ULC to Act as Foreign Representative Pursuant to 11 U.S.C. § 1505 (the "**Foreign Representative Order**"), being a first-day Order granted by the U.S. Bankruptcy Court on July 21, 2020, which authorizes BJ Canada to act as the foreign representative of its estate for the purposes of these proceedings;
- (j) in relation to BJ Canada, recognizing and enforcing the Interim Order (I) Authorizing Debtors to Use Cash Collateral Pursuant To Section 363(c) of the Bankruptcy Code, (II) Granting Adequate Protection to the Prepetition ABL Secured Parties for the Use Thereof, (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b), and (IV) Granting Related Relief (the "**Interim Cash Collateral Order**"), being a first-day interim Order granted by the U.S. Bankruptcy Court on July 21, 2020, which, *inter alia*, (a) authorizes the Chapter 11 Debtors to continue to use the cash collateral of the Prepetition ABL Secured Parties, CLMG Collateral of the CLMG Secured Parties and GACP Collateral of the GACP Secured Parties (as those terms are defined therein), (b) grants superpriority claims and the grant of automatically perfected liens, security interests and other adequate protection, as applicable, to the Prepetition ABL Secured Parties, CLMG Secured Parties and the GACP Secured Parties to the extent of any diminution in value of their interest in the Prepetition ABL Collateral, including Cash Collateral, in the CLMG Collateral, as applicable, or in the GACP Collateral, as applicable, under or in connection with the Prepetition

ABL Loan Documents, the CLMG Term Loan Agreement, or the GACP Term Loan Agreement (as those terms are defined therein), (c) subject to certain challenge rights of certain parties in interest, approves certain stipulations by the Chapter 11 Debtors with respect to the Prepetition ABL Loan Documents, CLMG Term Loan Credit Agreement; and the liens and security interests arising therefrom, (d) vacates and modifies the automatic stay imposed by section 362 of the U.S. Bankruptcy Code; (e) subject to the Final Order, waives the Chapter 11 Debtors' right to assert with respect to the Prepetition ABL Collateral, the Cash Collateral or the Adequate Protection Collateral (as defined therein) any claims to surcharge pursuant to section 506(c) of the U.S. Bankruptcy Code, any "equities of the case" exception pursuant to section 552(b) of the U.S. Bankruptcy Code and the equitable doctrine of marshalling or any similar doctrine, (f) schedules a final hearing to consider entry of a final order, (g) waives any applicable stay with respect to the effectiveness and enforceability of the Interim Cash Collateral Order, and (f) grants related relief;

- (k) in relation to BJ Canada, recognizing and enforcing the Interim Order Authorizing the Debtors to (I) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts and (II) Perform Limited Intercompany Transactions (the "**Interim Cash Management Order**"), being a first-day Order granted by the U.S. Bankruptcy Court on July 22, 2020. The Interim Cash Management Order authorizes the Chapter 11 Debtors to, *inter alia*: (a) continue to operate their Cash Management System (as defined therein) (b) honour their prepetition obligations related thereto, including the Bank Fees (as defined therein), (c) perform Intercompany Transactions with any other Chapter 11 Debtor for the limited purpose of honouring payroll and payroll-related expenses and making any other payments that are contemplated by any order of the U.S. Bankruptcy Court solely to the extent that: (i) such Intercompany Transaction is the only reasonable commercial way for the Chapter 11 Debtors to timely satisfy such obligation and (ii) such Intercompany Transaction is an ordinary course transaction, (d) maintain existing Business Forms, and (e) maintain the Investment Practices (as defined therein) consistent with historical practice;

- (l) recognizing and enforcing the Interim Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims On Account of (A) Critical Vendors Claims, (B) Lien Claims, and (C) 503(b)(9) Claims, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief (the "**Interim Critical Vendors and Lienholders Order**"), being a first-day Order granted by the U.S. Bankruptcy Court on July 21, 2020, which (a) authorizes but does not direct the Chapter 11 Debtors to pay certain prepetition (i) Critical Vendor Claims, (ii) Mineral Contractor Claims, (iii) Shipping Claims, and (iv) 503(b)(9) Claims (as each of those terms are defined therein), on certain conditions; (b) confirms the administrative expense priority status of Outstanding Orders and authorizes but does not direct payment of such obligations in the ordinary course of business; and (c) grants related relief, provided that the Chapter 11 Debtors are not authorized to pay any sums under the Interim Critical Vendors and Lienholders Order to any vendor that is not expected to provide goods and services to the Chapter 11 Debtors within 15 days of entry of the Interim Critical Vendors and Lienholders Order;
- (m) recognizing and enforcing the Order (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Policies, (C) Honor the Terms of the Premium Financing Agreements and Pay Premiums Thereunder, (D) Enter Into New Premium Financing Agreements in the Ordinary Course of Business, and (II) Granting Related Relief (the "**Insurance Order**"), being a first-day Order granted by the U.S. Bankruptcy Court on July 21, 2020, which (a) authorizes the Chapter 11 Debtors to, *inter alia*: (i) continue insurance coverage entered into prepetition and satisfy prepetition obligations related thereto, (ii) renew, amend, supplement, extend, or purchase insurance policies in the ordinary course of business on a postpetition basis; (iii) honour the terms of the Premium Financing Agreements (as defined therein) and pay premiums thereunder, and (iv) enter into new premium financing agreements, and (b) grants related relief;

- (n) recognizing and enforcing the Order (I) Authorizing the Chapter 11 Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses, and (B) Continue Employee Benefits Programs and (II) Granting Related Relief (the "**Wages Order**"), being a first-day Order granted by the U.S. Bankruptcy Court on July 21, 2020, which authorizes (but does not direct) the Chapter 11 Debtors to: (i) pay prepetition wages, salaries, other compensation and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course of business, including payment of certain prepetition obligations related thereto, and granting related relief; and
- (o) authorizing BJ Canada to apply from time to time to this Court for advice and directions;

all in substantially the form of the proposed Order attached hereto as Schedule "A", and;

- (p) granting such further and other relief as this Honourable Court may deem just.

**Affidavit or other evidence to be used in support of this application:**

- 9. The Affidavit of Warren Zemlak, filed herewith.

**Applicable Acts and regulations:**

- 10. The CCAA, as amended, including but not limited to Part IV thereof.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**SCHEDULE "A"**

CLERK'S STAMP

COURT FILE NUMBER

2001-

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

**IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c C-36, as amended**

**APPLICATION OF BJ SERVICES  
HOLDINGS CANADA ULC**

DOCUMENT

**ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855-2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Keely Cameron  
Telephone No.: 403-298-3323 / 403-298-3324  
Fax No.: 403-265-7219  
Client File No.: 78081-9

**DATE ON WHICH ORDER WAS  
PRONOUNCED:**

**Tuesday, July 28, 2020**

**LOCATION OF HEARING OR TRIAL:**

**Calgary Courts Centre**

**NAME OF MASTER/JUDGE  
WHO MADE THIS ORDER:**

**The Honourable Madam Justice J. E.  
Topolniski**



**UPON** the application of BJ Services Holdings Canada ULC ("**BJ Canada**" or the "**Applicant**"), in its capacity as the foreign representative (the "**Foreign Representative**") of its estate; **AND UPON** reading the Affidavit of Warren Zemlak, sworn July 22, 2020, which attaches as Exhibits copies of the documents required pursuant to section 46 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"); **AND UPON** hearing from counsel for the Applicant; **AND UPON** being advised that the secured creditors of BJ Canada have been served with notice of this Application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. The time for service of the Originating Application and the Affidavit of Warren Zemlak is hereby abridged and validated such that this Originating Application is properly returnable today, and this Court hereby dispenses with further service thereof.

**APPOINTMENT OF THE FOREIGN REPRESENTATIVE**

2. BJ Canada is appointed as the Foreign Representative of BJ Canada pursuant to section 45 of the CCAA in respect of the proceedings (the "**Chapter 11 Proceedings**") pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code (the "**Bankruptcy Code**"), Case No. 20-33627 in the United States Bankruptcy Court, Southern District of Texas (the "**U.S. Bankruptcy Court**"), and BJ Canada is entitled to bring this application pursuant to Section 46 of the CCAA.

**Recognition of the Chapter 11 Proceedings**

3. The Chapter 11 Proceedings in respect of BJ Canada are hereby recognized and given full force and effect in all provinces and territories of Canada as "foreign main proceedings" as defined in Section 45 of the CCAA, and for the purposes of Sections 47 and 48 of the CCAA.

## Stay of Proceedings

4. It is hereby ordered that, unless and until otherwise ordered by this Court:
  - (a) all proceedings taken or that might be taken against BJ Canada under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), or the *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended, are stayed;
  - (b) further proceedings in any action, suit or proceeding against BJ Canada are restrained; and
  - (c) the commencement of any action, suit or proceeding against BJ Canada is prohibited.
5. From the date hereof until and unless otherwise ordered by this Court (the "**Stay Period**"), no proceeding or enforcement process in any Court or tribunal in Canada (each a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of BJ Canada or affecting its business in Canada (the "**Business**") or its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of BJ Canada in Canada that relate to the Business (collectively the "**Property**"), except with leave of this Honourable Court, and any and all Proceedings currently under way against or in respect of BJ Canada or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Honourable Court.

## Exercise of Rights or Remedies

6. During the Stay Period, all rights and remedies in Canada of any individual, firm, corporation, agency, governmental or quasi-governmental body, or other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") in respect of BJ Canada or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Honourable Court, provided that nothing in this Order shall:
  - (a) prevent the assertion of or the exercise of rights and remedies outside of Canada;

- (b) empower BJ Canada to carry on any business in Canada that BJ Canada is not lawfully entitled to carry on;
- (c) affect such investigations, actions, suits or Proceedings, by a regulatory body as are permitted by Section 11.1 of the CCAA;
- (d) prevent the filing of any registration to preserve or perfect a security interest; or
- (e) prevent the registration of a claim for lien.

### **No Interference with Rights**

- 7. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, license or permit in favour of or held by BJ Canada in respect of or affecting the Property or Business, except with the written consent of BJ Canada or with leave of this Honourable Court.

### **No Sale of Property**

- 8. Except in accordance with orders of the U.S. Bankruptcy Court that are recognized by this Honourable Court or with approval of this Honourable Court, BJ Canada is prohibited from selling or otherwise disposing of outside of the ordinary course of its business, any of its property.

### **Continuation of Services**

- 9. During the Stay Period, all Persons having oral or written agreements with BJ Canada or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance and transportation logistics services, customs brokerage services, utility or other services provided in respect of the Property or Business of BJ Canada, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by BJ Canada and that BJ Canada shall be entitled

to the continued use in Canada of, among other things, its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods and services received after the date of this Order are paid by BJ Canada in accordance with normal payment practices of BJ Canada or such other practices as may be agreed upon by the supplier or service provider and BJ Canada, or as may be ordered by this Court.

### **No Derogation of Rights**

10. Notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance monies or otherwise extend any credit to BJ Canada. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **Proceedings Against Directors and Officers**

11. During the Stay Period, and except as permitted by Section 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the former, current or future directors or officers of BJ Canada with respect to any claim against the directors or officers that arose before the date hereof, and that related to any obligations of BJ Canada whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligation, until a plan of compromise, arrangement or reorganization in respect of BJ Canada, if one is filed in the Chapter 11 Proceedings, is recognized by this Court and becomes effective in accordance with its terms or unless otherwise ordered by this Court.

### **Recognition of Foreign Orders**

12. The following Orders (collectively, the "**Foreign Orders**") of the U.S. Bankruptcy Court made in the Chapter 11 Proceedings are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) The Order Authorizing BJ Services Holdings Canada ULC to Act as Foreign Representative Pursuant to 11 U.S.C. § 1505 (the "**Foreign Representative Order**") granted July 21, 2020, attached hereto as **Schedule "A"**;
- (b) The Interim Order (I) Authorizing Debtors to Use Cash Collateral Pursuant To Section 363(c) of the Bankruptcy Code, (II) Granting Adequate Protection to the Prepetition ABL Secured Parties for the Use Thereof, (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b), and (IV) Granting Related Relief (the "**Interim Cash Collateral Order**") granted July 21, 2020, attached hereto as **Schedule "B"**;
- (c) The Interim Order Authorizing the Debtors to (I) Continue to Operate Their Cash Management System and Maintain Existing Bank Accounts and (II) Perform Limited Intercompany Transactions (the "**Interim Cash Management Order**") granted July 22, 2020, attached hereto as **Schedule "C"**;
- (d) The Interim Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims On Account of (A) Critical Vendors Claims, (B) Lien Claims, and (C) 503(b)(9) Claims, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief (the "**Interim Critical Vendors and Lienholders Order**") granted July 21, 2020, attached hereto as **Schedule "D"**;
- (e) The Order (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Policies, (C) Honor the Terms of the Premium Financing Agreements and Pay Premiums Thereunder, (D) Enter Into New Premium Financing Agreements in the Ordinary Course of Business, and (II) Grants Related Relief (the "**Insurance Order**") granted July 21, 2020, attached hereto as **Schedule "E"**; and
- (f) The Order (I) Authorizing the Chapter 11 Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses, and (B) Continue

Employee Benefits Programs and (II) Granting Related Relief (the "**Wages Order**") granted July 21, 2020, attached hereto as **Schedule "F"**;

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property in Canada.

### **Service of Court Materials**

13. The Applicant and its agents are at liberty to serve this Order, any other Orders in this proceeding, and all other proceedings, notices and documents by prepaid ordinary mail, courier, personal delivery or electronic transmission to any interested party of BJ Canada at their addresses as last shown on the records of BJ Canada and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding, or if sent by ordinary mail, on the fifth calendar day after mailing.

### **In Assistance of Other Courts**

14. This Court hereby requests the aid and recognition of any Court, tribunal, regulatory, governmental or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist BJ Canada and its agents in carrying out the terms of this Order. All Courts, tribunals, regulatory, governmental and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to BJ Canada and its agents as may be necessary or desirable to give effect to this Order or to assist BJ Canada and its agents in carrying out the terms of this Order.
15. BJ Canada is at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

**Publication of Notice**

16. BJ Canada shall publish once per week for two consecutive weeks, in the Globe & Mail (National Edition), a Notice, pursuant to Section 53(b) of the CCAA, containing the prescribed information.

**Miscellaneous**

17. Notwithstanding any other provision of this Order, any interested Person may apply to this Court to vary or amend this Order, or to seek other form of relief upon seven days' notice to BJ Canada and its counsel, and to any other party likely to be affected by the Order sought or upon such other notice, if any, as this Court may order.
18. This Order is effective as of 12:01 a.m. MDT on the date that the Order is granted.

---

J.C.Q.B.A.

**SCHEDULE "A"**





ENTERED  
07/21/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

BJ SERVICES, LLC, *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 20-33627 (MI)  
)  
) (Joint Administration Requested)  
)  
) **Re: Docket No. 4**

**ORDER AUTHORIZING BJ SERVICES HOLDINGS CANADA, ULC TO  
ACT AS FOREIGN REPRESENTATIVE PURSUANT TO 11 U.S.C. § 1505**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), authorizing BJ Services Holdings Canada, ULC (“BJ Canada”) to act as foreign representative on behalf of the estate of BJ Canada pursuant to 11 U.S.C. § 1505; all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. BJ Canada is hereby authorized to act as the Foreign Representative on behalf of its estate in connection with the Canadian Proceeding. As Foreign Representative, BJ Canada shall be authorized and shall have the power to act in any way permitted by applicable foreign law, including (a) seeking recognition of its chapter 11 case in the Canadian Proceeding, (b) requesting that the Canadian Court lend assistance to this Court in protecting its property, and (c) seeking any other appropriate relief from the Canadian Court that BJ Canada deems just and proper in the furtherance of the protection of its estate.

2. This Court requests the aid and assistance of the Canadian Court to recognize these chapter 11 cases as a “foreign main proceeding” and BJ Canada as a “foreign representative” pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order.

3. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity 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 claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an

administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) 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; (g) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

4. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

5. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: July 21, 2020



Marvin Isgur  
United States Bankruptcy Judge

**SCHEDULE "B"**



ENTERED  
07/21/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
	)	
BJ SERVICES, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 20-33627 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Re: Docket No. ____</b>

**INTERIM ORDER (I) AUTHORIZING DEBTORS TO USE  
CASH COLLATERAL PURSUANT TO SECTION 363(c) OF THE  
BANKRUPTCY CODE; (II) GRANTING ADEQUATE PROTECTION TO  
THE PREPETITION ABL SECURED PARTIES FOR THE USE THEREOF;  
(III) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY  
RULE 4001(b); AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of BJ Services, LLC (“BJS”) and its affiliated debtors, each as debtor and debtor in possession (collectively, the “Debtors”) in the above captioned-cases for entry of interim and final orders (this “Interim Order” and a “Final Order,” respectively) pursuant to sections 105(a), 361, 362, 363, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), rules 4002-1 and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”), and the Procedures for Complex Chapter 11 Cases in the Southern District of Texas (the “Complex Case Rules”), seeking, among other things, the following relief:

- a. authorization for the Debtors, pursuant to sections 105, 361, 362, 363, and 507 of the Bankruptcy Code, to continue to use the Cash Collateral of the Prepetition ABL

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

Secured Parties (each as defined below), CLMG Collateral of the CLMG Secured Parties (each as defined below) and GACP Collateral of the GACP Secured Parties (each as defined below) in accordance with the terms and conditions set forth below;

- b. the grant of superpriority claims and the grant of automatically perfected liens, security interests, and other adequate protection, as applicable, to the Prepetition ABL Secured Parties, CLMG Secured Parties, and the GACP Secured Parties to the extent of any diminution in value of their interest in the Prepetition ABL Collateral, including Cash Collateral, in the CLMG Collateral, as applicable, or in the GACP Collateral, as applicable, under or in connection with the Prepetition ABL Loan Documents (as defined below) the CLMG Term Loan Agreement (as defined below), or the GACP Term Loan Agreement (as defined below);
- c. subject to certain challenge rights of certain parties in interest (subject to the limitations specified herein), approving certain stipulations by the Debtors with respect to (i) the Prepetition ABL Loan Documents (as hereinafter defined below); (ii) the CLMG Term Loan Credit Agreement; and (iii) the liens and security interests arising therefrom;
- d. vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent set forth herein;
- e. subject only to and effective upon entry of the Final Order, waiving the Debtors' right to assert with respect to the Prepetition ABL Collateral, the Cash Collateral, or the Adequate Protection Collateral (as defined below) (i) any claims to surcharge pursuant to section 506(c) of the Bankruptcy Code, (ii) any "equities of the case" exception pursuant to section 552(b) of the Bankruptcy Code, and (iii) the equitable doctrine of "marshalling" or any similar doctrine;
- f. scheduling, pursuant to Bankruptcy Rule 4001(b) and Bankruptcy Local Rule 4001-2(c), a final hearing (the "Final Hearing"), to be held within thirty-five (35) days of the entry of this Interim Order to consider entry of the Final Order approving the relief granted herein on a final basis;
- g. waiving any applicable stay with respect to the effectiveness and enforceability of this Interim Order and, as later applicable, the Final Order (including a waiver pursuant to Bankruptcy Rule 6004(h)); and
- h. granting related relief.

This Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests

of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

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

1. *The Motion.* The relief requested in the Motion is granted on an interim basis in accordance with the terms of, and to the extent set forth in, this Interim Order. Any and all objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or resolved, and all reservations of rights, are hereby denied and overruled on the merits, except as may be set forth herein. This Interim Order shall become effective immediately upon its entry.

2. *Jurisdiction.* This Court has core jurisdiction over the Debtors' chapter 11 cases commenced on July 20, 2020 (the "Chapter 11 Cases," and such date, the "Petition Date"), the 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.

3. *Notice.* Under the circumstances of these cases, proper, timely, adequate and sufficient notice of the Motion, the Interim Hearing, and the Interim Order has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules, and no other or further notice of the Motion, the Interim Hearing, or this Interim Order shall be

required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing.

4. *Debtors' Stipulations.* In requesting use of their Cash Collateral and the other Prepetition ABL Collateral, and in exchange for and as a material inducement to the Prepetition ABL Secured Parties' agreement to permit consensual use of their Cash Collateral and the other Prepetition ABL Collateral, the Debtors acknowledge, represent, stipulate, and agree, subject to the challenge rights set forth in paragraph 30 below (but subject to the limitations thereon contained herein), as follows (collectively defined as the "Debtors' Stipulations"):

- a. *Prepetition ABL Credit Facility.* On May 30, 2017, BJS entered into that certain Revolving Credit and Guaranty Agreement (as amended by the Limited Waiver and First Amendment to Revolving Credit and Guaranty Agreement dated October 3, 2018, and further amended by the Second Amendment to Revolving Credit and Guaranty Agreement and First Amendment to Canadian Security Agreement and U.S. Security Agreement, dated January 28, 2019, and as otherwise amended, supplemented, or modified prior to the date hereof, the "Prepetition ABL Credit Agreement," and further supplemented and modified by those certain Limited Waivers, dated as of June 2, 2020, June 12, 2020, and June 23, 2020, and together with all mortgage, security, pledge and guaranty agreements and all other Loan Documents (as defined in the Prepetition ABL Credit Agreement) and all other documentation executed by any Debtor in connection with any of the foregoing, each as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Prepetition ABL Loan Documents"), with JPMorgan Chase Bank, N.A., in its capacity as administrative agent (the "Prepetition ABL Agent"), and the lenders party thereto (the "Prepetition ABL Lenders," and together with the Prepetition ABL Agent, the "Prepetition ABL Secured Parties").
- b. *Prepetition ABL Obligations.* As of the Petition Date, pursuant to the Prepetition ABL Loan Documents and applicable law, the Prepetition ABL Secured Parties hold valid, enforceable, secured, and allowable claims against the Debtors in an aggregate amount equal to \$101,550,000 plus any and all other accrued and unpaid interest, fees, expenses (including advisors fees and expenses, in each case, that are chargeable or reimbursable under the Prepetition ABL Loan Documents), disbursements, charges, claims, indemnities and other costs and obligations of whatever nature incurred in connection therewith which are chargeable or otherwise reimbursable under the Prepetition ABL Loan Documents or applicable law, whether arising



before or after the Petition Date, including any “Obligations” (as defined in the Prepetition ABL Credit Agreement), of any kind or nature, whether or not evidenced by any note, agreement or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors’ obligations under the Prepetition ABL Loan Documents (collectively defined as the “Prepetition ABL Obligations”).

- c. *Prepetition ABL Liens.* The Prepetition ABL Obligations are secured by continuing, legal, valid, binding, properly perfected, enforceable, non-avoidable first priority liens on and security interests in (the “Prepetition ABL Liens”) all of the “Collateral” as defined in the Prepetition ABL Credit Agreement (the “Prepetition ABL Collateral”), including all of the Debtors’ cash (including the cash in their deposit accounts and other accounts, wherever located, whether as original collateral or proceeds of other Prepetition ABL Collateral except for Excluded Property (as defined in the Prepetition ABL Credit Agreement)) that constitutes Cash Collateral (as defined below). As of the Petition Date, the aggregate book value of the Prepetition ABL Collateral exceeded the aggregate amount of the Prepetition ABL Obligations.
  
- d. *Validity, Perfection, and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that, as of the Petition Date: (i) the Prepetition ABL Liens on the Prepetition ABL Collateral were valid, binding, and enforceable in accordance with the terms of the applicable Prepetition ABL Loan Documents, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Secured Parties for fair consideration and reasonably equivalent value; (ii) the Prepetition ABL Liens were and remain senior in priority over any and all other liens on and security interests in the Prepetition ABL Collateral, subject only to (x) the Carve Out (as defined below) and (y) valid, perfected and unavoidable liens permitted under Section 7.01 of the Prepetition ABL Credit Agreement to the extent that such liens or security interests are senior to or *pari passu* with the Prepetition ABL Liens (including, for the avoidance of doubt, valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code) (a “Permitted Encumbrance”); (iii) the Prepetition ABL Obligations constituted legal, valid, binding and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (iv) no portion of the Prepetition ABL Obligations or any payments made to the Prepetition ABL Secured Parties or applied to or paid on account of the obligations owing under the Prepetition ABL Loan Documents prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense

or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition ABL Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Obligations, the priority of the Debtors' obligations thereunder and the validity, extent, and priority of the Prepetition ABL Liens.

- e. *Validity, Perfection, and Priority of Liens and Obligations under the CLMG Term Loan Agreement.* The Debtors acknowledge and agree that, as of the Petition Date: (i) the CLMG Secured Parties' (as defined below) liens on the CLMG Collateral (such liens, the "Prepetition CLMG Liens") were valid, binding, and enforceable in accordance with the terms of the CLMG Term Loan Agreement (as defined below), non-avoidable and properly perfected and were granted to, or for the benefit of, the CLMG Secured Parties for fair consideration and reasonably equivalent value; (ii) the Prepetition CLMG Liens were and remain senior in priority over any and all other liens on and security interests in the CLMG Collateral (as defined below); (iii) the prepetition obligations owed to the CLMG Secured Parties under the CLMG Term Loan Agreement, including any "Obligations" as defined in the CLMG Term Loan Agreement, of any kind or nature, whether or not evidenced by any note, agreement, or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors' obligations (collectively, the "Prepetition CLMG Obligations") constituted legal, valid, binding, and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the CLMG Term Loan Agreement; (iv) no portion of the Prepetition CLMG Obligations or any payments made to the CLMG Secured Parties or applied to or paid on account of the obligations owing under the CLMG Term Loan Agreement prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition CLMG Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition CLMG Obligations, the priority of the Debtors' obligations thereunder and the validity, extent, and priority of the Prepetition CLMG Liens.

- f. *Validity, Perfection, and Priority of Liens and Obligations under the GACP Term Loan Agreement.* The Debtors acknowledge and agree that, as of the Petition Date: (i) the GACP Secured Parties' (as defined below) liens on the GACP Collateral (such liens, the "Prepetition GACP Liens") were valid, binding, and enforceable in accordance with the terms of the GACP Term Loan Agreement (as defined below), non-avoidable and properly perfected and were granted to, or for the benefit of, the GACP Secured Parties for fair consideration and reasonably equivalent value; (ii) the Prepetition GACP Liens were and remain senior in priority over any and all other liens on and security interests in the GACP Collateral (as defined below); (iii) the prepetition obligations owed to the GACP Secured Parties under the GACP Term Loan Agreement, including any "Obligations" as defined in the GACP Term Loan Agreement, of any kind or nature, whether or not evidenced by any note, agreement, or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors' obligations (collectively, the "Prepetition GACP Obligations") constituted legal, valid, binding, and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the GACP Term Loan Agreement; (iv) no portion of the Prepetition GACP Obligations or any payments made to the GACP Secured Parties or applied to or paid on account of the obligations owing under the GACP Term Loan Agreement prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition GACP Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition GACP Obligations, the priority of the Debtors' obligations thereunder and the validity, extent, and priority of the Prepetition GACP Liens

5. *Cash Collateral.* For purposes of this Interim Order, the term "Cash Collateral" shall mean and include all "cash collateral," as defined in section 363 of the Bankruptcy Code, in or on which the Prepetition ABL Secured Parties have a lien, security interest or other interest (including, without limitation, any adequate protection liens or security interests), and shall include, without limitation, all Prepetition ABL Collateral that is cash of the Debtors' estates and all cash equivalents, whether in the form of negotiable instruments, documents of title, securities,

deposit accounts, commodity accounts, securities accounts, investment accounts, or in any other form, that were on the Petition Date in any of the Debtors' possession, custody or control (or persons in privity with any of the Debtors) or which present income, proceeds, products, rents, or profits of any of the Prepetition ABL Collateral, including to the extent the Debtors obtain an interest in such funds after the Petition Date in the case of each of the foregoing, except for any Excluded Property (as defined in the Prepetition ABL Credit Agreement). The Prepetition ABL Agent has, for the benefit of the Prepetition ABL Lenders, first-priority, perfected liens in the Cash Collateral pursuant to the applicable provisions of the Prepetition ABL Loan Documents, sections 363(a) and 552(b) of the Bankruptcy Code, and this Interim Order.

6. *Findings Regarding the Use of Cash Collateral and Prepetition ABL Collateral.*
  - a. Good cause has been shown for the entry of this Interim Order.
  - b. The Debtors have an immediate need to use the Prepetition ABL Collateral, including Cash Collateral to, among other things, fund the orderly sale of their assets, pay their operating expenses, and preserve the value of the Debtors' estates.
  - c. The terms of the use of the Prepetition ABL Collateral pursuant to this Interim Order 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.
  - d. The terms of the use of the Prepetition ABL Collateral pursuant to this Interim Order have been the subject of extensive negotiations conducted in good faith and at arm's length among the Debtors, the Prepetition ABL Agent, and other Prepetition ABL Secured Parties and, pursuant to sections 105, 361, and 363 of the Bankruptcy Code, the Prepetition ABL Agent and the other Prepetition ABL Secured Parties are hereby found to be entities that have acted in "good faith" in connection with the negotiation and entry of this Interim Order, and each is entitled to the protection provided under section 363(m) of the Bankruptcy Code.
  - e. The Debtors have requested entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and (d) and the Complex Case Procedures. Absent granting the interim relief sought by this Interim Order, the Debtors' estates could be immediately and irreparably harmed. The use of the

Prepetition ABL Collateral in accordance with this Interim Order is in the best interest of the Debtors' estates.

7. *Need for Limited Use of Cash Collateral.* The Debtors have an immediate and critical need to continue to use the Prepetition ABL Collateral (including Cash Collateral) in order to permit, among other things, the orderly sale of their assets, to make payroll, to satisfy other working capital and operational needs and fund the Chapter 11 Cases, in each such case in accordance with the terms of this Interim Order, including in accordance with the Budget (as defined below). The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition ABL Collateral is necessary to preserve and maintain the value of the Debtors' estates. Without the use of Cash Collateral, the Debtors would likely not have sufficient liquidity to continue to operate their organization and effectuate an orderly wind-down of the Debtors' businesses. Entry of this Interim Order will preserve the assets of each Debtor's estate and its value and is in the best interests of the Debtors, their creditors, and their estates. The Adequate Protection Liens, the Adequate Protection Superpriority Claims, the ABL Adequate Protection Payments, and the ABL Adequate Protection Fees and Expenses (each as defined herein) are consistent with and authorized by the Bankruptcy Code. Absent authorization to immediately access and use Cash Collateral, the Debtors, the estates, and their creditors would suffer immediate and irreparable harm.

8. *Consent by the Prepetition ABL Agent.* The Prepetition ABL Agent consents to the Debtors' use of Cash Collateral, in accordance with and subject to the terms and conditions contained in this Interim Order, which consent has been supported or unopposed by the Required Lenders (as defined in the Prepetition ABL Credit Agreement) after receipt of notice and shall be deemed sufficient under the circumstances for purposes of this Interim Order. All use of Cash Collateral by the Debtors shall be consistent with the initial 7-day cash flow budget attached hereto

as **Exhibit 1**, as may be amended or replaced pursuant to paragraph 16 hereof (the “Budget”), subject to any Non-Conforming Use (as such term is defined below) permitted hereunder; provided, however, that the actual aggregate operating disbursements of the Debtors, tested every day commencing the date of entry of this Interim Order on a cumulative basis, shall not exceed the projected amount therefor set forth in the Budget for such applicable time period by more than 10% (any variance not exceeding the maximum amount, a “Permitted Variance”); provided that nothing herein shall operate as a limitation on the amount of professional fees a Professional Person may seek to be paid by the Debtors pursuant to an order of the Court, nor shall anything herein limit the Prepetition ABL Agent’s rights to oppose any request for payment of professional fees in excess of the Permitted Variance). Any transfer or use of Cash Collateral by the Debtors shall be conditioned upon the Debtors’ compliance with the Budget, including any Permitted Variances or Non-Conforming Uses. The Prepetition ABL Agent may (with the consent of the Required Lenders if the proposed amount is equal to or greater than \$1 million) agree in writing to the use of the Cash Collateral in a manner or amount which does not conform to the manner or amount, as applicable, set forth in the Budget (including, for the avoidance of doubt, any Permitted Variances) (each such approved non-conforming use of Cash Collateral, a “Non-Conforming Use”). If such written consent is given (which consent may be given through email by the Prepetition ABL Agent or the Prepetition ABL Agent’s counsel), the Debtors shall be authorized pursuant to this Interim Order to use Cash Collateral for any such Non-Conforming Use without further Court approval, and the Prepetition ABL Secured Parties shall be entitled to all of the protections specified in this Interim Order for any such Non-Conforming Use; provided that each such permitted Non-Conforming Use shall be deemed a modification to the Budget for all testing purposes. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim

Order, the Prepetition ABL Agent does not consent to the Debtors' use of, and the Debtors shall not be permitted to use, Cash Collateral for payment of costs attributable to the GACP Collateral or CLMG Collateral (each as defined below), including costs and expenses of preserving, or disposing of, the GACP Collateral or CLMG Collateral or incurred in connection with any sale of such GACP Collateral or CLMG Collateral.

