

Draft Subject to Revision

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	x	
	:	
RAAM GLOBAL ENERGY	:	Chapter 11
COMPANY, <i>et al.</i> , ¹	:	
	:	Case No. 15-[____] (____)
Debtors.	:	
	x	(Joint Administration Requested)

**INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361,
362, 363 AND 507, BANKRUPTCY RULES 2002, 4001 AND 9014
AND LOCAL BANKRUPTCY RULE 4001-2 (I) AUTHORIZING DEBTORS’
LIMITED USE OF CASH COLLATERAL, (II) GRANTING ADEQUATE
PROTECTION TO THE PREPETITION SECURED PARTIES, (III) MODIFYING
THE AUTOMATIC STAY AND (IV) SCHEDULING A FINAL HEARING**

Upon the motion (the “Motion”), dated [____], 2015, of the above-referenced debtors, as debtors in possession (collectively, the “Debtors”) in the above-captioned cases (collectively, the “Cases”), pursuant to sections 105, 361, 362, 363 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 4001-1 of the Local Bankruptcy Rules for the Southern District of Texas (the “Local Bankruptcy Rules”), seeking, among other things:

- (a) authorization for the Debtors, pursuant to Bankruptcy Code sections 105, 361, 362, 363 and 507 to (i) use cash collateral, as such term is defined in section 363(a) of the Bankruptcy Code (“Cash Collateral”), and all other Prepetition Collateral (as defined herein), solely in accordance with the terms of this order (this “Interim Order”), and (ii) provide adequate protection to:
 - (1) Wilmington Trust, National Association, as Administrative Agent (in such capacity, the “First Lien Agent”) under the First Lien Credit Agreement

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are RAAM Global Energy Company [2973], Century Exploration New Orleans, LLC [4948], Century Exploration Houston, LLC [9624], and Century Exploration Resources, LLC [7252].

Draft Subject to Revision

(as defined herein), and the other First Lien Secured Parties (as defined herein); and

- (2) The Bank of New York Mellon Trust Company, National Association, as Indenture Trustee (in such capacity, the “Second Lien Trustee” and, collectively with the First Lien Agent, the “Prepetition Agents”) under the Second Lien Indenture (as defined herein), and the other Second Lien Secured Parties (as defined herein);
- (b) subject to entry of the Final Order (as defined herein), authorization to grant adequate protection liens on the proceeds and property recovered in respect of the Debtors’ claims and causes of action (but not on the actual claims and causes of action) arising under Bankruptcy Code sections 544, 545, 547, 548 and 550 or any other similar state or federal law (collectively, the “Avoidance Actions”);
- (c) modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order and the Final Order;
- (d) subject to entry of the Final Order, except to the extent of the Carve Out (as defined herein) and the Sale Carve Out (as defined herein) the waiver of all rights to surcharge any Prepetition Collateral or Collateral (as defined herein) under sections 506(c) or 552(b) of the Bankruptcy Code or any other applicable principle of equity or law;
- (e) that this Court hold an interim hearing (the “Interim Hearing”) to consider the relief sought in the Motion and entry of the proposed Interim Order;
- (f) that this Court schedule a final hearing (the “Final Hearing”) to consider entry of a final order (the “Final Order”) granting the relief requested in the Motion on a final basis; and
- (g) waiver of any applicable stay with respect to the effectiveness and enforceability of the Interim Order or the Final Order (including a waiver pursuant to Bankruptcy Rule 6004(h));

and the Interim Hearing having been held by the Court on [__], 2015; and pursuant to Bankruptcy Rule 4001 and Local Bankruptcy Rule 4001-1, due and sufficient notice of the Motion and the relief sought at the Interim Hearing having been given under the particular circumstances by the Debtors to the First Lien Agent, counsel to the First Lien Agent, counsel to the Principal First Lien Lender (as defined below), the Second Lien Trustee, counsel to the Second Lien Trustee, counsel to the Ad Hoc Second Lien Noteholder Group, the other

Draft Subject to Revision

Prepetition Secured Parties, the Debtors' thirty (30) largest unsecured creditors (on a consolidated basis), [___], the United States Trustee for the Southern District of Texas (the "United States Trustee"), the United States Securities and Exchange Commission, the United States Internal Revenue Service, and all other parties with a particularized interest in the Motion; and the Court having considered the offers of proof, evidence adduced, and the statements of counsel at the Interim Hearing; and it appearing to the Court that granting the relief sought in the Motion on the terms and conditions herein contained is necessary and essential to enable the Debtors to preserve the value of the Debtors' businesses and assets and that such relief is fair and reasonable and that entry of this Interim Order is in the best interest of the Debtors and their respective estates and creditors; and due deliberation and good cause has been shown to grant the relief sought in the Motion,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. **Petition Date.** On [___], 2015 (the "Petition Date"), each of the other Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court"). Each Debtor has continued with the management and operation of its respective businesses and properties as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Cases.