9. *Entitlement to Adequate Protection.* Pursuant to sections 361, 362, 363(c)(2), and 363(e) of the Bankruptcy Code, the Prepetition ABL Secured Parties are entitled to adequate protection of their interests in the Prepetition ABL Collateral, including the Cash Collateral, in an amount equal to the aggregate actual diminution in the value of the Prepetition ABL Secured Parties' interests in the Prepetition ABL Collateral (including Cash Collateral) from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any such diminution resulting from the sale, lease, or use by the Debtors of the Prepetition ABL Collateral (including Cash Collateral, whether pursuant to the Budget or otherwise), the subordination of their liens on the Prepetition ABL Collateral and Adequate Protection Superpriority Claims (as defined herein) to the Carve Out pursuant to this Interim Order and the Prepetition ABL Loan Documents, or the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code ("ABL Diminution in Value").

10. *Entitlement to Adequate Protection.* Pursuant to sections 361, 362, 363(c)(2), and 363(e) of the Bankruptcy Code, the CLMG Secured Parties are entitled to adequate protection of their interests in the CLMG Collateral, in an amount equal to the aggregate actual diminution in the value of the CLMG Secured Parties' interests in the CLMG Collateral from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any such diminution resulting from the sale, lease, or use by the Debtors of the CLMG



Collateral, or the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. (“CLMG Diminution in Value”).

11. *Entitlement to Adequate Protection.* Pursuant to sections 361, 362, 363(c)(2), and 363(e) of the Bankruptcy Code, the GACP Secured Parties are entitled to adequate protection of their interests in the GACP Collateral, in an amount equal to the aggregate actual diminution in the value of the GACP Secured Parties’ interests in the GACP Collateral from and after the Petition Date, if any, for any reason provided for under the Bankruptcy Code, including, without limitation, any such diminution resulting from the sale, lease, or use by the Debtors of the GACP Collateral, or the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. (“GACP Diminution in Value”).

12. *ABL Adequate Protection Claims and Liens.* The Prepetition ABL Secured Parties are hereby granted the following (collectively, the “ABL Adequate Protection Obligations”), solely to the extent of any ABL Diminution in Value; provided that the collateral set forth in this paragraph 11 shall not include assets or property (other than Prepetition ABL Collateral, including Cash Collateral) upon which, and solely to the extent that, the grant of an Adequate Protection Lien as contemplated in this Interim Order, would constitute a default or event of default under any of the Debtors’ contracts or leases, excluding, for the avoidance of doubt, the GACP Term Loan Agreement (and such default would not be excused or rendered ineffective by operation of the Bankruptcy Code or applicable nonbankruptcy law), but shall include the proceeds thereof:

- a. *ABL Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual ABL Diminution in Value (if any) of the Prepetition ABL Collateral, including Cash Collateral, effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by the Prepetition ABL Agent of security agreements, control agreements, pledge agreements, mortgages or other Collateral Documents (as defined in the Prepetition ABL Credit Agreement) or financing statements or other similar



documents, or the possession or control by the Prepetition ABL Agent of any Adequate Protection Collateral, the Prepetition ABL Agent is hereby granted for the ratable benefit of the Prepetition ABL Lenders, as security for the payment of the ABL Adequate Protection Obligations, subject and subordinate only to the Carve Out, the following security interests and liens (all such liens and security interests, the “ABL Adequate Protection Liens,” and all property identified in clauses (i) - (iii) below being collectively referred to as the “ABL Adequate Protection Collateral”):

- (i) First Priority ABL Adequate Protection Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, binding, continuing, enforceable, fully perfected, first priority (subject to subparagraph 10(b)) senior replacement liens on and security interests in and upon (a) all Prepetition ABL Collateral, and (b) all assets and properties of the Debtors’ estates other than (i) the CLMG Collateral (as defined below), (ii) the GACP Collateral (as defined below), and (iii) those assets and properties that are subject to any other (x) valid, perfected, non-avoidable, and enforceable liens in existence on or as of the Petition Date or (y) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, whether now owned or hereafter acquired, including, without limitation, all personal and real property of the Debtors’ estates and all products, proceeds, rents, and profits thereof that, from and after the Petition Date, is not subject to any lien or security interest, if any, including upon entry of the Final Order, the proceeds of any claims and causes of action of the Debtors (but not on the actual claims and causes of action) arising under sections 544, 545, 547, 548, 549, and 550 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law (collectively, the “Avoidance Actions”) (the foregoing liens being collectively referred to as the “First Priority ABL Adequate Protection Liens”).
- (ii) ABL Adequate Protection Liens Junior to Certain Existing Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully-perfected non-avoidable junior priority liens on, and junior security interests in, all tangible and intangible assets, including without limitation, all prepetition and post-petition property of the Debtors’ estates, and all products and proceeds thereof, whether now existing or hereafter acquired, that is subject to (a) valid, perfected, and unavoidable liens in existence as of the Petition Date, including, without limitation, the liens of (i) GACP Finance Co., LLC (“GACP”), as administrative agent and collateral agent under the Term Loan Credit and Guaranty Agreement, dated as of January 28, 2019, by and among BJS, GACP, and the other parties thereto (as amended, restated, amended and restated, supplemented, or otherwise

modified from time to time, the “GACP Term Loan Agreement”), which encumber the “Collateral” as defined therein (the “GACP Collateral”) and (ii) CLMG Corp. (“CLMG”), as administrative agent and collateral agent under the Credit Agreement, dated as of December 31, 2019, by and among BJS, CLMG, and the other parties thereto (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the “CLMG Term Loan Agreement”), which encumber the “Collateral” as defined therein (the “CLMG Collateral”) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of the Prepetition ABL Agent (the foregoing liens being collectively referred to as the “Junior ABL Adequate Protection Liens”).

- (iii) ABL Adequate Protection Liens Senior to Prepetition ABL Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the Prepetition ABL Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.
- b. *Status of the ABL Adequate Protection Liens.* Subject in all respects to the Carve Out, the Adequate Protection Liens shall not be (i) subject or subordinate to (A) 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 (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(iii) of this paragraph 11, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and whether authorized under sections 363 or 364 of the Bankruptcy Code or otherwise.
- c. *Enforceability.* Subject in all respects to the Carve Out, the ABL Adequate Protection Liens shall not be subject to sections 506(c) (upon entry of the Final Order), 510, 549, 550, or 551 of the Bankruptcy Code. The ABL Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors’ Chapter 11 Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Debtors’ Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (each, a “Successor Case”).
- d. *Adequate Protection Superpriority Claims.* The ABL Adequate Protection Obligations due to the Prepetition ABL Agent shall constitute allowed

superpriority administrative expense claims against the Debtors in the amount of any Diminution in Value of the Prepetition ABL Collateral, including Cash Collateral, as provided in section 507(b) of the Bankruptcy Code, with priority in payment over any and all unsecured claims and administrative expense claims against the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113, 1114 and any other provision of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtors and any successor trustee or creditor in these Chapter 11 Cases or any Successor Case (the “ABL Adequate Protection Superpriority Claims”), subject and subordinate only to the Carve Out (as defined herein).

13. *ABL Additional Adequate Protection.* As additional adequate protection to the Prepetition ABL Agent and the Prepetition ABL Secured Parties:

- a. *Payment of Prepetition and Postpetition Interest.* The Debtors shall pay to the Prepetition ABL Agent for the benefit of the Prepetition ABL Lenders all accrued and unpaid interest (including, for the avoidance of doubt, interest accruing and becoming due after the Petition Date) at the non-default rates and consistent with the ordinary course interest payment dates set forth in the Prepetition ABL Credit Agreement (the “ABL Adequate Protection Payments”).
- b. *Payment of Prepetition ABL Agent Fees and Expenses.* As additional adequate protection, the Prepetition ABL Agent shall receive from the Debtors, for the benefit of the Prepetition ABL Lenders, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses payable to the Prepetition ABL Secured Parties under the Prepetition ABL Loan Documents, including, but not limited to, the reasonable and documented prepetition and postpetition fees and disbursements of legal counsel, financial advisors, and other consultants (the “ABL Adequate Protection Fees and Expenses”). Payment of all such professional fees and expenses shall not be subject to allowance by the Court but shall be subject to the following process. At the same time such invoices are delivered to the Debtors, the professionals for the Prepetition ABL Secured Parties shall deliver a copy of their respective invoices to counsel for any official committee appointed in these cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”) and the office of the United States Trustee (the “U.S. Trustee”). The invoices for such fees and expenses shall not be required to comply with any U.S. Trustee guidelines related to the payment of fees and expenses of retained estate professionals, may be in summary form only, and shall not be subject to application or allowance by the Court. Any objections raised by the

Debtors, the U.S. Trustee, or the Creditors' Committee with respect to such invoices within ten (10) days of receipt thereof (the "Invoice Review Period") will be resolved by the Court (absent prior consensual resolution thereof). Pending such resolution, the undisputed portion of any such invoice shall be paid by the Debtors within three (3) days of the expiration of the Invoice Review Period. Except as otherwise ordered by the Court in the event an objection is timely filed, such fees and expenses shall not be subject to any setoff, defense, claim, counterclaim, or diminution of any type, kind, or nature whatsoever.

- c. *Other Covenants.* The Debtors shall maintain their cash management system in a manner consistent with this Interim Order, and any order of this Court approving the maintenance of the Debtors' cash management system. The Debtors shall not use, sell, or lease any material assets outside the ordinary course of business, or seek authority to this Court to do any of the foregoing, without prior consultation with the Prepetition ABL Agent at least seven (7) days prior to the date on which the Debtors seek authority of this Court for such use, sale, or lease. The Debtors shall comply with the covenants contained in section 6.07 of the Prepetition ABL Credit Agreement regarding the maintenance and insurance of the Prepetition ABL Collateral and the Adequate Protection Collateral.

14. *CLMG Adequate Protection Claims and Liens.* CLMG in its capacity as administrative agent (the "CLMG Agent"), and the lenders party thereto (the "CLMG Lenders," and together with the CLMG Agent, the "CLMG Secured Parties") are hereby granted the following (collectively, the "CLMG Adequate Protection Obligations" and together with the ABL Adequate Protection Obligations, the "Adequate Protection Obligations"), solely to the extent of any CLMG Diminution in Value; provided that the collateral set forth in this paragraph 13 shall not include assets or property (other than CLMG Collateral) upon which, and solely to the extent that, the grant of an Adequate Protection Lien as contemplated in this Interim Order, would constitute a default or event of default under any of the Debtors' contracts or leases, excluding, for the avoidance of doubt, the GACP Term Loan Agreement and Prepetition ABL Credit Agreement (and such default would not be excused or rendered ineffective by operation of the Bankruptcy Code or applicable nonbankruptcy law), but shall include the proceeds thereof:

- a. *CLMG Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual CLMG Diminution in Value (if any) of the CLMG Collateral effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by CLMG of security agreements, control agreements, pledge agreements, mortgages or other Collateral Documents (as defined in the CLMG Term Loan Credit Agreement) or financing statements or other similar documents, or the possession or control by CLMG of any Adequate Protection Collateral, CLMG is hereby granted, as security for the payment of the CLMG Adequate Protection Obligations, the following security interests and liens (all such liens and security interests, the “CLMG Adequate Protection Liens,” and together with the ABL Adequate Protection Liens, the “Adequate Protection Liens”):
  - (i) CLMG Adequate Protection Liens Junior to Certain Existing Liens and Junior to ABL Adequate Protection Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully-perfected non-voidable junior priority liens on, and junior security interests in, all tangible and intangible assets, including without limitation, all prepetition and postpetition property of the Debtors’ estates, and all products and proceeds thereof, whether now existing or hereafter acquired, that is subject to (a) valid, perfected, and unavoidable liens in existence as of the Petition Date, including, without limitation (i) the assets subject to the ABL Adequate Protection Liens (other than with respect the CLMG Collateral) and (ii) the GACP Collateral (which such liens on the GACP Collateral shall be junior to the ABL Adequate Protection Liens) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of CLMG (the foregoing liens being collectively referred to as the “Junior CLMG Adequate Protection Liens”).
  - (ii) Adequate Protection Liens Senior to Prepetition CLMG Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the CLMG Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.
- b. *Status of the CLMG Adequate Protection Liens.* The CLMG Adequate Protection Liens shall be *pari passu* with the GACP Adequate Protection Liens and junior to the ABL Adequate Protections Liens in all respects and shall not otherwise be (i) subject or subordinate to (A) 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 (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(ii) of this paragraph 13, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and whether authorized under sections 363 or 364 of the Bankruptcy Code or otherwise.

- c. *Enforceability.* The CLMG Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code. The CLMG Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors' Chapter 11 Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Debtors' Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (each, a "Successor Case").

15. *GACP Adequate Protection Claims and Liens.* GACP, in its capacity as administrative agent (the "GACP Agent"), and the lenders party thereto (the "GACP Lenders," and together with the GACP Agent, the "GACP Secured Parties") are hereby granted the following (collectively, the "GACP Adequate Protection Obligations" and together with the ABL Adequate Protection Obligations, the "Adequate Protection Obligations"), solely to the extent of any GACP Diminution in Value; provided that the collateral set forth in this paragraph 13 shall not include assets or property (other than GACP Collateral) upon which, and solely to the extent that, the grant of an Adequate Protection Lien as contemplated in this Interim Order, would constitute a default or event of default under any of the Debtors' contracts or leases, excluding, for the avoidance of doubt, the GACP Term Loan Agreement and Prepetition ABL Credit Agreement (and such default would not be excused or rendered ineffective by operation of the Bankruptcy Code or applicable nonbankruptcy law), but shall include the proceeds thereof:

- a. *GACP Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual GACP Diminution in Value (if any) of the GACP Collateral effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by GACP of security agreements, control



agreements, pledge agreements, mortgages or other Collateral Documents (as defined in the GACP Term Loan Credit Agreement) or financing statements or other similar documents, or the possession or control by GACP of any Adequate Protection Collateral, GACP is hereby granted, as security for the payment of the GACP Adequate Protection Obligations, the following security interests and liens (all such liens and security interests, the “GACP Adequate Protection Liens,” and together with the ABL Adequate Protection Liens, the “Adequate Protection Liens”):

- (i) GACP Adequate Protection Liens Junior to Certain Existing Liens and Junior to ABL Adequate Protection Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully-perfected non-voidable junior priority liens on, and junior security interests in, all tangible and intangible assets, including without limitation, all prepetition and postpetition property of the Debtors’ estates, and all products and proceeds thereof, whether now existing or hereafter acquired, that is subject to (a) valid, perfected, and unavoidable liens in existence as of the Petition Date, including, without limitation (i) the assets subject to the ABL Adequate Protection Liens (other than with respect the GACP Collateral) and (ii) the GACP Collateral (which such liens on the GACP Collateral shall be junior to the ABL Adequate Protection Liens) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of GACP (the foregoing liens being collectively referred to as the “Junior GACP Adequate Protection Liens”).
  - (ii) Adequate Protection Liens Senior to Prepetition GACP Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the GACP Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.
- b. *Status of the GACP Adequate Protection Liens.* The GACP Adequate Protection Liens shall be *pari passu* with the CLMG Adequate Protection Liens and junior to the ABL Adequate Protections Liens in all respects and shall not otherwise be (i) subject or subordinate to (A) 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 (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(ii) of this paragraph 13, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and

whether authorized under sections 363 or 364 of the Bankruptcy Code or otherwise.

- c. *Enforceability.* The GACP Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code. The GACP Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors' Chapter 11 Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Debtors' Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (each, a "Successor Case").

16. *Reporting.* As adequate protection for the Debtors' use of the Prepetition ABL Collateral (including Cash Collateral), the Debtors shall comply with the reporting requirements set forth in the Prepetition ABL Loan Documents, provided that notwithstanding anything to the contrary in this Interim Order or the Prepetition ABL Loan Documents, the Debtors shall not be required to deliver any Borrowing Base Certificates (as defined in the Prepetition ABL Credit Agreement) to the Prepetition ABL Agent. For the avoidance of doubt, any forecast and financial reporting requirements under this Cash Collateral Order shall replace and be in lieu of any similar requirements under the Prepetition ABL Loan Documents. The Debtors shall provide the following additional reporting to the Prepetition ABL Agent:

- a. subject to entry of a further interim order or the Final Order, on or before 5:00 p.m. (Central Time) on every fourth Thursday (or, if such Thursday is not a business day, then the immediately succeeding business day), starting on the fourth Thursday following the entry of this Interim Order or such time period as otherwise agreed, until earlier of (i) confirmation of a chapter 11 plan by the Debtors or (ii) the repayment of the Prepetition ABL Obligations indefeasibly in full in cash, an updated Budget with respect to the Debtors for the current calendar week then ended and the immediately following consecutive 12 weeks (collectively, 13 weeks), set forth on a weekly basis. Each proposed Budget provided to the Prepetition ABL Agent shall be of no force and effect unless and until it is approved by the Prepetition ABL Agent, which approval has been supported or unopposed by the Required Lenders (as defined in the Prepetition ABL Credit Agreement), and, until such approval is given, the prior Budget shall remain in effect. Any such proposed Budget, upon the approval of the Prepetition ABL Agent shall become, as of the date of such approval or such



determination (and the Prepetition ABL shall be deemed to have approved the Budget upon the passage of five (5) days with no objection) and for the period of time covered thereby, the Budget, and shall prospectively replace any prior Budget. If the Debtors and the Prepetition ABL Agent are unable to agree on a proposed Budget's terms, the Debtors reserve the right to seek an expedited hearing with the Court to resolve such disagreement. In that event, the Prepetition ABL Agent shall not oppose the request for expedited consideration provided that any such hearing is held on not less than 48 hours' notice to the Prepetition ABL Agent. In the event of any dispute regarding the terms of a Budget, the Debtors and the Prepetition ABL Agent reserve any and all rights under the Bankruptcy Code or applicable law;

- b. subject to entry of a further interim order or the Final Order, on or before 5:00 p.m. (Central Time) on every Thursday (or, if such Thursday is not a business day, then the immediately succeeding business day), starting on the first Thursday following the entry of this Interim Order, the Debtors shall deliver to the Prepetition ABL Agent, on a line-by-line basis, a reconciliation report showing the variances comparing actual cash receipts and disbursements of the Debtors during the immediately-preceding calendar week with corresponding forecasted amounts for such week in the Budget, including written descriptions in reasonable detail explaining any material positive or negative variances;
- c. all financial reports, forecasts and all other financial documentation, pleadings and other filings that are reasonably requested by the Prepetition ABL Agent or its representatives and agents, including, but not limited to (i) any appraisals conducted by Hilco, GACP, or any other party, (ii) any other materials that may value the Debtors' intellectual property or real estate assets; (iii) weekly updates on the asset sale process, and (iv) weekly Frac Fleet updates;
- d. in addition to, and without limiting, whatever rights to access the Prepetition ABL Agent has under the Prepetition ABL Loan Documents, upon reasonable notice, at reasonable times during normal business hours, the Debtors shall (a) permit representatives of the Prepetition ABL Agent to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors' business premises and other properties, and (b) cause their representatives and agents to make themselves reasonably available to discuss the Debtors' affairs, financial condition, properties, business, operations and accounts with the representatives and agents of the Prepetition ABL Agent.

17. *Carve Out.*

- a. *Carve Out.* As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office

of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the Prepetition ABL Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice (the “Pre-Carve Out Trigger Professional Fees”); and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed the amount equal to \$1 million less the Pre-Carve Out Trigger Professional Fees incurred after the first business day following delivery by the Prepetition ABL Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”). For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the Prepetition ABL Agent to the Debtors, the Debtors’ lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, which notice may be delivered following the occurrence and during the continuation of a Termination Event (as defined below) and upon termination of the Debtors’ right to use Cash Collateral by the Prepetition ABL Secured Parties, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

- b. *Fee Estimates.* Subject to entry of a further interim order or the Final Order, not later than 7:00 p.m. New York time on the Wednesday of each week starting with the first full calendar week following the Petition Date, each Professional Person shall deliver to the Debtors a statement setting forth a good-faith estimate of the amount of fees and expenses incurred during the preceding week by such Professional Person (through Saturday of such week, the “Calculation Date”) (collectively, “Estimated Fees and Expenses”), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a “Weekly Statement”); provided, that within one business day of the occurrence of the Termination Declaration Date (as defined below), each Professional Person shall deliver one additional statement (the “Final Statement”) setting forth a good-faith estimate of the amount of fees and expenses incurred during the period commencing on the calendar day after the most recent

Calculation Date for which a Weekly Statement has been delivered and concluding on the Termination Declaration Date (and the Debtors shall cause such Weekly Statement and Final Statement to be delivered on the same day received to the Prepetition ABL Agent). Subject to entry of a further interim order or the Final Order, if any Professional Person fails to deliver a Weekly Statement within three calendar days after such Weekly Statement is due, such Professional Person's entitlement (if any) to any funds in the Carve Out Reserves (as defined below) with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Budget for such period for such Professional Person.

c. *Carve Out Reserves.*

- (i) Subject to entry of a further interim order or the Final Order, commencing with the week ending on the first Friday after entry of such interim order or the Final Order,<sup>3</sup> and on or before the Thursday of each week thereafter, the Debtors shall utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the greater of (x) (i) for the week ending on the first Friday after entry of a further interim order or the Final Order, the aggregate amount of all Estimated Fees and Expenses reflected in all Weekly Statements delivered to the Debtors and the Prepetition ABL Agent between the Petition Date and the immediately prior Wednesday and (ii) for all weeks after the week ending on the first Friday after entry of a further interim order or the Final Order, the aggregate amount of all Estimated Fees and Expenses reflected in the Weekly Statement delivered on the immediately prior Wednesday to the Debtors and the Prepetition ABL Agent, and (y) (i) for the week ending on the first Friday after entry of a further interim order or the Final Order, the aggregate amount of Allowed Professional Fees contemplated to be incurred in the Budget during all prior weeks of the case and (ii) for all weeks after the week ending on the First Friday after entry of a further interim order or the Final Order, the aggregate amount of Allowed Professional Fees contemplated to be incurred in the Budget during such week.
- (ii) On the day on which a Carve Out Trigger Notice is given by the Prepetition ABL Agent to the Debtors with a copy to counsel to any

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<sup>3</sup> For the avoidance of doubt, should the Prepetition Agent or Administrative Agent deliver a Carve Out Trigger Notice prior to this date, the Debtors shall utilize all cash on hand to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees and any other reserves contemplated by this Interim Order.

Creditors' Committee (the "Termination Declaration Date"), the Carve Out Trigger Notice shall constitute a demand to the Debtors to and the Debtors shall utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The Debtors shall deposit and hold such amounts in a segregated account in trust to pay such then unpaid Allowed Professional Fees (the "Pre-Carve Out Trigger Notice Reserve") prior to any and all other claims. On the Termination Declaration Date, after funding the Pre-Carve Out Trigger Notice Reserve, the Debtors shall utilize all remaining cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap (the "Post-Carve Out Trigger Notice Reserve" and, together with the Pre-Carve Out Trigger Notice Reserve, the "Carve Out Reserves") prior to any and all other claims. All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above (the "Pre-Carve Out Amounts"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the Prepetition ABL Agent for the benefit of the Prepetition ABL Secured Parties, unless the Prepetition ABL Obligations have been indefeasibly paid in full, in cash, in which case any such excess shall be paid to the Debtors' creditors in accordance with their rights and priorities as of the Petition Date. Upon the foregoing funding, the Prepetition ABL Agent and Prepetition ABL Secured Parties shall have no further obligation to fund the Pre-Carve Out Trigger Notice Reserve or Post-Carve Out Trigger Notice Reserve or subordinate their liens and claims on account of any Allowed Professional Fees.

- d. *Application to Carve Out Reserves.* All funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "Post-Carve Out Amounts"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the Prepetition ABL Secured Parties in accordance with their rights and priorities under applicable law, unless the Prepetition ABL Obligations have been indefeasibly paid in full, in cash, in which case any such excess shall be paid to the Debtors' creditors in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the Prepetition ABL Loan Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this paragraph 17(b), then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable

amount set forth in this paragraph 17(a), prior to making any payments to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Lenders, or any of the Debtors' creditors, as applicable. Notwithstanding anything to the contrary in the Prepetition ABL Loan Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the Prepetition ABL Secured Parties shall not, and shall not direct any entity to, sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Lenders, for application in accordance with the Prepetition ABL Loan Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute Loans (as defined in the Prepetition ABL Loan Documents) or increase or reduce the Prepetition ABL Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order or in any Prepetition ABL Loan Documents, the Carve Out shall be senior to all liens and claims securing the Prepetition ABL Collateral, the ABL Adequate Protection Liens, and the 507(b) Claim, and any and all other forms of adequate protection, liens, or claims securing the Prepetition ABL Obligations.

- e. *Payment of Allowed Professional Fees Prior to the Termination Declaration Date.* Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.
- f. *No Direct Obligation to Pay Allowed Professional Fees.* None of the Prepetition ABL Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Chapter 11 Cases or any successor cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the Prepetition ABL Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.
- g. *Payment of Carve Out On or After the Termination Declaration Date.* Any payment or reimbursement made on or after the occurrence of the

Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for dollar basis.

18. *Termination.* The Debtors' right to use Cash Collateral shall terminate (the date of any such termination, the "Termination Date"), without prior order of this Court or any further action by the Prepetition ABL Secured Parties (i) automatically at 11:59 p.m. (prevailing Eastern Time) on July 27, 2020, if the Debtors and Prepetition ABL Secured Parties have not reached agreement on a replacement Budget or (ii) five (5) business days following the delivery of a written notice (a "Default Notice") by the Prepetition ABL Agent to Kirkland & Ellis LLP (any such five (5) business-day period of time, the "Default Notice Period") of the occurrence of any of the events set forth in clauses (a) through (k) below (unless cured by the Debtors or waived by the Prepetition ABL Administrative Agent, with the consent of the Required Lenders, in writing (with email being sufficient) prior to expiration of the Default Notice Period); provided that, if a hearing to consider any appropriate relief in connection with delivery of the Default Notice or continued use of Cash Collateral (as may be held on an expedited basis) is requested to be heard within such five (5) business day period but is scheduled for a later date by the Court, the Default Notice Period shall be automatically extended to the date of such hearing (the events set forth in clauses (a) through (k) below are collectively referred to herein as the "Termination Events");

- a. the failure to obtain entry of the Final Order on or before thirty-five (35) days after the entry of this Interim Order (unless such period is extended by mutual agreement between the Prepetition ABL Agent and the Debtors, which extension may be documented by email) if the Final Order has not been entered by this Court on or before such date (provided that such thirty-five (35)-day period shall be automatically extended by five (5) days to the extent it is not reasonably feasible to hold and conclude a final hearing (if necessary) prior to the expiration of such thirty-five (35)-day period as a result of the closure of the Court due to the events or circumstances surrounding the virus known as COVID-19, and the Prepetition ABL Lenders and the Prepetition ABL Agent shall be deemed to have automatically agreed to such extension);



- b. any Debtor's failure to comply with any of the material terms or conditions of this Interim Order, including, but not limited to, (i) the use of Cash Collateral for any purpose other than as permitted in this Interim Order, (ii) failure to comply with the Budget (including any distributions in excess of the Permitted Variance that have not been resolved and approved, in writing, by the Prepetition ABL Agent), or (iii) failure to comply with the reporting requirements set forth in this Interim Order; provided that notwithstanding anything to the contrary in this Interim Order or the Prepetition ABL Loan Documents, the Debtors shall not be required to deliver any Borrowing Base Certificates (as defined in the Prepetition ABL Credit Agreement) to the Prepetition ABL Agent;
- c. the failure of the Debtors to make any payment under this Interim Order to the Prepetition ABL Agent within three (3) business days after such payment becomes due, other than payments required pursuant to paragraph 13(b) of this Interim Order, which payments shall be made as required therein;
- d. this Interim Order ceases, for any reason (other than by reason of the express written agreement by the Prepetition ABL Agent, which agreement has been supported or unopposed by the Required Lenders, or the supersession of this Interim Order by the Final Order), to be in full force and effect in any material respect, or any Debtor so asserts in writing, or the Adequate Protection Liens or Adequate Protection Superpriority Claims created by this Interim Order cease in any material respect to be enforceable and of the same effect and priority purported to be created hereby or any Debtor so asserts in writing;
- e. the Court shall have entered an order reversing, amending, supplementing, staying, vacating, or otherwise modifying this Interim Order in a manner materially adverse to the Prepetition ABL Secured Parties without the prior written consent of the of the Prepetition ABL Agent, which consent may be provided by electronic mail;
- f. the date an application, motion, or other pleading is filed by the Debtors for the approval of, or the date the Court shall have entered an order recognizing or granting, any superpriority claim or any lien in these Chapter 11 Cases that is *pari passu* with or senior to the ABL Adequate Protection Superpriority Claims or the ABL Adequate Protection Liens without the prior written consent of the Prepetition ABL Secured Parties (other than the Carve Out);
- g. the date any of the Debtors files any pleading or commences any action against the Prepetition ABL Secured Parties challenging the validity or enforceability of the Prepetition ABL Obligations or the Prepetition ABL Liens or seeking to avoid, disallow, subordinate, or recharacterize any claim, lien, or interest held by any of the Prepetition ABL Secured Parties

arising under or related to the Prepetition ABL Obligations (or if the Debtor supports any such motion, pleading, application or adversary proceeding commenced by any third party); provided that if the Debtors provide any response to any discovery request, or make a witness available for deposition, such action shall not be a violation of this subparagraph 18(g);

- h. the date any of the Debtors file or otherwise support any motion, pleading, or other document, including a chapter 11 plan, that (i) seeks to amend, modify, or supplement this Interim Order, or (ii) otherwise materially, negatively affects the Prepetition ABL Secured Parties, without the prior written consent of the Prepetition ABL Agent; provided, that the consent of the Prepetition ABL Agent shall not be required if, pursuant to a chapter 11 plan, the Prepetition ABL Obligations and Adequate Protection Obligations are indefeasibly paid in full in cash on the effective date of such plan.
- i. the date any of the Debtors file a motion seeking an order, or the date any court of competent jurisdiction enters an order, dismissing the Chapter 11 Cases, converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, appointing a trustee, responsible officer, or examiner with expanded powers relating to the operation of the organization in the Chapter 11 Cases, or terminating the Debtors' exclusivity under Bankruptcy Code section 1121, unless consented to in writing by the Prepetition ABL Agent, which consent has been approved or unopposed by the Required Lenders;
- j. the filing of any pleading by any Debtor in support of (in any such case by way of any motion or other pleading filed with the Court or any other writing to another party in interest executed by or on behalf of any such Debtor) any other person's opposition to any motion filed in the Court by the Prepetition ABL Agent or the Prepetition ABL Lenders seeking confirmation of the amount of its claims or the validity or enforceability of the Prepetition ABL Liens or the Adequate Protection Liens, except with regard to good faith disputes over the payment of expenses and fees, provided that if the Debtors provided any response to any discovery request, or make a witness available for deposition, such action shall not be a violation of this subparagraph 18(j);
- k. the Court shall have entered an order granting relief from the automatic stay (without the consent of the Prepetition ABL Lenders) to the holder or holders of any security interest to permit foreclosure (or the granting of a deed *in lieu* of foreclosure or the like) on any of the Prepetition ABL Collateral or Adequate Protection Collateral on which the Prepetition ABL Lenders have a first-priority security interest, which has an aggregate value in excess of \$50,000; provided however, that to the extent such lien can be satisfied by amounts contemplated to pay prepetition liens in the Budget, any relief granted on account of such liens shall not trigger a Termination Event.



19. *Rights and Remedies upon Termination Event.* Except as otherwise ordered by the Court, following the expiration of the Default Notice Period, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order, any Adequate Protection Obligations determined by the Court to be due and owing as of the delivery of the Termination Notice, if any, shall become due and payable and/or the Prepetition ABL Secured Parties shall be entitled to exercise their rights and remedies. Prior to exercising the remedies set forth in this sentence below, the Prepetition ABL Secured Parties shall be required to file a motion with the Court seeking emergency relief (the “Stay Relief Motion”) on no less than five (5) business days’ written notice, which notice period may be concurrent with the Default Notice Period, to (i) the Court, (ii) counsel for the Debtors, (iii) counsel for the Creditors’ Committee (if any), and (iv) the U.S. Trustee for a further order of the Court modifying the automatic stay in the Chapter 11 Cases to permit the Prepetition ABL Secured Parties to exercise their rights and remedies against the Prepetition ABL Collateral or Adequate Protection Collateral to the extent available in accordance with the applicable Prepetition ABL Loan Documents, this Interim Order, or applicable law, including (x) setting-off amounts in any account of the Debtors maintained with the Prepetition ABL Agent or Prepetition ABL Lenders with respect to which the Prepetition ABL Agent controls pursuant to a deposit account control agreement to the extent necessary for payment of the Adequate Protection Obligations determined by the Court to be due and payable as of the delivery of the Termination Notice and (y) foreclosing upon and selling all or a portion of the Prepetition ABL Collateral or Adequate Protection Collateral in order to collect the Adequate Protection Obligations. Upon the Court’s ruling on the Stay Relief Motion, the Court may fashion an appropriate remedy upon a determination that a Termination Event occurred, including that the

Prepetition ABL Agent shall be entitled to exercise all rights and remedies with respect to the Collateral provided for in this Interim Order, including the right to foreclose on or otherwise exercise its rights with respect to all or any portion of the Collateral, as permitted by the Court. Upon the occurrence of the delivery of a Default Notice, the Debtors, the Prepetition ABL Agent, and each Prepetition ABL Secured Party consent to a hearing on an expedited basis to consider whether (a) a Termination Event has occurred and (b) any other appropriate relief (including, without limitation, the Debtors' non-consensual use of Cash Collateral). During the Default Notice Period, the Debtors shall be entitled to continue to use the Cash Collateral in accordance with the terms of the Budget and this Interim Order. Notwithstanding anything to the contrary herein, upon a Termination Event, the delivery of a Default Notice, the expiration of the Default Notice Period, or the occurrence of the Termination Date, all of the rights, remedies, benefits, and protections provided to the Prepetition ABL Secured Parties under this Interim Order shall survive. Except as otherwise provided herein or ordered by the Court, neither section 105 of the Bankruptcy Code nor any other provision of the Bankruptcy Code or applicable law shall be utilized to prohibit the exercise, enjoyment and enforcement of any rights, benefits, privileges and remedies set forth in this paragraph.