B. **First Lien Credit Agreement.** Prior to the Petition Date, the First Lien Lenders (as defined herein) made certain loans and advances pursuant to and in accordance with the terms and conditions of that certain Fifth Amended and Restated Credit Agreement dated as of September 12, 2014 (as heretofore amended, restated, or otherwise modified from time to time, the "First Lien Credit Agreement," and, together with all promissory notes, security

Draft Subject to Revision

agreements, mortgages, deeds of trust, guarantees and other documentation executed in connection therewith, the “First Lien Loan Documents”), among, *inter alia*, Century Exploration New Orleans, LLC (“Century New Orleans”), Century Exploration Houston, LLC (“Century Houston”), and Century Exploration Resources, LLC (“Century Resources”), as borrowers, RAAM Global Energy Company (“RAAM”), as a guarantor, the First Lien Agent, and the lenders from time to time party thereto (such lenders, the “First Lien Lenders,” and, together with the First Lien Agent and the other Secured Parties (as such term is defined in the First Lien Credit Agreement), collectively, the “First Lien Secured Parties”). For purposes herein, “Principal First Lien Lender” shall refer to certain funds and vehicles managed by Highbridge Principal Strategies, LLC that, collectively, as of the date hereof, hold more than 99% of the outstanding principal amount of the First Lien Prepetition Indebtedness.

C. **Second Lien Indenture.** Prior to the Petition Date, the Second Lien Secured Noteholders (as defined herein) purchased certain of RAAM’s 12.50% Senior Secured Notes due 2015 (the “Second Lien Notes”) pursuant to and in accordance with the terms and conditions of that certain Indenture, dated September 24, 2010 (as heretofore amended, restated, supplemented or otherwise modified from time to time, the “Second Lien Indenture,” and, together with all Second Lien Notes, security agreements, mortgages, deeds of trust, guarantees and other documentation executed in connection therewith, the “Second Lien Notes Documents”), among *inter alia*, RAAM, as issuer, Century New Orleans, Century Houston and Century Resources, as guarantors, and the Second Lien Trustee, and, where applicable, the holders from time to time of the Second Lien Notes (such noteholders, the “Second Lien Secured Noteholders,” and together with the Second Lien Trustee, the “Second Lien Secured Parties”). The First Lien Loan Documents and the Second Lien Notes Documents are referred to

Draft Subject to Revision

collectively in this Interim Order as the “Prepetition Loan Documents,” and the First Lien Secured Parties and Second Lien Secured Parties are referred to herein collectively as the “Prepetition Secured Parties.”

D. Debtors’ Admissions With Respect to the First Lien Prepetition Indebtedness. Without prejudice to the rights, if any, of any other party except as set forth in paragraph 18, the Debtors admit, stipulate and agree that:

- i. As of the Petition Date, the Debtors under the First Lien Loan Documents were justly and lawfully indebted and liable, without defense, counterclaim, or offset of any kind, to the (x) First Lien Secured Parties in the aggregate principal amount of \$63,817,859.57 in respect of loans made pursuant to, and in accordance with, the First Lien Loan Documents, plus accrued and unpaid interest of \$576,133.45, the Applicable Premium (as such term is defined in the First Lien Credit Agreement), indemnitees, fees, costs and expenses including, without limitation, attorney’s fees, agent’s fees, other professional fees and disbursements, and other obligations owing under the First Lien Loan Documents (collectively, the “First Lien Prepetition Indebtedness”). Each of the First Lien Loan Documents is valid, binding, and, subject to applicable bankruptcy law, enforceable against the Debtors in accordance with its terms.
- ii. Pursuant to the First Lien Loan Documents and the Intercreditor Agreement, dated as of September 24, 2010, among the Debtors,

Draft Subject to Revision

the First Lien Agent and the Second Lien Trustee (the “Intercreditor Agreement”), the maturity date with respect to the First Lien Prepetition Indebtedness was July 2, 2015.

- iii. The First Lien Prepetition Indebtedness constitutes the legal, valid and binding obligations of the Debtors, enforceable in accordance with their terms, and no portion of the First Lien Prepetition Indebtedness or any amounts paid to the First Lien Secured Parties or applied to the obligations owing under the First Lien Loan Documents prior to the Petition Date is subject to avoidance, subordination (whether equitable or otherwise), recharacterization, recovery, attack, offset, counterclaim, defense, challenge or Claim (as defined in section 101(5) of the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

E. Debtors’ Admissions With Respect to Prepetition Collateral and

Liens. Without prejudice to the rights, if any, of any other party except as set forth in paragraph 18, the Debtors admit, stipulate and agree that:

- i. Pursuant to (a) that certain Fifth Amended and Restated Security Agreement, dated as of September 12, 2014, by the Debtors in favor of the First Lien Agent and (b) certain mortgages, deeds of trust, control agreements or similar security documents entered into by certain Debtors and the First Lien Agent in respect of the properties owned by such loan party (each as heretofore amended,