20. *Modification of Automatic Stay.* Except as provided in paragraph 15 herein, the automatic stay under section 362(a) of the Bankruptcy Code is hereby modified to the extent necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the Adequate Protection Liens and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the Prepetition ABL Secured Parties may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Prepetition ABL

Secured Parties under this Interim Order; (d) authorize the Debtors to pay, and the Prepetition ABL Secured Parties to retain and apply, any payments made in accordance with the terms of this Interim Order; and (e) permit the Prepetition ABL Secured Parties, subject to the terms of this Interim Order, to exercise all rights and remedies provided for hereunder; provided that during the Default Notice Period, unless otherwise ordered by the Court, the automatic stay under section 362 of the Bankruptcy Code shall remain in effect.

21. *Limitation on Charging Expenses Against Collateral.* Subject only to and effective upon entry of the Final Order, except to the extent of the Carve Out, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases or any Successor Case at any time shall be surcharged against, and no person may seek to surcharge any costs or expenses of administration against the Prepetition ABL Secured Parties, or any of the Prepetition ABL Obligations, the Carve Out, or the Prepetition ABL Collateral, pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the Prepetition ABL Agent, which consent is approved or unopposed by the Required Lenders. Subject to the Carve Out, nothing contained in this Interim Order shall be deemed a consent by the Prepetition ABL Agent to any charge, lien, assessment, or claim against the Prepetition ABL Collateral, or the Adequate Protection Liens, or otherwise, and no action, inaction or acquiescence by the Prepetition ABL Agent shall be deemed to be or shall be considered evidence of any alleged consent to a surcharge against the Prepetition ABL Secured Parties, the Prepetition ABL Obligations, or the Prepetition ABL Collateral. Notwithstanding the foregoing and for the avoidance of doubt, the Debtors and the Prepetition ABL Secured Parties reserve all rights to seek to surcharge costs and expenses of administration against GACP, the GACP Collateral, CLMG and the CLMG Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise.

22. *Section 552(b) of the Bankruptcy Code.* Subject only to and effective upon entry of the Final Order, the Prepetition ABL Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and no person may assert an “equities of the case” claim under section 552(b) of the Bankruptcy Code against the Prepetition ABL Secured Parties with respect to proceeds, product, offspring, or profits of any of the Prepetition ABL Collateral o.

23. *Payments Free and Clear.* Subject and subordinate to the Carve Out, any and all proceeds remitted to the Prepetition ABL Agent pursuant to the terms of this Interim Order or any subsequent order of this Court shall be irrevocable (subject to paragraphs 21 and 26 of this Interim Order), received free and clear of any claim, charge, assessment, or other liability, including, without limitation, but subject to entry of the Final Order, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) of the Bankruptcy Code or the “equities of the case” exception of section 552(b) of the Bankruptcy Code.

24. *All Parties’ Reservation of Rights.* All parties reserve their rights to argue that, to the extent that any cash payment of interest, fees, and expenses as adequate protection to the Prepetition ABL Secured Parties, the CLMG Secured Parties, or the GACP Secured Parties is not allowed under section 506(b) of the Bankruptcy Code and not allowed on any other basis (including, without limitation, (i) on account of the Debtors’ use of Prepetition ABL Collateral, CLMG Collateral, or GACP Collateral and (ii) that there has been ABL Diminution in Value, CLMG Diminution in Value, or GACP Diminution in Value), such payments should be recharacterized and applied as payments of principal owed under the applicable Prepetition ABL Loan Document, under the CLMG Term Loan Credit Agreement, or under the GACP Term Loan Credit Agreement, as applicable.

25. *Debtors' Reservation of Rights.* Notwithstanding anything to the contrary in this Interim Order, the entry of this Interim Order and the grant of adequate protection to the Prepetition ABL Secured Parties and the Prepetition ABL Agent pursuant to the terms hereof shall be without prejudice to the rights of the Debtors to, following the occurrence of the Termination Date, seek authority (at any time) to use Cash Collateral and the Prepetition ABL Collateral without the consent of the Prepetition ABL Secured Parties, and the Prepetition ABL Secured Parties reserve all of their respective rights with respect to contesting any such motion or request by the Debtors or any other person.

26. *No Marshaling.* Subject only to and effective upon entry of the Final Order, the Prepetition ABL Secured Parties shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition ABL Collateral, and proceeds of the Prepetition ABL Collateral shall be received and applied pursuant to this Interim Order and the Prepetition ABL Loan Documents notwithstanding any other agreement or provision to the contrary. Subject to the Carve Out, without limiting the generality of the immediately preceding sentence, no party shall be entitled, directly or indirectly, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of the Prepetition ABL Collateral after a Termination Event.

27. *Continuation of Prepetition ABL Liens.* Subject to the rights set forth in paragraph 29, until the Prepetition ABL Secured Parties are Paid in Full, all liens and security interests of the Prepetition ABL Secured Parties (including, without limitation, the Adequate Protection Liens) shall remain valid and enforceable with the same continuing priority as described herein. The term “Paid in Full” or “Payment in Full” means except as otherwise agreed to by, the Prepetition Secured Parties (including through entry of an order confirming a chapter 11 plan reasonably

acceptable to the Prepetition Secured Parties), all of the Prepetition ABL Obligations and Adequate Protection Obligations have been indefeasibly paid in full in cash and completely satisfied (including the cash collateralization of any letters of credit) and all Commitments (as defined in the Prepetition ABL Credit Agreement) have been terminated.

28. *Continuation of Prepetition CLMG Liens.* Until the Prepetition CLMG Obligations have been satisfied (including by payment in cash, turnover of collateral, or consent to release liens), all liens and security interests of the CLMG Secured Parties shall remain valid and enforceable with the same continuing priority as described herein.

29. *Continuation of the Prepetition GACP Liens.* Until the Prepetition GACP Obligations have been satisfied (including by payment in cash, turnover of collateral, or consent to release liens), all liens and security interests of the GACP Secured Parties shall remain valid and enforceable with the same continuing priority as described herein

30. *Perfection of ABL Adequate Protection Liens.*

- a. The Prepetition ABL Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments in any jurisdiction, or take possession of or control over cash or securities, or take any other action in order to validate and perfect the ABL Adequate Protection Liens; provided, however, that the Prepetition ABL Secured Parties may not take any aforementioned action to file or record such instruments against the CLMG Collateral or GACP Collateral. Whether or not the Prepetition ABL Secured Parties shall, each, in its sole discretion, choose to file such financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments, or take possession of or control over any cash, securities or any other property of the Debtors, or take any action that otherwise may be required under federal, state or local law in any jurisdiction to validate and perfect a security interest or lien, in any such case, the ABL Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination (subject to the priorities set forth in this Interim Order), at the time and on the date of entry of this Interim Order or thereafter. Upon the reasonable request of any of the Prepetition ABL Secured Parties, the

Prepetition ABL Secured Parties and the Debtors, without any further consent of any party, are authorized to take, execute, deliver and file such instruments (in each case, without representation or warranty of any kind) to enable the Prepetition ABL Secured Parties to further validate, perfect, preserve and enforce the ABL Adequate Protection Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

- b. A certified copy of this Interim Order (or the notice of the filing hereof) may, in the discretion of the Prepetition ABL Secured Parties, be filed with or recorded in filing or recording offices in addition to or *in lieu* of such financing statements, mortgages, deeds of trust, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order or notice for filing and/or recording, as applicable. The automatic stay of section 362(a) of the Bankruptcy Code shall be, and hereby is deemed, modified to the extent necessary to permit the Prepetition ABL Secured Parties to take all actions, as applicable, referenced in this paragraph 30(a) and 30(b).

31. *Effect of Stipulations on Third Parties.* Each of the Debtors' Stipulations and each of the Debtors' other admissions, agreements and releases contained in this Interim Order, including, without limitation, in paragraph 4 of this Interim Order, shall be binding upon the Debtors and all other parties in interest, including, without limitation, any statutory or non-statutory committees appointed or formed in these cases (including a Creditors' Committee, if any) and any other person or entity acting or seeking to act on behalf of the Debtors' estates, including any chapter 7 or chapter 11 trustee or examiner appointed or elected for any of the Debtors (a "Trustee"), in all circumstances and for all purposes unless: (a) any party in interest (including any Trustee), with requisite standing, has duly filed an adversary proceeding or contested matter, as required under the Bankruptcy Rules (subject in either case to the limitations contained herein, including without limitation, in paragraph 32), challenging the validity, enforceability, priority, or extent of the Prepetition ABL Obligations, the liens on the Prepetition ABL Collateral securing the Prepetition ABL Obligations, the Prepetition CLMG Obligations, the CLMG Collateral, or otherwise asserting or prosecuting any Avoidance Actions or any other claims, counterclaims or

causes of action, objections, contests or defenses (collectively, the “Claims and Defenses”) against the Prepetition ABL Agent, any of the other Prepetition ABL Secured Parties, or the CLMG Secured Parties or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors in connection with any matter related to the Prepetition ABL Obligations, the Prepetition ABL Collateral, the Prepetition CLMG Obligations, or the CLMG Collateral (as applicable) by no later than the date that is (i) the earlier of (A) seventy (75) days after the date of entry of this Interim Order (or, in the case of any official committee appointed in these Cases, sixty (60) days from the date such committee is appointed (the “Committee Challenge Deadline”)), (B) the effective date of a confirmed chapter 11 plan, or (C) any such later date as has been ordered by the Court for cause upon a motion filed and served prior to the expiration of the deadline to commence a challenge (such time period, the “Challenge Period”), and (b) an order is entered by a court of competent jurisdiction and becomes final and non-appealable in favor of the plaintiff sustaining any such challenge or claim in any such duly filed adversary proceeding or contested matter; provided that, as to the Debtors, all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date. If no such adversary proceeding or contested matter is timely filed prior to the expiration of the Challenge Period, without further order of this Court: (x) the Prepetition ABL Obligations, Prepetition CLMG Obligations, and the Prepetition GACP 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 case; (y) the Prepetition ABL Agent’s liens on the Prepetition ABL Collateral, CLMG’s liens on the CLMG Collateral, and GACP’s liens on the GACP Collateral shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected and of the priority specified in paragraph 4(d), not subject to defense, counterclaim,



recharacterization, subordination or avoidance; and (z) the Prepetition ABL Obligations, the Prepetition ABL Agent's liens on the Prepetition ABL Collateral, the other Prepetition ABL Secured Parties; the Prepetition CLMG Obligations, CLMG's liens on the CLMG Collateral, and the other CLMG Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors); and the Prepetition GACP Obligations, GACP's liens on the GACP Collateral, and the other GACP Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors), shall not be subject to any other or further challenge by any party in interest, and any such party in interest shall be enjoined from seeking to exercise the rights of the Debtors' estates, including without limitation, any successor thereto (including, without limitation, any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Challenge Period). If any such adversary proceeding or contested matter is timely filed prior to the expiration of the Challenge Period, the stipulations and admissions contained in this Interim Order, including without limitation, in paragraph 4 of this Interim Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any person, including any Trustee, except as to any such findings and admissions that were expressly and successfully challenged in such adversary proceeding or contested matter. Nothing in this Interim Order vests or confers on any person, including a Trustee, standing or authority to pursue any cause of action belonging to the Debtors or their estates. In the event that there is a timely successful challenge brought pursuant to this paragraph 28, the Court shall retain jurisdiction to fashion an appropriate remedy.

32. *Limitation on Use of Collateral.* Subject to the Carve Out, notwithstanding anything herein or in any other order by this Court to the contrary, no Cash Collateral, Prepetition

ABL Collateral, proceeds, products, or offspring of any of the foregoing or any portion of the Carve Out may be used to (except to the extent otherwise expressly agreed in writing by the Prepetition ABL Agent in response to a written request from the Debtors specifying the proposed use) pay any claims for services rendered by any of the professionals retained by the Debtors, any creditor or party in interest, any committee (including any Creditors' Committee), any Trustee, or any other person, party, or entity (or to pay any professional fees and disbursements in connection therewith) to: (a) apply to the Court for authority to approve superpriority claims or grant liens or security interests in the Prepetition ABL Collateral and Cash Collateral, or any portion thereof that are senior to, or on parity with, the Prepetition ABL Liens, unless the Prepetition ABL Obligations, and claims granted to the Prepetition ABL Secured Parties under this Interim Order, as applicable, have been Paid in Full or otherwise agreed to in writing by the Prepetition ABL Secured Parties; (b) prevent, hinder or otherwise delay the Prepetition ABL Secured Parties' assertion, enforcement or realization on the Prepetition ABL Collateral, including Cash Collateral, and liens, claims and rights granted to the Prepetition ABL Secured Parties under this Interim Order, in accordance with the Prepetition ABL Loan Documents or this Interim Order; (c) seek to modify any of the rights and remedies granted to the Prepetition ABL Secured Parties under this Interim Order or the Prepetition ABL Loan Documents; (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are provided for in the Budget and approved by an order of this Court that is in form and substance reasonably satisfactory to the Prepetition ABL Agent; (f) subject to paragraph 24, investigate, assert, join, commence, support or prosecute any action or claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against the Prepetition ABL Secured Parties or their respective officers, directors, employees, agents,

attorneys, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, or action, including, without limitation, (i) any avoidance actions or other actions arising under chapter 5 of the Bankruptcy Code, (ii) any action relating to any act, omission, or aspect of the relationship between the Prepetition ABL Secured Parties, on the one hand, and the Debtors or any of their affiliates, on the other, (iii) any action with respect to the validity and extent of the Prepetition ABL Obligations, or the validity, extent, and priority of the Prepetition ABL Liens or the Adequate Protection Liens, (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the Prepetition ABL Liens or the Adequate Protection Liens granted under this Order, (v) except to contest the occurrence of a Termination Event as permitted in paragraph 18, any action that has the effect of preventing, hindering or delaying (whether directly or indirectly) the Prepetition ABL Secured Parties in respect of their liens and security interests in the Cash Collateral or the Prepetition ABL Collateral, (vi) pay any fees or similar amounts to any person to purchase the Prepetition ABL Secured Parties' interests in any of the Debtors' assets without the prior written consent of the Prepetition ABL Secured Parties, unless such person consummates or otherwise closes the purchase of the Prepetition ABL Secured Parties' interests in any of the Debtors' assets, or (vii) use or seek to use Cash Collateral unless otherwise permitted hereby, without the prior written consent of the Prepetition ABL Secured Parties; or (g) for objecting to, contesting, delaying, preventing, hindering or otherwise interfering in any way with the exercise of rights or remedies by the Prepetition ABL Secured Parties with respect to any Prepetition ABL Collateral, including Cash Collateral, after the occurrence of an Termination Event, except as otherwise permitted hereby; provided that, notwithstanding anything to the contrary in this paragraph, any Creditors' Committee may use Prepetition ABL Collateral, including Cash Collateral, and the proceeds thereof to solely investigate, but not to prepare,

initiate, litigate, prosecute, object to, or otherwise challenge (i) the claims and liens of the Prepetition ABL Secured Parties and (ii) potential claims, counterclaims, causes of action, or defenses, including the Claims and Defenses, against the Prepetition ABL Secured Parties; provided further that no more than an aggregate of \$50,000 of the Prepetition ABL Collateral, including Cash Collateral, and the proceeds thereof may be used by any Creditors' Committee, in respect of the investigations set forth in the preceding proviso (the "Investigation Budget").

33. *Release.* The release, discharge, waivers, settlements, compromises, and agreements set forth in this paragraph shall be deemed effective upon entry of this Interim Order and subject only to the challenge rights set forth in paragraph 31 above. The Debtors forever and irrevocably: (a) release, discharge, and acquit the Prepetition ABL Secured Parties and their affiliates and each of their and their affiliates' respective former, current or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, and predecessors in interest (each, a "Prepetition Releasee") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness, and obligations, of every type arising prior to the Petition Date, including, without limitation, any claims arising from any actions relating to any aspect of the relationship between the Prepetition ABL Secured Parties and the Debtors and their affiliates including any equitable subordination claims or defenses, with respect to or relating to the Prepetition ABL Obligations, the Prepetition ABL Liens, the Prepetition ABL Loan Documents, the Debtors' attempts to restructure the Prepetition ABL Obligations, any and all claims and causes of action arising under title 11 of the United States Code, and any and all claims regarding the validity, priority, perfection or avoidability of the liens or secured claims of the Prepetition ABL Secured Parties, in respect of events that occurred on or prior to the date

hereof; and (b) waive any and all defenses (including, without limitation, offsets and counterclaims of any nature or kind) as to the validity, perfection, priority, enforceability and non-avoidability of the Prepetition ABL Obligations, the Prepetition ABL Liens. Nothing in this Interim Order shall release any claims against a Prepetition Releasee that a court of competent jurisdiction determines, pursuant to a final, non-appealable order, results primarily from the actual fraud, gross negligence, or willful misconduct of such Prepetition Releasee.

34. *Prohibition on Granting of Additional Liens and Interests, Use of Prepetition ABL Collateral.* No liens, claims, interests or priority status, other than the Carve Out and the Permitted Encumbrances, having a lien or administrative priority superior to or *pari passu* with that of the Adequate Protection Superpriority Claim, the Prepetition ABL Liens, or the Adequate Protection Liens shall be granted while any portion of the Prepetition ABL Obligations remain outstanding, or any commitment under the Prepetition ABL Loan Documents remains in effect, without the prior written consent of the Prepetition ABL Secured Parties. Nothing in this Interim Order shall authorize, other than in the ordinary course of the Debtors' business, the sale, transfer, lease, encumbrance, or other disposition of any assets that constitute Prepetition ABL Collateral, CLMG Collateral, or GACP Collateral of the Debtors or their estates without the prior written consent of the Prepetition ABL Secured Parties, CLMG Secured Parties, or GACP Secured Parties, as applicable (and no such consent or direction shall be implied from any other action, inaction, or acquiescence by any Prepetition ABL Secured Party or any order of this Court), except as permitted in the Prepetition ABL Loan Documents, the CLMG Term Loan Agreement, the GACP Term Loan Agreement, and this Interim Order, and approved by the Court to the extent required under applicable bankruptcy law; provided that a Termination Event shall not be deemed to occur if the Debtors seek approval of debtor in possession financing, including, without limitation, debtor

in possession financing which primes existing liens, to the extent (i) such debtor in possession financing provides for Payment in Full of the Prepetition ABL Obligations, and Adequate Protection Obligations or (ii) the Prepetition ABL Agent provides prior written consent, which consent is approved or unopposed by the Required Lenders, for financing that does not provide for Payment in Full of the Prepetition ABL Obligations and Adequate Protection Obligations.

35. *No Impairment of CLMG Collateral.* Unless otherwise provided in this Interim Order, nothing shall authorize the Debtors, the Prepetition ABL Lenders, or any other party in interest to take any action to impair, interfere with, or otherwise adversely impact, (i) the liens and security interests granted to the CLMG Secured Parties or (ii) the CLMG Collateral.

36. *No Impairment of GACP Collateral.* Unless otherwise provided in this Interim Order, nothing shall authorize the Debtors, the Prepetition ABL Lenders, or any other party in interest to take any action to impair, interfere with, or otherwise adversely impact, (i) the liens and security interests granted to the GACP Secured Parties or (ii) the GACP Collateral.

37. *Binding Effect of Interim Order.* Subject to paragraph 25, immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the Debtors, the Prepetition ABL Secured Parties, all other creditors of the Debtors, any Creditors' Committee, and each of their respective successors and assigns (including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed in a case for any Debtor under any chapter of the Bankruptcy Code) and shall inure to the benefit of the Debtors, the GACP Secured Parties, CLMG Secured Parties, the Prepetition ABL Secured Parties, and their respective successors and assigns.

38. *Survival.* The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order (a) confirming any chapter 11 plan in any of these Chapter 11 Cases; (b) converting any of these cases to a case under chapter 7 of the Bankruptcy Code; (c) dismissing any of these cases or any Successor Case; or (d) pursuant to which this Court abstains from hearing any of the cases or any Successor Case. Notwithstanding the entry of any such order, the terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to the Prepetition ABL Secured Parties pursuant to this Interim Order, shall continue in these cases, in any Successor Case, or following dismissal of these cases or any Successor Case, and shall maintain their priority as provided by this Interim Order and not be modified, altered or impaired in any way, whether by act or omission, until all of the Prepetition ABL Obligations and Adequate Protection Obligations have been Paid in Full, notwithstanding the occurrence of a Termination Event or any earlier termination of the Debtors' authorization to use the Prepetition ABL Collateral, including Cash Collateral.

39. *Limitation of Liability.* Subject to entry of the Final Order, and solely in the Prepetition ABL Secured Parties' capacity as a lender under the Prepetition ABL Loan Documents, in determining to permit the use of Cash Collateral, making and administering the loans and financial accommodations extended under the Prepetition ABL Loan Documents, extending other financial accommodations to the Debtors under this Interim Order and the Prepetition ABL Loan Documents, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the Prepetition ABL Loan Documents, as applicable, the Prepetition ABL Secured Parties (in their capacity as such) or any successor of any of the foregoing shall not (a) be deemed to be in "control" of the operations of the Debtors or any of their affiliates; (b) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; and (c) be deemed to be acting

as a “Responsible Person” or “Owner” or “Operator” with respect to the operation or management of the Debtors or any of their affiliates (as such terms or 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). Furthermore, nothing in this Interim Order or the Prepetition ABL Loan Documents or any other documents related thereto shall in any way be construed or interpreted to impose or allow the imposition upon the Prepetition ABL Secured Parties, or any successor of any of the foregoing, of any liability for any claims arising from the prepetition or postpetition activities of the Debtors or any of their subsidiaries affiliates in the operation of their businesses or in connection with their restructuring efforts.

40. *No Waiver.* Other than as provided in this Interim Order, nothing in this Interim Order shall be construed in any way as a waiver or relinquishment of any rights that the Debtors or the Prepetition ABL Secured Parties may have to bring or be heard on any matter brought before this Court.

41. *Effectiveness.* This Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable, *nunc pro tunc* to the Petition Date, immediately upon entry hereof. Notwithstanding any Bankruptcy Rule, any Bankruptcy Local Rule, any Federal Rule of Civil Procedure, or other applicable law, 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.

42. *Proofs of Claim.* Neither the Prepetition ABL Agent, the Prepetition ABL Lenders, the CLMG Secured Parties, nor the CLMG Secured Parties, shall be required to file proofs of claim in any of the Debtors’ Chapter 11 Cases or a Successor Case for any claim allowed herein. The Debtors’ Stipulations shall be deemed to constitute a timely filed proof of claim for the Prepetition



ABL Agent and the Prepetition ABL Lenders, the CLMG Secured Parties, the GACP Secured Parties upon approval of this Interim Order, and the Prepetition ABL Agent, the Prepetition ABL Lenders, the CLMG Secured Parties, and the GACP Secured Parties shall be treated under section 502(a) of the Bankruptcy Code as if they filed a proof of claim. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Debtors' Chapter 11 Cases or a Successor Case to the contrary, the Prepetition ABL Agent, the Prepetition ABL Lenders, the CLMG Secured Parties, and the GACP Secured Parties are hereby authorized and entitled, in their sole discretion, but not required, to file (and amend and/or supplement, as they see fit) a proof of claim and/or aggregate proofs of claim in each of these Chapter 11 Cases or a Successor Case for any claim allowed herein.

43. *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, other entity or any direct, indirect or incidental beneficiary other than (a) the Prepetition ABL Secured Parties and their respective Representatives, (b) the Debtors, (c) the CLMG Secured Parties and their Representatives, (d) the GACP Secured Parties and their Representatives, and (e) the respective successors and assigns of each of the foregoing.

44. *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.

45. *Rights Reserved.* Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly (a) the Prepetition ABL Secured Parties' rights to pursue any and all rights and remedies under the Bankruptcy Code, the Prepetition ABL Loan Documents or any other applicable agreement or law, or seek any other or supplemental relief in respect of the Debtors, including the right to seek new,

different or additional adequate protection, as applicable, or the Debtors' or any other party in interest's rights to oppose such relief, or (b) any of the rights and remedies of the Debtors, the Prepetition ABL Secured Parties, or any other party in interest under the Prepetition ABL Loan Documents or other applicable agreement, the Bankruptcy Code or applicable nonbankruptcy law.

46. *CLMG Rights Reserved.* Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly (a) the CLMG Secured Parties' rights to pursue any and all rights and remedies under the Bankruptcy Code, the CLMG Term Loan Agreement or any other applicable agreement or law, or seek any other or supplemental relief in respect of the Debtors, including the right to seek new, different or additional adequate protection, as applicable, or the Debtors' or any other party in interest's rights to oppose such relief, or (b) any of the rights and remedies of the Debtors, the CLMG Secured Parties, or any other party in interest under the CLMG Term Loan Agreement or other applicable agreement, the Bankruptcy Code or applicable nonbankruptcy law.

47. *GACP Rights Reserved.* Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly (a) the GACP Secured Parties' rights to pursue any and all rights and remedies under the Bankruptcy Code, the GACP Term Loan Agreement or any other applicable agreement or law, or seek any other or supplemental relief in respect of the Debtors, including the right to seek new, different or additional adequate protection, as applicable, or the Debtors' or any other party in interest's rights to oppose such relief, or (b) any of the rights and remedies of the Debtors, the GACP Secured Parties, or any other party in interest under the GACP Term Loan Agreement or other applicable agreement, the Bankruptcy Code or applicable nonbankruptcy law.

48. *Bankruptcy Rules.* The requirements of Bankruptcy Rules 4001, 6003, and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

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

50. *Retention of Jurisdiction.* The Court shall retain jurisdiction to enforce the provisions of this Interim Order, and this Court shall retain jurisdiction over 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.

51. A further interim hearing will be held on July 27, 2020 at 9:00 a.m.

52. Notwithstanding anything to the contrary contained in this Order, amounts payable to employees, materialmen, suppliers, workers and others for post-petition goods and services on work-in-process shall be paid out of the proceeds of post-petition earned receivables prior to the rights of any other party.

Signed: July 21, 2020

  
\_\_\_\_\_  
Marvin Isgur  
United States Bankruptcy Judge

**Exhibit 1**

**Budget**



**SCHEDULE "C"**



ENTERED  
07/22/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
	)	
BJ SERVICES, LLC., <i>et al.</i> , <sup>1</sup>	)	Case No. 20-33627 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Re: Docket No. 9</b>

**INTERIM ORDER AUTHORIZING THE  
DEBTORS TO (I) CONTINUE TO OPERATE THEIR CASH  
MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS  
AND (II) PERFORM LIMITED INTERCOMPANY TRANSACTIONS**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”) authorizing the Debtors to: (a) continue to operate their Cash Management System and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto, and (b) continue to perform intercompany transactions consistent with historical practice, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED ON AN INTERIM BASIS THAT:

1. A further interim hearing will be conducted on July 29, 2020 at 1:30 p.m. (prevailing Central Time).

2. The Debtors are authorized to: (a) continue operating the Cash Management System, as described in the Motion and substantially in the form attached hereto as **Exhibit A**, (b) honor their prepetition obligations related thereto, including the Bank Fees, (c) perform Intercompany Transactions to the limited extent set forth herein, (d) maintain existing Business Forms, and (e) maintain the Investment Practices consistent with historical practice.

3. The Debtors are authorized, but not directed, to: (a) continue to use, with the same account numbers, the Bank Accounts in existence as of the Petition Date, including those accounts identified on **Exhibit B** attached hereto; (b) use, in their present form, all preprinted correspondence and Business Forms (including letterhead); *provided* that once the Debtors' existing check stock has been exhausted, the Debtors shall include, or direct others to include, the designation "Debtor-in-Possession" and the corresponding bankruptcy case number on all checks as soon as it is reasonably practicable to do so; *provided, further*, that with respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor In Possession" within 10 business days; (c) treat the



Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (d) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire transfers, and other debits; (e) pay the Bank Fees, including any prepetition amounts, and any ordinary course Bank Fees incurred in connection with the Bank Accounts; and (f) to otherwise perform their obligations under the documents governing the Bank Accounts.

4. Except as set forth herein, the Cash Management Banks are authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be; *provided, however,* that (a) by submitting any payment request to the Cash Management Banks, the Debtors shall ensure that such payment request is consistent with this Order and other orders of the Court and, (b) as needed and to the extent reasonably possible, the Debtors and Cash Management Banks will cooperate to ensure that all payments honored by the Cash Management Banks are consistent with the Debtors' direction.

5. Those certain deposit agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements shall remain in full force and effect absent further order of the Court or, with respect to any such agreement with any Cash Management Bank (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable

deposit agreement and that the Bank Accounts are held by the same Debtors), unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

6. The Debtors are authorized to promptly place stop payments on any unauthorized prepetition checks or ACH payments that should not be honored by a Cash Management Bank. Any Cash Management Bank that is provided with notice of this Interim Order shall not honor or pay any bank payments drawn on any listed Bank Account or otherwise issued before the Petition Date for which the Debtors specifically issue a stop payment order in accordance with the documents governing such Bank Accounts.

7. Subject to the terms set forth herein, any bank, including a Cash Management Bank, may rely upon the representations of the Debtors with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and no bank that honors a prepetition check or other item drawn on any account that is the subject of this Interim Order at the direction of the Debtors or in a good-faith belief that this Court has authorized such prepetition check or item to be honored shall be deemed to be, nor shall be liable to the Debtors or their estates on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Interim Order.

8. Notwithstanding anything to the contrary in any other order of this Court, any banks, including the Cash Management Banks, are: (a) authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions, (b) authorized to accept and honor all

representations from the Debtors as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date, and (c) have no duty to independently inquire as to whether such payments are authorized by an order of this Court; *provided* that the Cash Management Banks shall not have any liability to any party for relying on such representations.

9. The Debtors are authorized to coordinate with the Cash Management Banks to implement reasonable handling procedures designed to effectuate the terms of this Interim Order. No Cash Management Bank that implements such handling procedures and then honors a prepetition check or other item drawn on any Bank Account that is the subject of this Interim Order either in good faith belief that the Court has authorized such prepetition check or item to be honored or as a result of an innocent mistake made despite implementation of such handling procedures, shall be deemed to be liable to the Debtors or their estates otherwise in violation of this Interim Order.

10. The Debtors are authorized to continue Intercompany Transactions with any other Debtor for the limited purpose of honoring payroll and payroll-related expense and making any other payments that are contemplated by any order of this Court solely to the extent that: (a) such Intercompany Transaction is the only reasonable commercial way for the Debtors to timely satisfy such obligation and (b) such Intercompany Transaction is an ordinary course transaction; and (c) the Intercompany Transaction does not result in a postpetition intercompany claim for which there are not presently adequate funds to pay the postpetition intercompany claim. The Debtors shall keep a record of all Intercompany Transactions and make such record available upon reasonable request of the Court, the administrative agent under the Debtors' asset-based revolving credit facility, the U.S. Trustee and any statutory committee appointed in these chapter 11 cases. All rights of all parties related to the Intercompany Transactions are reserved. This Order does not authorize the post-petition payment or satisfaction of a prepetition intercompany claim.

11. Nothing contained in the Motion or this Interim Order shall be construed to alter or impair any security interest or perfection thereof, in favor of any person or entity that existed as of the Petition Date or that arises after the Petition Date.

12. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases authorizing the use of cash collateral (as may be modified, amended, or supplemented, the “Cash Collateral Orders”) (including, without limitation, the budget required in connection therewith) and the Prepetition ABL Loan Documents (as defined in the Cash Collateral Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such Cash Collateral Orders or Prepetition ABL Loan Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such Cash Collateral Orders shall govern.

13. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity 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 claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) 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; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

14. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved in this Interim Order.

15. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid on account of the prepetition obligations pursuant to this Interim Order.

16. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

17. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

18. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

19. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

20. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Signed: July 22, 2020

A handwritten signature in black ink, appearing to read 'M Isgur', is written over a horizontal line.