Draft Subject to Revision

restated or otherwise modified from time to time, and, collectively with any and all other agreements, instruments, certificates, fixture filings, transmitting utility filings, financing statements, consents, assignments or other similar documents, the “First Lien Collateral Documents”), they have granted valid, binding, perfected and enforceable first priority liens upon and security interests in the real and personal property of the Debtors described in the First Lien Collateral Documents, including, without limitation, all rights, titles, interests and property rights in and to oil and gas leases and/or oil, gas and other mineral leases and other interests and estates and the lands and premises covered or affected thereby as described therein (the “Hydrocarbon Properties”) and properties pooled or unitized or subject to communization agreements or declaration orders with the Hydrocarbon Properties and all oil, gas, other hydrocarbons, other minerals and other as-extracted collateral produced from or allocated to the Hydrocarbon Properties (the “Hydrocarbons”), all wells, pumping units, wellhead equipment, tanks, pipelines, flow lines, gathering lines, compressors, dehydration units, separators, meters, buildings, injection facilities and salt water disposal facilities, together with substantially all personal property of the Debtors (including, without limitation, all accounts, receivables, general intangibles, documents, instruments, inventory,

Draft Subject to Revision

equipment, investment property, stock in subsidiaries, goods, fixtures, money, cash, deposit accounts and intercompany obligations) and the cash and noncash proceeds and other rights arising from all prepetition collateral (including any cash held by the Debtors that constitutes Cash Collateral, collectively, the “Prepetition Collateral”) to the First Lien Agent for the benefit of the First Lien Secured Parties to secure the First Lien Prepetition Indebtedness, subject only to specific permitted exceptions under the First Lien Credit Agreement and First Lien Collateral Documents.

- ii. The First Lien Agent’s first priority liens upon and security interests in the Prepetition Collateral, for the ratable benefit of the First Lien Secured Parties, are not subject to avoidance, subordination (whether equitable or otherwise), recharacterization, recovery, attack, offset, counterclaim, defense, challenge or Claim (as defined in section 101(5) of the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

F. Debtors’ Admissions With Respect to Cash Collateral. Without prejudice to the rights of any other party except as set forth in paragraph 18, the Debtors admit, stipulate and agree that:

- i. All cash proceeds of the Prepetition Collateral, including all such cash proceeds of such Prepetition Collateral held in any of the Debtors’

Draft Subject to Revision

banking, checking or other deposit accounts with financial institutions (in each case, other than trust, escrow and custodial funds held as of the Petition Date), are Cash Collateral of the Prepetition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code. In addition, all cash of the Debtors held in their deposit and securities accounts (other than any such accounts which exclusively hold cash collateral securing surety bonds in accordance with the First Lien Credit Agreement, are zero balance accounts, or are used solely to fund payroll, payroll taxes and similar employment taxes or employee benefits) are subject to control agreements in favor of the Prepetition Secured Parties and, therefore, constitute Cash Collateral of the Prepetition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code. The Prepetition Secured Parties are entitled, pursuant to sections 105, 361, 362 and 363(e) of the Bankruptcy Code, to adequate protection of their interest in the Prepetition Collateral, including the Cash Collateral, for any Collateral Diminution (as defined herein); and

- ii. All of the Debtors' cash in deposit accounts 3326293999, 26-311-2964, 65-415-7510, and 75-426-0842 (each maintained with JPMorgan Chase Bank, N.A.) and 8125-200-32, 2080-089-077, 2081-559-664 and 2080-228-220 (each maintained with Capital One, N.A.) (collectively, the "Operating Accounts") as of the Petition Date and all cash deposited into the Debtors' deposit accounts (including the Operating Accounts) after the

Draft Subject to Revision

Petition Date constitutes Cash Collateral except for cash that is not property of the Debtors.

G. **Releases; Investigation.** Without prejudice to the rights, if any, of any other party except as set forth in paragraph 18, each Debtor hereby forever waives and releases any and all Claims (as defined in section 101(5) of the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights against each of the First Lien Secured Parties, whether arising at law or in equity, including, without limitation, any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or Chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law. The admissions, stipulations, agreements and releases set forth in paragraphs D, E, F and G of this Interim Order are based upon and consistent with the Debtors' investigation of the First Lien Secured Parties' liens and claims and determination that the Debtors have no Claims (as defined in section 101(5) of the Bankruptcy Code), defenses or counterclaims with respect thereto.

H. **Need to Use Cash Collateral.** The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Bankruptcy Rule 4001-1 and have an immediate need to obtain use of the Collateral, including the Cash Collateral (in the amount and in the manner set forth in the Budget (as defined herein)) in order to, among other things, preserve and maintain the value of their assets and businesses and maximize the return to all creditors and implement the transactions contemplated by the Sale. An immediate and critical need exists for the Debtors to use the Cash Collateral, consistent with the Budget (as defined herein), for working capital purposes, other general corporate purposes of the Debtors, and the satisfaction of costs and expenses of administering the Cases. The Debtors are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as

Draft Subject to Revision

an administrative expense. The ability of the Debtors to obtain liquidity through the use of the Cash Collateral is vital to the Debtors and their efforts to maximize the value of their assets. Absent entry of this Interim Order, the Debtors' estates and reorganization efforts will be immediately and irreparably harmed.