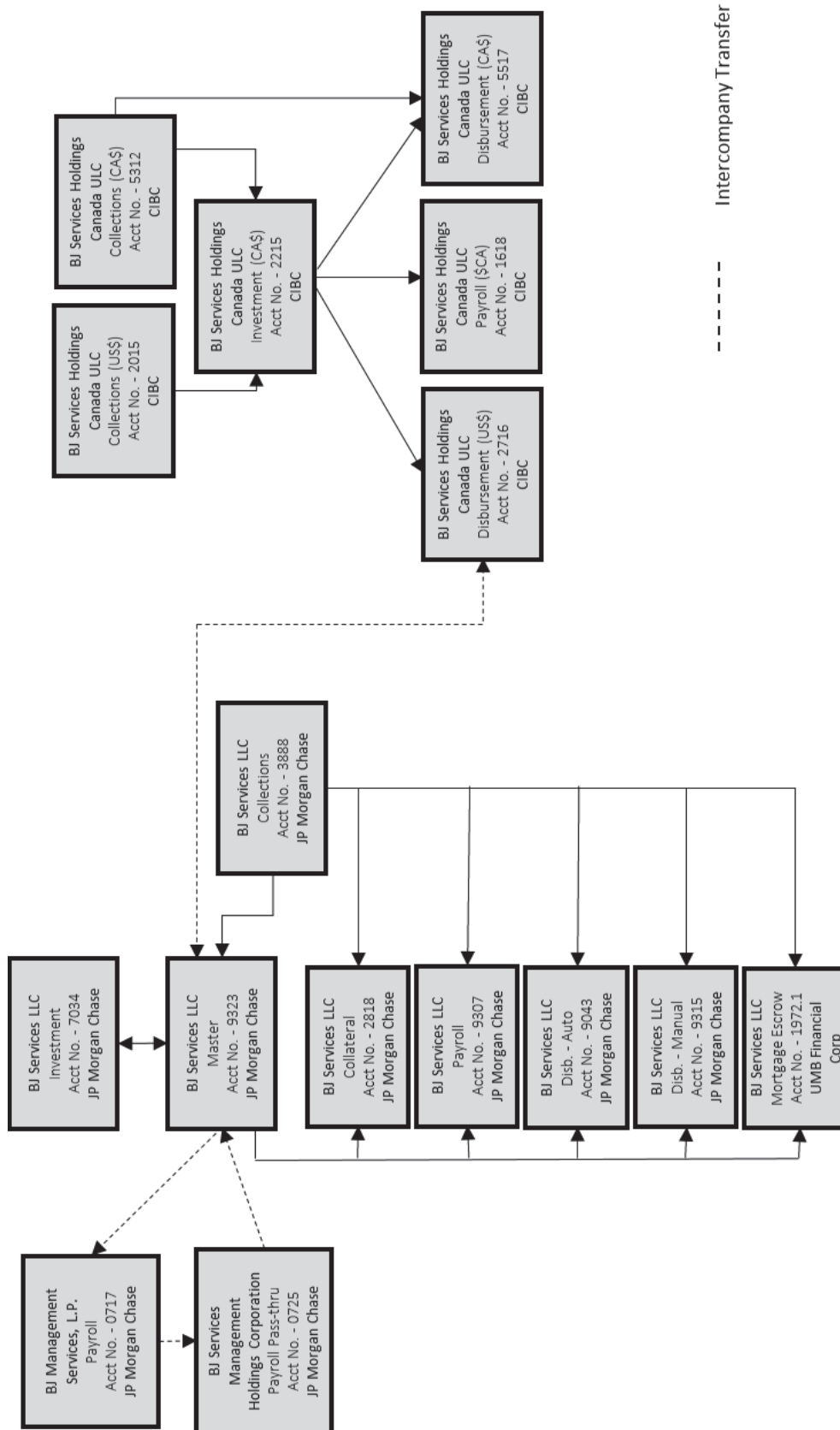
Marvin Isgur  
United States Bankruptcy Judge

**Exhibit A**

**Cash Management System Schematic**

# Exhibit A

## Cash Management System Schematic





**Exhibit B**

**Bank Accounts**

Entity	Bank	Account Type	Location
BJ Services, LLC	JPMorgan Chase Bank	Disbursements (Automated)  Account No.: ****9043	United States
BJ Services, LLC	JPMorgan Chase Bank	Collections  Account No.: ****3888	United States
BJ Services, LLC	JPMorgan Chase Bank	Payroll  Account No.: ****9307	United States
BJ Services, LLC	JPMorgan Chase Bank	Disbursements (Manual)  Account No.: ****9315	United States
BJ Services, LLC	JPMorgan Chase Bank	Master Account <sup>1</sup>  Account No.: ****9323	United States
BJ Services, LLC	JPMorgan Chase Bank	Investment Account  Account No.: ****7034	United States
BJ Services, LLC	JPMorgan Chase Bank	Corporate Card Collateral Account  Account No.: ****2818	United States
BJ Services, LLC	UMB Financial Corporation	Escrow Acct for Mortgage Loan  Account No.: ****1972.1	United States
BJ Services Management Holdings Corporation	JPMorgan Chase Bank	Payroll Pass-Thru  Account No.: ****0725	United States
BJ Management Services, L.P.	JPMorgan Chase Bank	Payroll  Account No.: ****0717	United States
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Collections  Account No.: ****5312	Canada
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Disbursement	Canada

<sup>1</sup> See investment account description for master account funding excesses/needs.

Entity	Bank	Account Type	Location
		Account No.: ****5517	
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Investment Account  Account No.: ****2215	Canada
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Payroll  Account No.: ****1618	Canada
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Collections (US)  Account No.: ****2015	Canada
BJ Services Holdings Canada, ULC	Canadian Imperial Bank of Commerce	Disbursement (US)  Account No.: ****2716	Canada

**SCHEDULE "D"**



ENTERED  
07/21/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
	)	
BJ SERVICES, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 20-33627 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Re: Docket No. <u>38</u></b>

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS  
TO PAY CERTAIN PREPETITION CLAIMS ON ACCOUNT OF  
(A) CRITICAL VENDORS CLAIMS, (B) LIENS CLAIMS, AND (C) 503(b)(9)  
CLAIMS, (II) CONFIRMING ADMINISTRATIVE EXPENSE PRIORITY OF  
OUTSTANDING ORDERS, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing, but not directing, the Debtors to pay certain prepetition (i) Critical Vendor Claims, (ii) Mineral Contractor Claims, (iii) Shipping Claims, and (iv) 503(b)(9) Claims; (b) confirming the administrative expense priority status of Outstanding Orders and authorizing, but not directing, payment of such obligations in the ordinary course of business; and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED ON AN INTERIM BASIS THAT:

1. A further interim hearing will be conducted on July 29, 2020 at 1:30 p.m., prevailing Central Time. Pending the further interim hearing, and notwithstanding anything in this Order to the contrary, the Debtors are not authorized to pay any sums under this Order to any vendor that is not expected to provide goods and services to the Debtors within 15 days of entry of this Order.

2. The Debtors are authorized, but not directed, to honor, pay, or otherwise satisfy prepetition amounts on account of the Specified Trade Claims, in the estimated amounts and categories as described in the Motion as necessary to avoid immediate and irreparable harm, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders). In the event Debtors will exceed the aggregate amounts in any category as detailed in the Motion during the interim period, Debtors shall file a notice with the Court describing the category and overage amount.

3. The form of Trade Agreement, substantially in the form attached hereto as **Exhibit A**, is approved in its entirety, and the Debtors are authorized, but not directed, to negotiate, modify, or amend the Trade Agreement in their reasonable business judgment.

4. The Debtors must condition payment of the Specified Trade Claims upon the execution of a Customer Agreement.

5. The Debtors must condition payment of the Specified Trade Claims upon the execution of a Trade Agreement.

6. The Debtors must condition any payment under this Interim Order, on an agreement that the payee will maintain or apply, as applicable, terms during the pendency of these chapter 11 cases that are at least as favorable as those terms existing as of the Petition Date or otherwise satisfactory to the Debtors (the “Customary Trade Terms”).

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7. Omitted.

8. If any party accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with Customary Trade Terms, then: (a) any payment on account of a prepetition claim received by such party shall be deemed, in the Debtors’ discretion, an improper postpetition transfer and, therefore, immediately recoverable by the Debtors in cash

upon written request by the Debtors; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding postpetition balance due from the Debtors to such party, the Debtors may elect to recharacterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise. The Debtors shall provide a copy of this Interim Order to the applicable party prior to such party's acceptance of any payment hereunder.

9. The Debtors shall maintain a schedule/matrix of amounts paid pursuant to this Order including the following information: (a) the name of each Specified Trade Claimant paid on account of the Specified Trade Claims, (b) the amount and date paid to each Specified Trade Claimant, (c) the goods or services provided by such Specified Trade Claimant as characterized in the motion, and (d) the Debtor or Debtors that made the payment. The Debtors shall provide a copy of such matrix/schedule to counsel to the administrative agent under the Debtors' asset-based revolving credit facility, the U.S. Trustee, and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Order.

10. Nothing herein shall impair or prejudice the rights of the U.S. Trustee and any statutory committee appointed in these chapter 11 cases, which are expressly reserved, to object to any payment made pursuant to this order to an insider (as such term is defined in section 101(31) of the Bankruptcy Code), or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment to an insider or an affiliate of an insider of the Debtors, subject to prior written approval of the administrative agent under the Debtors' asset-based revolving credit



facility, the Debtors shall, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases; *provided* that if any party objects to the payment, the Debtors shall not make such payment without further order of the Court.

11. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their sole discretion, the extent, perfection, priority, validity, or amounts of any claims held by any Specified Trade Claimant. The Debtors do not concede that any claims satisfied pursuant to this Interim Order are valid, and the Debtors expressly reserve all rights to contest the extent, validity, or perfection or seek the avoidance of all such liens or the priority of such claims.

12. Any party that accepts payment from the Debtors on account of a Specified Trade Claim shall be deemed to have agreed to the terms and provisions of this Interim Order. Notwithstanding anything to the contrary herein, prior to making any payment pursuant to this Interim Order to a holder of a Specified Trade Claim, the Debtors shall provide such holder with a copy of this Interim Order (unless previously provided to such Specified Trade Claimant).

13. All undisputed obligations related to the Outstanding Orders are granted administrative expense priority in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

14. The Debtors are authorized, but not directed, to pay all undisputed amounts related to the Outstanding Orders in the ordinary course of business consistent with the parties' customary practices in effect prior to the Petition Date.

15. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases authorizing the use of cash

collateral (as may be modified, amended, or supplemented, the “Cash Collateral Orders”) (including, without limitation, the budget required in connection therewith) and the Prepetition ABL Loan Documents (as defined in the Cash Collateral Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such Cash Collateral Orders or Prepetition ABL Loan Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such Cash Collateral Orders shall govern.

16. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity 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 claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) 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; (g) a waiver or limitation of the Debtors’, or any other party in interest’s, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

17. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

18. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Specified Trade Claims.

19. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

20. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

21. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

22. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

23. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Signed: July 21, 2020

  
Marvin Isgur  
United States Bankruptcy Judge

**Exhibit A**

**Form of Trade Agreement**

**THIS TRADE AGREEMENT IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF A CHAPTER 11 PLAN. ACCEPTANCE OR REJECTION OF A CHAPTER 11 PLAN MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT FOR ANY SUCH CHAPTER 11 PLAN. THE INFORMATION IN THIS TRADE AGREEMENT STATEMENT IS SUBJECT TO CHANGE. THIS TRADE AGREEMENT STATEMENT IS NOT AN OFFER TO SELL ANY SECURITIES AND IS NOT SOLICITING AN OFFER TO BUY ANY SECURITIES.**

## **TRADE AGREEMENT**

BJ Services, LLC (the “Company”), on the one hand, and [VENDOR] (“Vendor”), on the other hand, hereby enter into the following trade agreement (this “Trade Agreement”) dated as of this [DATE].

### **Recitals**

WHEREAS on July 20, 2020 (the “Petition Date”), BJ Services, LLC and its affiliates and related entities (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of Texas (the “Court”).

WHEREAS on July [●], 2020, the Court entered its *Interim Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims on Account of (A) Critical Vendors Claims, (B) Lien Claims, and (C) 503(b)(9) Claims, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief* (the “Specified Trade Claims Order”) [Docket No. [●]] authorizing the Debtors on an interim basis, under certain conditions, to pay the prepetition claims of certain vendors, including Vendor, subject to the terms and conditions set forth therein.<sup>1</sup>

WHEREAS prior to the Petition Date, Vendor delivered goods to the Company, and the Company paid Vendor for such goods, according to Customary Trade Terms (as defined herein).

WHEREAS the Company intends to complete certain ongoing customer projects (the “Ongoing Projects”) at open well site(s) (each an “Open Well Site”).

WHEREAS the Company and Vendor (each a “Party,” and collectively, the “Parties”) agree to the following terms as a condition of payment on account of certain prepetition claims Vendor may hold against the Company.

### **Agreement**

1. Recitals. The foregoing recitals are incorporated herein by reference as if set forth at length herein.

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<sup>1</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Specified Trade Claims Order.

2. Vendor Payment. Vendor represents and agrees that, after due investigation, the sum of all amounts currently due and owing by the Company to Vendor is \$[●] (the “Agreed Vendor Claim”). Following execution of this Trade Agreement, the Company shall, in full and final satisfaction of the Agreed Vendor Claim:

a. Pay Vendor \$[●] in full satisfaction of its Agreed Vendor Claim (the “Vendor Payment”) (without interest, penalties, or other charges), as such invoices become due and payable; or

b. Pay the Vendor Payment (with interest, penalties, or other charges) on the date which is the later of 30 days after the effective date of a chapter 11 plan and when the invoices become payable in ordinary course.

3. Agreement to Supply.

a. Vendor shall supply goods to the Company for the duration of the Debtors’ chapter 11 cases based on the following “Customary Trade Terms”: the trade terms at least as favorable to the Company as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances, product mix, availability, and other programs) in place in the 120 days prior to the Petition Date.

b. Vendor shall continue all shipments of goods in the ordinary course and shall fill orders for goods requested by the Company in the ordinary course of business for the duration of the Debtors’ chapter 11 cases pursuant to the Customary Trade Terms.

c. The Customary Trade Terms may not be modified, adjusted, or reduced in a manner adverse to the Company except as agreed-to in writing by the Parties.

4. Other Matters.

a. Vendor agrees that it shall not require a lump-sum payment upon the effective date of a plan in the Company’s chapter 11 cases on account of any outstanding administrative claims Vendor may assert arising from the delivery of postpetition goods or services, to the extent that payment of such claims is not yet due. Vendor agrees that such claims will be paid in the ordinary course of business after confirmation of a plan pursuant to the Customary Trade Terms then in effect. The Vendor Payment will be made concurrently with payment of other outstanding administrative claims as provided in a confirmed plan.

b. Vendor will not separately seek payment from the Company on account of any prepetition claim (including, without limitation, any reclamation claim or any claim pursuant to section 503(b)(9) of the Bankruptcy Code) outside the terms of this Trade Agreement or a plan confirmed in the Company’s chapter 11 case.

c. Vendor will not file or otherwise assert against the Company, its assets, or any other person or entity, including the Company’s customers, or any of their respective assets or property (real or personal), any lien, regardless of the statute or other legal authority upon which the lien is asserted, related in any way to any remaining prepetition amounts allegedly owed to Vendor by the Company arising from prepetition agreements or transactions. Furthermore, if

Vendor has taken steps to file or assert such a lien prior to entering into this Trade Agreement, Vendor will promptly take all necessary actions to remove such liens.

5. Vendor Breach.

a. In the event that Vendor fails to satisfy its undisputed obligations arising under this Trade Agreement (a "Vendor Breach"), upon written notice to Vendor, Vendor shall promptly pay to the Company immediately available funds in an amount equal to, at the election of the Company, the Vendor Payment or any portion of the Vendor Payment which cannot be recovered by the Company from the postpetition receivables then owing to Vendor from the Company.

b. In the event that the Company recovers the Vendor Payment pursuant to Section 5(a) hereof or otherwise, the full Agreed Vendor Claim shall be reinstated as if the Vendor Payment had not been made.

c. Vendor agrees and acknowledges that irreparable damage would occur in the event of a Vendor Breach and remedies at law would not be adequate to compensate the Company. Accordingly, Vendor agrees that the Company shall have the right, in addition to any other rights and remedies existing in its favor, to an injunction or injunctions to prevent breaches of the provisions of this Trade Agreement and to enforce its rights and obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive relief and/or other equitable relief. The right to equitable relief, including specific performance or injunctive relief, shall exist notwithstanding, and shall not be limited by, any other provision of this Trade Agreement. Vendor hereby waives any defense that a remedy at law is adequate and any requirement to post bond or other security in connection with actions instituted for injunctive relief, specific performance, or other equitable remedies.