I. **Notice.** Notice of the requested relief sought at the Interim Hearing was provided by the Debtors to: (1) the United States Trustee; (2) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (3) the First Lien Agent; (4) counsel to the First Lien Agent; (5) the Second Lien Trustee; (6) counsel to the Second Lien Trustee; (7) counsel to the Principal First Lien Lender; (8) counsel to the Ad Hoc Second Lien Noteholder Group; (9) the United States Attorney's Office for the Southern District of Texas; (10) the Internal Revenue Service; (11) the United States Securities and Exchange Commission; (12) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtors conduct business; (13) the state attorneys general for states in which the Debtors conduct business; and (14) any party that has requested notice pursuant to Bankruptcy Rule 2002. Given the nature of the relief sought, the foregoing notice of the Interim Hearing was, in the Debtors' good-faith belief, the best available under the circumstances and complies with Bankruptcy Rules 2002, 4001(b) and (d), and 9014, Local Bankruptcy Rule 4001-1 and section 102(1) of the Bankruptcy Code as required by sections 361 and 363 of the Bankruptcy Code. No further notice of, or hearing on, the relief sought at the Interim Hearing and the relief granted herein is necessary or required.

J. **Consent by Prepetition Secured Parties.** The First Lien Agent, at the direction of a majority of the First Lien Lenders, consents to the Debtors' use of Cash Collateral, in accordance with and subject to the terms and conditions provided for in this Interim Order.

Draft Subject to Revision

Pursuant to the Intercreditor Agreement, as a result of the First Lien Agent's consent to the use of Cash Collateral as provided in this Interim Order, the Second Lien Secured Parties are deemed to have consented to entry of this Interim Order.

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

L. **Relief Essential; Best Interest.** The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Bankruptcy Rule 4001-1. The relief requested in the Motion (and as provided in this Interim Order) is necessary, essential and appropriate for the continued operation of the Debtors' businesses and the management and preservation of the Debtors' assets and the property of their estates. It is in the best interest of the Debtors' estates that the Debtors be allowed to use the Cash Collateral under the terms hereof. The Debtors have demonstrated good and sufficient cause for the relief granted herein.

M. **Arm's-Length, Good-Faith Negotiations.** The terms of this Interim Order were negotiated in good-faith and at arm's-length between the Debtors and the First Lien Secured Parties.

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

Draft Subject to Revision

1. **Motion Granted.** The Motion is granted in accordance with the terms of this Interim Order. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived or settled and all reservations of rights included therein, are hereby denied and overruled.

2. **Authorization to Use Cash Collateral.** Subject to the terms and conditions of this Interim Order, the Court hereby authorizes the Debtors to use the Cash Collateral, and the cash proceeds of any property of the Debtors that is not Prepetition Collateral (collectively, the “Debtors’ Cash”) during the period beginning with the Petition Date and ending on the Termination Date (as defined herein) (such period, the “Budget Period”), for the disbursements set forth in the 13-week cash disbursements and receipts budget attached as **Exhibit A** hereto (as such budget may be modified from time to time by the Debtors with the prior written consent of the Principal First Lien Lender as set forth in this paragraph and in paragraph 3(f)(v) of this Interim Order) (the “Budget”), subject in each case to any Permitted Deviation and Non-Conforming Use permitted herein (as each such term is defined below). The Debtors shall adhere to the Budget during the Budget Period (subject to any Permitted Deviation and Non-Conforming Use permitted herein), *provided* that the Debtors may carry forward any Positive Variance (as defined below) to any future periods in the Budget. For the avoidance of doubt, the Restructuring Professional Fees (as defined in the Budget) shall not be subject to the Budget. For purposes of this Interim Order, “Positive Variance” shall mean the amount by which (i) the Total Net Receipts (designated in the Budget as “Total Receipts, Net”) exceeds 100% of the budgeted amount, (ii) the Total Operating Disbursements (as designated in the Budget) are in an amount less than 100% of the budgeted amount, or (iii) General & Administrative (as designated in the Budget), and P&A Bonding Expense (as designated in the

Draft Subject to Revision

Budget) are in an amount less than 100% of the budgeted amount. For purposes of this Interim Order, the “Permitted Deviation” shall mean that, for any four-week period ending immediately prior to the measurement date (and commencing the week of October 25, 2015), (i) the Total Net Receipts shall not be less than 90% of the budgeted amount and the Total Operating Disbursements shall not exceed 110% of the budgeted amount, (ii) General & Administrative (as designated in the Budget) expenses shall not exceed 115% of the budgeted line item amounts, and (iii) P&A Bonding Disbursements (as designated in the Budget) shall not exceed 100% of the budgeted line item amount, in each case, measured on an individual basis; *provided* that the Debtors shall not make any disbursements on account of capital expenditures apart from workover expenditures regarding the Centaurus 1 Well and the Centaurus 2 Well without the prior written consent of the Principal First Lien Lender. Positive Variances shall be applied prior to any Permitted Deviations being taken into account; provided that Permitted Deviations shall be based solely off the amounts set forth in the Budget. The Principal First Lien Lender may, in its sole discretion, 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, after giving effect to the Permitted Deviation) (each such approved non-conforming use of Cash Collateral, a “Non-Conforming Use”). If such written consent is given, 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 Secured Parties shall be entitled to all of the protections specified in this Interim Order for any such Non-Conforming Use. The Debtors shall provide notice of any Non-Conforming Use to counsel for any official committee of unsecured creditors appointed in the Cases (the “Committee”), the Second Lien Trustee, and the United States Trustee.

Draft Subject to Revision

3. **Adequate Protection for the First Lien Secured Parties.** In addition to all the existing security interests and liens granted to or for the benefit of the First Lien Secured Parties in and with respect to the Prepetition Collateral, including the Cash Collateral, as adequate protection for, and to secure payment of an amount equal to the Collateral Diminution (as defined herein), and as an inducement to the First Lien Secured Parties to permit the Debtors' use of the Cash Collateral as provided for in this Interim Order, the Debtors hereby grant the following:

(a) **Adequate Protection Liens.** Effective as of the Petition Date and in each case perfected without the necessity of the execution by the Debtors (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages, deeds of trust or other similar documents, or by possession or control, the following security interests and liens are hereby granted to the First Lien Agent, for the benefit of the First Lien Secured Parties, (all property identified in clauses (i) and (ii) of this paragraph 3(a) being collectively referred to as the "Collateral"), subject only to the Carve Out (as defined herein) and the Sale Carve Out (as defined herein) (all such liens and security interests, the "First Lien Adequate Protection Liens") to secure payment of an amount equal to the Collateral Diminution:

i. **Liens Senior to Other Liens.** A valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien on the Prepetition Collateral and all of the Debtors' now owned and hereafter-acquired real and personal property, assets and rights of any kind or nature, wherever located, including, without limitation, all prepetition and postpetition property of the Debtors' estates, pursuant to Bankruptcy Code Section 364(c)(2), all tangible and intangible unencumbered assets of the Debtors (including, without limitation, property subject to avoided liens) and the proceeds, products, rents and profits thereof, whether arising from section 552(b) of the Bankruptcy Code or otherwise, including, without limitation, oil and gas properties (and as-extracted collateral, goods, fixtures and hydrocarbons relating thereto), accounts receivable, other rights to payment, cash, inventory, general intangibles, contracts, servicing rights, servicing receivables, securities, chattel paper, owned real

Draft Subject to Revision

estate, real property leaseholds, fixtures, machinery, equipment, deposit accounts, patents, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, claims and causes of action (including those arising under section 549 of the Bankruptcy Code) and all proceeds of the foregoing, other than causes of action arising under the Bankruptcy Code, including, all Avoidance Actions, which First Lien Adequate Protection Liens, subject to entry of the Final Order, shall have recourse to the proceeds or property recovered in respect of any Avoidance Actions, senior to any other security interests or liens, subject only to valid, perfected and enforceable prepetition liens (if any) which are senior to the First Lien Secured Parties' liens or security interests as of the Petition Date or to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

ii. **Liens Junior to Existing Liens.** A valid, binding, continuing, enforceable, fully-perfected junior lien on and security interest in all prepetition and postpetition property of the Debtors (other than the property described in clause (i) of this paragraph 3(a)), whether now existing or hereafter acquired, that is subject to valid, perfected and unavoidable liens in existence immediately prior to the Petition Date or to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code.

(b) **Adequate Protection Claims.** An allowed administrative claim against each of the Debtors on a joint and several basis with priority over any and all other administrative claims against the Debtors now existing or hereafter arising in the Cases (subject only to the Carve Out (as defined herein) and the Sale Carve Out (as defined herein)) to secure payment of an amount equal to the Collateral Diminution, including all claims of the kind specified under sections 503(b) and 507(b) of the Bankruptcy Code (the "First Lien Adequate Protection Claims"), which administrative claim shall have recourse to and be payable from all prepetition and postpetition property of the Debtors excluding the Carve Out, the Sale Carve Out, and the Carve Out Reserve but including, without limitation, subject to entry of the Final Order, the proceeds or property recovered in respect of any Avoidance Actions.

Draft Subject to Revision

- (c) **Adequate Protection Payments.** The Debtors are authorized and directed to pay to the First Lien Agent for the ratable benefit of the First Lien Secured Parties, adequate protection payments on the last business day of each calendar month after the entry of this Interim Order, in each case, in an amount equal to all accrued and unpaid prepetition or postpetition interest, fees and costs due and payable under the First Lien Credit Agreement (including, without limitation, interest on loans, breakage costs and accrued fees owing to the First Lien Agent or First Lien Lenders, but excluding fees and expenses payable pursuant to paragraph 3(e) below), and in each case, such payments calculated based on the applicable Default Rate (under and as defined in the First Lien Credit Agreement). For the avoidance of doubt, the payment of interest pursuant to this paragraph shall be without prejudice to the rights of the First Lien Agent and the First Lien Secured Parties to assert claims for payment of additional interest at any other rates in accordance with the First Lien Credit Agreement.
- (d) **Other Covenants.** The Debtors shall maintain their cash management arrangements in a manner consistent with the interim order granting the *Motion to (I) Approve Maintenance of Certain Pre-Petition Bank Accounts and Cash Management System and (II) Continue Use of Existing Checks and Business Forms* entered or to be entered substantially contemporaneously herewith. The Debtors shall not use, sell or lease any assets with a fair market value greater than \$50,000 outside the ordinary course of business, or seek authority of this Court to do any of the foregoing, without the prior written consent of the Principal First Lien Lender at least five (5) business days prior to the date on which the Debtors seek the authority of this Court for such use, sale or lease. The Debtors shall comply with the covenants contained in Sections 6.5, 6.6, 6.8, and 6.23 of the First Lien Credit Agreement regarding the maintenance and insurance of the Prepetition Collateral and the Collateral.
- (e) **Fees and Expenses.** As additional adequate protection, the Debtors shall pay in cash: (i) immediately upon the entry of this Interim Order, the reasonable professional fees, expenses and disbursements (including, but not limited to, the fees, expenses and disbursements of counsel, third-party consultants, including financial consultants and auditors) incurred by the First Lien Agent and/or by the First Lien Lenders under the First Lien Credit Agreement arising prior to the Petition Date that have not been previously paid by the Debtors; and (ii) the reasonable professional fees, expenses and disbursements (including, but not limited to, the fees, expenses and disbursements of counsel and third-party