6. Notice.

If to Vendor:

[•]

and

[•]

If to Company:

BJ Services, LLC  
11211 Farm to Market 2920 Road  
Tomball, Texas 77375  
Attn: John R. Bakht  
Email: [generalcounsel@bjservices.com](mailto:generalcounsel@bjservices.com)

and

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Attn: Joshua A. Sussberg  
Christopher T. Greco, P.C.  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900  
Email: joshua.sussberg@kirkland.com  
cgreco@kirkland.com

and

300 North LaSalle, Chicago, Illinois 60654  
Attn.: Samantha G. Lawrence  
Joshua M. Altman  
Telephone: (312) 862-2000  
Facsimile: (312) 862-2200  
E-mail: samantha.lawrence@kirkland.com  
josh.altman@kirkland.com

7. Representations and Acknowledgements. The Parties agree, acknowledge and represent that:

a. the Parties have reviewed the terms and provisions of the Specified Trade Claims Order and this Trade Agreement and consent to be bound by such terms and that this Trade Agreement is expressly subject to the procedures approved pursuant to the Specified Trade Claims Order;

b. any payments made on account of the Agreed Vendor Claim shall be subject to the terms and conditions of the Specified Trade Claims Order;

c. if Vendor refuses to supply goods or services to the Company as provided herein or otherwise fails to perform any of its obligations hereunder, the Company may exercise all rights and remedies available under the Specified Trade Claims Order, the Bankruptcy Code, or applicable law; and

d. in the event of disagreement between the Parties regarding whether a breach has occurred, either Party may apply to the Court for a determination of their relative rights, in which event, no action may be taken by either Party, including, but not limited to, the discontinuing of shipment of goods from Vendor to the Company, until a ruling of the Court is obtained.

8. Confidentiality. Vendor agrees to hold in confidence and not disclose to any party: (a) this Trade Agreement; (b) any and all payments made by the Company pursuant to this Trade Agreement; (c) the terms of payment set forth herein; and (d) the Customary Trade Terms (collectively, the "Confidential Information"); *provided, that*, if any party seeks to compel Vendor's disclosure of any or all of the Confidential Information, through judicial action or



otherwise, or Vendor intends to disclose any or all of the Confidential Information, Vendor shall immediately provide the Company with prompt written notice so that the Company may seek an injunction, protective order or any other available remedy to prevent such disclosure; *provided, further*, that if such remedy is not obtained, Vendor shall furnish only such information as Vendor is legally required to provide.

9. Miscellaneous.

a. The Parties hereby represent and warrant that: (i) they have full authority to execute this Trade Agreement on behalf of the respective Parties; (ii) the respective Parties have full knowledge of, and have consented to, this Trade Agreement; and (iii) they are fully authorized to bind that Party to all of the terms and conditions of this Trade Agreement.

b. This Trade Agreement sets forth the entire understanding of the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements between them. This Trade Agreement may not be changed, modified, amended or supplemented, except in a writing signed by both Parties. Moreover, Vendor agrees to vote all claims now or hereafter beneficially owned by Vendor in favor of, and not take any direct or indirect action to oppose or impede confirmation of, any chapter 11 plan on a timely basis in accordance with the applicable procedures set forth in any related disclosure statement and accompanying solicitation materials, and timely return a duly-executed ballot to the Debtors in connection therewith, if such chapter 11 plan provides for a treatment of any Agreed Vendor Claim that is materially consistent with this Agreement.

c. Signatures by facsimile or electronic signatures shall count as original signatures for all purposes.

d. This Trade Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

e. The Parties hereby submit to the exclusive jurisdiction of the Court to resolve any dispute with respect to or arising from this Trade Agreement.

f. This Trade Agreement shall be deemed to have been drafted jointly by the Parties, and any uncertainty or omission shall not be construed as an attribution of drafting by any Party.

[Signature Page Follows]

AGREED AND ACCEPTED AS OF THE DATE SET FORTH ABOVE:

**[COMPANY]**

**[VENDOR]**

---

By:

Title:

---

By:

Title:

**SCHEDULE "E"**



ENTERED  
07/21/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

BJ SERVICES, LLC, *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 20-33627 (MI)  
)  
) (Joint Administration Requested)  
)  
) **Re: Docket No. 11**

**ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE  
INSURANCE COVERAGE ENTERED INTO PREPETITION  
AND SATISFY PREPETITION OBLIGATIONS RELATED THERETO,  
(B) RENEW, AMEND, SUPPLEMENT, EXTEND, OR PURCHASE  
INSURANCE POLICIES, (C) HONOR THE TERMS OF THE PREMIUM  
FINANCING AGREEMENTS AND PAY PREMIUMS THEREUNDER,  
AND (D) ENTER INTO NEW PREMIUM FINANCING AGREEMENTS IN  
THE ORDINARY COURSE OF BUSINESS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”): (a) authorizing the debtors to (i) continue insurance coverage entered into prepetition and satisfy prepetition obligations related thereto and (ii) renew, amend, supplement, extend, or purchase insurance policies in the ordinary course of business on a postpetition basis, (iii) honor the terms of the Premium Financing Agreements and pay premiums thereunder, and (iv) enter into new premium financing agreements; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Debtors are authorized to continue the Insurance Policies including the Insurance Policies identified on Exhibit A attached hereto, and to pay any prepetition or postpetition obligations related to the Insurance Policies, including any amounts owed to the Brokers, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders).

2. The Debtors are authorized to continue, renew, amend, supplement, and extend their existing Insurance Policies, and purchase new policies in the ordinary course of business; subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders), *provided, however*, the Debtors will notify the U.S. Trustee, counsel to the administrative agent under the Debtors' asset-based revolving credit facility, and any statutory committee appointed in these cases if Debtors renew, amend, supplement, extend, terminate, replace, increase, or decrease existing insurance coverage or change insurance carriers,

enter into any new Premium Financing Agreements on terms materially consistent with existing Premium Finance Agreements,<sup>3</sup> or obtain additional insurance coverage.

3. The Debtors shall maintain a matrix/schedule of payments made pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature of the payment; (c) the amount of the payment; (d) the category or type of payment, as further described and classified in the Motion; (e) the Debtor or Debtors that made the payment; and (f) the payment date; and (g) the purpose of such payment. The Debtors shall provide a copy of such matrix to the U.S. Trustee, counsel to the administrative agent under the Debtors' asset-based revolving credit facility, and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Order.

4. Notwithstanding anything to the contrary in the Premium Financing Agreements, the Debtors' filing of these chapter 11 cases shall not constitute a default under the Premium Financing Agreements.

5. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Order shall create any rights in favor of, or enhance the status of any claim held by, any person to whom any obligations under the Insurance Policies are owed.

6. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases authorizing the use of cash collateral (as may be modified, amended, or supplemented, the "Cash Collateral Orders")

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<sup>3</sup> For the avoidance of doubt, such terms may include the automatic termination of an insurance policy in the event of the Debtors' non-payment.

(including, without limitation, the budget required in connection therewith) and the Prepetition ABL Loan Documents (as defined in the Cash Collateral Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such Cash Collateral Orders or Prepetition ABL Loan Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such Cash Collateral Orders shall govern.

7. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity 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 claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) 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; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such lien.

8. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized

and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

9. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Insurance Policy.

10. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

11. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

13. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: July 21, 2020



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Marvin Isgur  
United States Bankruptcy Judge



**Exhibit A**

**Insurance Policies**

**Insurance Policies<sup>1</sup>**

<b>Policy Type</b>	<b>Insurer</b>	<b>Policy Begins</b>	<b>Policy Ends<sup>2</sup></b>	<b>Annual Premium</b>	<b>Monthly Premium</b>
Automobile Liability	StarNet Insurance Company	4/1/2020	4/1/2021	\$1,159,147.00	\$96,595.58
Automobile Liability (Canada)	Liberty Mutual Canada	4/1/2020	4/1/2021	\$167,139.00	\$13,928.25
Lead D&O Side A (\$5m excess of \$20m)	National Union Fire Insurance Company of Pittsburgh, PA	1/29/2020	1/29/2021	\$19,000.00	\$1,583.33
Excess D&O Side A (\$5m excess of \$25m)	Endurance American Insurance Company	1/29/2020	1/29/2021	\$15,000.00	\$1,250.00
Excess Liability (\$75m excess of \$25m)	Lloyd's of London	4/1/2020	4/1/2021	\$641,025.00	\$53,418.75
General Commercial Liability - Canada	Berkley Insurance Company	4/1/2020	4/1/2021	\$49,710.00	\$4,142.50
Crime and Fidelity Coverage	Starr Indemnity and Liability Company	1/29/2020	1/29/2021	\$14,060.00	\$1,171.67
Contractors Pollution Liability (Canada)	Lloyd's of London	4/1/2020	4/1/2021	\$21,445.00	\$1,787.08

<sup>1</sup> The Debtors request authority to honor existing Insurance Policies and renew Insurance Policies, as applicable, regardless of whether the Debtors inadvertently failed to include a particular Insurance Policy on this exhibit.

<sup>2</sup> Prior to the Petition Date, the Debtors purchased and prepaid all premiums on account of tail coverage for the following Insurance Policies: (a) Primary Directors & Officers Liability; (b) Excess Directors & Officers Liability; (c) Lead Directors and Officers Side A Liability; (d) Excess Directors and Officers Side A Liability; (e) Primary Employment Practices Liability; (f) Excess Employment Practices Liability; (g) Primary Fiduciary Liability; and (h) Excess Fiduciary Liability.

Contractors Liability (US)	Pollution	Evanston Insurance Company	4/1/2020	4/1/2021	\$148,100.00	\$12,341.67
D&O Employment Liability and Liability	Liability, Practices and Fiduciary	Federal Insurance Company	1/29/2020	1/29/2021	\$78,434.00	\$6,536.17
Property, Equipment, and Contingent OFE		Underwriters at Lloyd's of London / Hudson Specialty Insurance Co. / StarNet Insurance Company	4/1/2020	4/1/2021	\$2,378,483.00	\$198,206.92
Commercial Liability	General	Berkley National Insurance Company	4/1/2020	4/1/2021	\$404,768.00	\$33,730.67
Pollution Legal Liability (Canada)		Lloyd's of London	4/1/2020	4/1/2021	\$12,818.00	\$1,068.17
Pollution Legal Liability (US)		Lloyd's of London	4/1/2020	4/1/2021	\$67,838.00	\$5,653.17
Kidnap & Ransom/Special Crime		Great American Insurance Company	1/29/2020	1/29/2021	\$6,545.00	\$545.42
\$25M Umbrella Policy		Berkley National Insurance Company	4/1/2020	4/1/2021	\$2,190,942.00	\$182,578.50
Excess D&O, EPL & Fiduciary (\$5m excess of \$5m)		Freedom Specialty Insurance Company	1/29/2020	1/29/2021	\$55,000.00	\$4,583.33
General Liability (\$100m excess of \$100m)		Lloyd's of London	4/1/2020	4/1/2021	\$275,000.00	\$22,916.67

Excess D&O (\$5m excess of \$10m)	Starr Indemnity and Liability Company	1/29/2020	1/29/2021	\$19,000.00	\$1,583.33
Excess D&O (\$5m excess of \$15m)	RLI Insurance Company	1/29/2020	1/29/2021	\$16,000.00	\$1,333.33
Credit Insurance	Euler Hermes	3/1/2020	2/28/2021	\$128,000.00	\$10,666.67
			Total	\$7,867,454.00	\$655,621.17

**SCHEDULE "F"**



ENTERED  
07/21/2020

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

BJ SERVICES, LLC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 20-33627 (MI)  
)  
) (Jointly Administered)  
)  
) **Re: Docket No. 23**

**ORDER (A) AUTHORIZING THE DEBTORS  
TO (I) PAY PREPETITION WAGES, SALARIES, OTHER  
COMPENSATION, AND REIMBURSABLE EXPENSES AND (II) CONTINUE  
EMPLOYEE BENEFITS PROGRAMS AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing the Debtors to (i) pay certain prepetition wages, salaries, other compensation, and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BJ Services, LLC (3543); BJ Management Services, L.P. (8396); BJ Services Holdings Canada, ULC (6181); and BJ Services Management Holdings Corporation (0481). The Debtors’ service address is: 11211 Farm to Market 2920 Road, Tomball, Texas 77375.

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed to such terms in the Motion.

estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Debtors are authorized to continue to provide, modify, change, or discontinue the Employee Compensation and Benefits and to pay any claims or obligations on account of the Employee Compensation and Benefits in the ordinary course and in accordance with the Debtors' prepetition policies and prepetition practices and the terms of this Order, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders). For the avoidance of doubt, except as otherwise expressly set forth herein, nothing in this Order should be construed as authorizing any payments on account of the Employee Compensation and Benefits that are outside the ordinary course of business without prior Court approval. The Debtors (i) shall provide notice to the U.S. Trustee, counsel to the administrative agent under the Debtors' asset-based revolving credit facility, and any statutory committee appointed in these chapter 11 cases of any material changes or modifications to the Employee Compensation and Benefits and (ii) shall not honor any prepetition claims or obligations on account of Employee Compensation and Benefits to any individual that exceed the priority amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code (absent further Court order).

2. The automatic stay of section 362(a) of the Bankruptcy Code, to the extent applicable, is hereby lifted to permit: (a) Employees to proceed with their claims under the Workers' Compensation Program in the appropriate judicial or administrative forum; (b) the Debtors to continue the Workers' Compensation Program and pay all prepetition amounts relating to the Workers' Compensation Program in the ordinary course; (c) insurers and third-party administrators to handle, administer, defend, settle, and/or pay Workers' Compensation Claims and direct action claims; and (d) insurers and third-party administrators providing coverage for any Workers' Compensation Claims or direct action claims to draw on any and all collateral provided by or on behalf of the Debtors therefor without further order of the Bankruptcy Court if and when the Debtors fail to pay and/or reimburse any insurers and third-party administrators for any amounts in relation thereto. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

3. The Debtors are authorized to remit any unpaid amounts on account of the Withholding and Deduction Obligations, the Payroll Taxes, and amounts on account of the 401(k) Plan and the Canada Retirement Savings Plan to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' prepetition policies and practices, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders).

4. The Debtors shall not make any bonus, incentive, retention, or severance payments to any Insiders (as such term is defined in section 101(31) of the Bankruptcy Code) without further order of this Court.



5. The Debtors shall not make any payments on account of any Severance Obligations arising after the Petition Date in violation of section 503(c) of the Bankruptcy Code.

6. The Debtors are authorized to maintain the Purchase Card program in accordance with the prepetition policies and practices and pay all prepetition and postpetition amounts incurred under the Purchase Card program pursuant to the terms of such program with JPMorgan.

7. The Debtors are authorized, but not directed, in their discretion to continue and honor any obligations to non-insiders pursuant to the Field Incentive Plan, Sales Bonuses, Performance Incentive Plan, Service Award Program, and Severance Programs in the ordinary course of business and consistent with past practices, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders). However, before making any payments related to the Field Incentive Plan, Sales Bonuses, Performance Incentive Plan, Service Award Program, and Severance Programs in excess of (y) \$300,000 in the aggregate in any calendar month or (z) \$50,000 to any individual, the Debtors shall provide five (5) days' advance notice to the U.S. Trustee, counsel to the administrative agent under the Debtors' asset-based revolving credit facility, and any statutory committee appointed in these chapter 11 cases of (a) the title of the Claimant, (b) the amount of the payment to such Claimant, and (c) the proposed payment date. The Debtors shall maintain a matrix or schedule of amounts paid pursuant to the Field Incentive Plan, Sales Bonuses, Performance Incentive Plan, Service Award Program, and Severance Program, subject to the terms and conditions of this Order, including the following information: (a) the title of the Claimant paid; (b) the amount of the payment to such Claimant; (c) the total amount paid to the Claimant to date; (d) the payment date; and (e) the purpose of such payment. The Debtors shall provide a copy of such matrix or schedule to the U.S. Trustee, counsel to the administrative agent under the Debtors' asset-based revolving

credit facility, and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Order.

8. The Debtors are authorized, but not directed, to pay costs and expenses incidental to payment of the Employee Compensation and Benefits obligations, including all administrative and processing costs and payments to the Wage and Benefit Service Providers, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders).

9. Nothing contained herein is intended or should be construed to create an administrative priority claim on account of the Employee Compensation and Benefits obligations.

10. Nothing contained in the Motion or this Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist as of the Petition Date or (b) alter or impair the validity, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

11. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases authorizing the use of cash collateral (as may be modified, amended, or supplemented, the “Cash Collateral Orders”) (including, without limitation, the budget required in connection therewith) and the Prepetition ABL Loan Documents (as defined in the Cash Collateral Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such Cash Collateral Orders or Prepetition ABL Loan Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such Cash Collateral Orders shall govern.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity 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 claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) 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; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

13. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

14. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.


15. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

16. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

17. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

18. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: July 21, 2020

  
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Marvin Isgur  
United States Bankruptcy Judge