Draft Subject to Revision

consultants, including financial consultants and auditors) incurred by the First Lien Agent and/or First Lien Lenders under the First Lien Credit Agreement arising subsequent to the Petition Date. The payment of the fees, expenses and disbursements set forth in this paragraph 3(e) of this Interim Order (including professional fees and expenses of Alston & Bird, LLP, Kirkland & Ellis LLP, any financial consultants or advisors and any other professionals or advisors retained by or on behalf of the First Lien Agent or First Lien Lenders) shall be made ten (10) business days after the receipt by the Debtors, any Committee, and the United States Trustee (the “Review Period”) of invoices (subject in all respects to applicable privilege or work product doctrines) (the “Invoiced Fees”) and without the necessity of filing formal fee applications (but this Court shall resolve any dispute as to the reasonableness of any such fees and expenses), including such amounts arising before and after the Petition Date. Nothing contained herein shall be deemed to be a waiver by any party in interest of the right to object to the reasonableness of any such fees or expenses, and the First Lien Agent and the First Lien Lenders (as applicable) shall be required to return and/or disgorge any payment of fees or expenses that is later determined to be unreasonable.

- (f) **Reporting.** As additional adequate protection to the First Lien Secured Parties, the Debtors shall comply with the reporting requirements set forth in Section 6.2(c), (d), (e), (f), and (g) of the First Lien Credit Agreement and shall provide the following reporting to the First Lien Agent and First Lien Lenders:
- i. Promptly, and in no event later than the twentieth day of each calendar month, a monthly operating report for the immediately preceding calendar month, in form and scope reasonably acceptable to the Principal First Lien Lender;
 - ii. Weekly (or less frequently as may be agreed by the Principal First Lien Lender) calls with the Principal First Lien Lender and its advisors that shall include, without limitation, an update regarding the status of the process to complete an Asset Sale (as defined below) and any Asset Sales contemplated by any Debtor;
 - iii. A copy of each update to the Debtors’ business plan as soon as reasonably practicable after it becomes available, together with a reconciliation to the prior business plan;
 - iv. Presentations by the Debtors and/or their advisors during normal business hours to the Principal First Lien Lender at

Draft Subject to Revision

times and places as the Principal First Lien Lender may reasonably request in writing (including via electronic mail) with reasonable prior notice;

- v. Promptly, but in any event by the first (1st) Business Day following receipt by any Debtor of any demand, claim, assertion or notification described in this clause (iv), the Debtors shall deliver to the First Lien Administrative Agent and the Principal First Lien Lender a report in form and detail satisfactory to the Principal First Lien Lender of any written demand, claim or notification received by any Debtor related to or asserting any liens in respect of property or assets of any Debtor (including liens imposed by law, such as landlord's, vendors', suppliers' carriers', warehousemen's, repairmen's, construction contractors', workers' and mechanics' liens and other similar liens) if the amount demanded or claimed exceeds individually or in the aggregate, \$100,000;
- vi. (A) On or before the twenty-fifth (25th) day of each calendar month, an updated rolling 13-week cash flow forecast of the Debtors and their subsidiaries substantially in the form of the Budget (each, a "Proposed Budget"), which Proposed Budget, upon written approval by the Principal First Lien Lender, shall become the Budget effective as of the first day of the next calendar month; and (B) on or before each Wednesday of each calendar week, (1) a report for the preceding four weeks of receipts, disbursements and a reconciliation of actual expenditures and disbursements with those set forth in the Budget for the prior four weeks, which report and reconciliation shall be in form and detail reasonably satisfactory to the Principal First Lien Lender (the "Budget Reconciliation") and (2) a statement setting forth in reasonable detail the cash balance for each deposit account of the Debtor and its subsidiaries as of the previous Friday;
- vii. No less frequently than on a biweekly basis (or less frequently as the Principal First Lien Lender may agree) (beginning with November 2, 2015), a written update (which may be by email) of each Asset Sale (as defined below) then contemplated by any Debtor, including, without limitation, copies of term sheets and documentation thereto and any other information the Principal First Lien Lender may reasonably request;

Draft Subject to Revision

viii. Such other reports and information as the First Lien Agent or the Principal First Lien Lender may reasonably request.

- (g) **Asset Sales; Application of Proceeds.** Unless otherwise agreed to by the Principal First Lien Lender in writing, all sales and other dispositions (including casualty and condemnation events) of assets ("Asset Sales") shall be in exchange for 100% cash consideration and shall be subject to the Principal First Lien Lender's prior written consent. The Debtors shall pay 100% of the net cash proceeds of any such Asset Sale within three (3) business days following receipt thereof to the First Lien Agent, which proceeds shall be applied to permanently reduce the First Lien Prepetition Indebtedness.

4. **Adequate Protection for the Second Lien Secured Parties.** As adequate protection for, and to secure payment of an amount equal to the Collateral Diminution, the Second Lien Trustee, for the benefit of the Second Lien Secured Parties, is hereby granted the following claims, liens, rights and benefits:

- (a) **Adequate Protection Liens.** Effective as of the Petition Date and in each case perfected without the necessity of the execution by the Debtors (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages, deeds of trust or other similar documents, or by possession or control, the Second Lien Trustee, for the benefit of the Second Lien Secured Parties, is hereby granted security interests in and liens on the Collateral to secure payment of an amount equal to the Collateral Diminution, subject only to (i) the Carve Out and the Sale Carve Out, (ii) the First Lien Adequate Protection Liens and (iii) the liens and security interests securing the First Lien Prepetition Indebtedness, and subject further to the terms and conditions of the Intercreditor Agreement (all such liens and security interests, the "Second Lien Adequate Protection Liens", and collectively with the First Lien Adequate Protection Liens, the "Adequate Protection Liens").
- (b) **Adequate Protection Claims.** An allowed administrative claim against each of the Debtors on a joint and several basis with priority over any and all other administrative claims against the Debtors now existing or hereafter arising in the Cases (subject and subordinate only to the Carve Out, the Sale Carve Out, and the First Lien Adequate Protection Claims) to secure payment of an amount equal to the Collateral Diminution, including all claims of

Draft Subject to Revision

the kind specified under sections 503(b) and 507(b) of the Bankruptcy Code (the “Second Lien Adequate Protection Claims”, collectively with the First Lien Adequate Protection Claims, the “Adequate Protection Claims”), which administrative claim shall have recourse to and be payable from all prepetition and postpetition property of the Debtors excluding the Carve Out, the Sale Carve Out, and the Carve Out Reserve but including, without limitation, the proceeds or property recovered in respect of any Avoidance Actions, subject to entry of the Final Order.

5. **Collateral Diminution.** For purposes of this Interim Order, “Collateral Diminution” shall mean an amount equal to the diminution of the value of the Prepetition Secured Parties’ interest in the Prepetition Collateral from and after the Petition Date for the use, sale, lease, consumption, or disposition of Prepetition Collateral, including the use of Cash Collateral, or the imposition of the automatic stay. Cash payments from the proceeds of the Prepetition Collateral made to the First Lien Agent for the benefit of the First Lien Secured Parties pursuant to paragraph 3 of this Interim Order shall not constitute Collateral Diminution.

6. **Priority of Adequate Protection Liens and Adequate Protection Claims.** Except to the extent of the Carve Out and the Sale Carve Out, the Adequate Protection Liens and Adequate Protection Claims granted to the Prepetition Secured Parties pursuant to paragraphs 3 and 4 of this Interim Order shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors’ estates under section 551 of the Bankruptcy Code and shall not be subordinated to or made *pari passu* with any lien, security interest or administrative claim under section 364 of the Bankruptcy Code or otherwise; *provided* that (X) such Adequate Protection Liens and Adequate Protection Claims shall be subject to, and without recourse against, the Carve Out, the Sale Carve Out, and the Carve Out Reserve and (Y) the Debtors shall not create, incur or suffer to exist any postpetition liens or security interests other than: (i) those granted pursuant to this Interim Order; (ii) carriers’, mechanics’, operator’s,

Draft Subject to Revision

warehousemen's, repairmen's or other similar liens arising in the ordinary course of business; (iii) pledges and deposits in connection with workers' compensation, unemployment insurance and other social security legislation; and (iv) deposits to secure the payment of any postpetition statutory obligations and performance bonds.

7. **Carve Out.** The Prepetition Secured Parties hereby consent to the Professional Persons (as defined below) retaining any retainers held as of the Petition Date until the conclusion of their retention by the Debtors, provided that any unused portion of such retainers shall be returned to the Debtors following the conclusion of any such Professional Person's retention by the Debtors and such unused portion shall constitute cash that is Cash Collateral of the Prepetition Secured Parties following such return to the Debtors. The Prepetition Secured Parties, consent, subject to the terms and conditions set forth in this Interim Order, to a carve out from their Claims (as defined in section 101(5) of the Bankruptcy Code) and the Collateral solely for payment of the fees and expenses in an amount and for the purposes set forth herein below (the "Carve Out"). As used in this Interim Order, the Carve Out shall be an amount equal to the sum of and shall be used solely for the purposes of payment of: (i) all fees required to be paid to the Clerk of the Court and to the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; plus (ii) fees and expenses up to \$25,000.00 incurred by a trustee under section 726(b) of the Bankruptcy Code; plus (iii) all allowed unpaid fees and expenses (whether allowed before or after the delivery of a Carve Out Notice (as defined herein), and whether allowed by interim order, procedural order, or otherwise) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328 or 363 of the Bankruptcy Code (any such persons or firms, collectively, the "Debtor Professionals") and the Committee (any such persons or firms, together with the Debtor Professionals,

Draft Subject to Revision

collectively, the “Professional Persons”) at any time before the first business day following delivery by the First Lien Agent (via electronic mail, overnight delivery or hand delivery) to each of the Debtors’ chief restructuring officer, lead counsel to the Debtors, the U.S. Trustee, counsel to the Second Lien Trustee and counsel to the Committee of a written notice (the “Carve Out Notice”), which notice may be delivered at any time following the occurrence of the Termination Date or a Termination Event (as defined below), stating that a Termination Date has occurred or a Termination Event has occurred; and (iv) the allowed fees and expenses (whether allowed by interim order, procedural order, or otherwise) of Professional Persons in an aggregate amount not to exceed \$[600,000]² (the “Post-Carve Out Notice Cap”) incurred after the first business day following delivery by the First Lien Agent of the Carve Out Notice as set forth above; provided, however, that (y) so long as a Carve Out Notice has not been delivered, the Carve Out shall not be reduced by the payment of fees and expenses of Professional Persons allowed at any time by this Court and payable under sections 328, 330 or 331 of the Bankruptcy Code or other order of this Court; and (z) without prejudice to the rights of Professional Persons or the Debtors to contest any such objection, nothing in this Final Order shall be construed to impair the ability of any party to object to the allowance of any fees, expenses, reimbursements or compensation sought by any Professional Persons. Upon delivery of the Carve Out Notice as set forth above, the Debtors shall establish a segregated deposit account (the “Carve Out Reserve”) in an amount equal to the sum of (i) all billed and unpaid monthly fees and expenses of all Professional Persons (including any outstanding holdbacks); (ii) all unbilled fees and expenses of Professional Persons incurred prior to the delivery of the Carve Out Notice, and (iii) the Post Carve Out Notice Cap (collectively, the “Carve Out Professional Fees”). The Carve Out Reserve shall be

² NTD Subject to further discussion/review.

Draft Subject to Revision

funded in full in cash in accordance with the terms hereof. The Professionals Persons shall apply any amounts held under any retainer to fees and expenses before any amounts in the Carve Out Reserve. After payment in full of the allowed amount of the Carve Out Professional Fees from the Carve Out Reserve, any funds remaining in the Carve Out Reserve shall be transferred to the Debtors' estates' general operating account and shall constitute cash that is Cash Collateral of the First Lien Secured Parties. Any funds paid to any Professional Persons that are or could be part of the Carve Out or the Carve Out Reserve shall be deemed (i) to be funds paid to the Prepetition Secured Parties as adequate protection and then paid by the Prepetition Secured Parties directly to such Professional Person (provided that such deemed payment shall not reduce the claim of the Prepetition Secured Parties), and (ii) not to be property of the Debtors' bankruptcy estates when such payment is made.

8. **Sale Carve Out.** The Prepetition Secured Parties, consent, subject to the terms and conditions set forth in this Interim Order, to a carve out from their Claims (as defined in section 101(5) of the Bankruptcy Code) and the Collateral for the purpose of facilitating the wind-down and administration of the Debtors' estates (the "Sale Carve Out"). The Sale Carve Out may only be funded from proceeds of the Sale in an amount, if any, determined by the First Lien Secured Parties in their sole discretion. Upon funding, the Sale Carve Out shall constitute unencumbered property of the Debtors' estates.

9. **Postpetition Lien Perfection.** Without the necessity of the filing of financing statements, security agreements, federal or state notices, pledge agreements, recordings, mortgages, deeds of trust or other documents or taking possession or control of any Collateral, this Interim Order shall be sufficient evidence of the Prepetition Secured Parties' perfected security interests and liens granted in the Collateral pursuant to this Interim Order.

Draft Subject to Revision

Notwithstanding the foregoing, the Debtors are authorized and directed to execute such documents including, without limitation, mortgages, deeds of trust, pledges and Uniform Commercial Code financing statements and to use Cash Collateral to pay such costs and expenses as may be reasonably requested by the Prepetition Agents to provide further evidence of the perfection of the Prepetition Secured Parties' security interests and liens in the Collateral granted pursuant to this Interim Order. All such documents shall be deemed to have been recorded and filed as of the Petition Date.

10. **Inspection Rights.** In addition to, and without limiting, whatever rights to access the Prepetition Secured Parties have under their respective Prepetition Loan Documents, upon reasonable prior written notice (including via electronic mail) during normal business hours, the Debtors shall permit representatives, agents and employees of the Prepetition Agents to (i) have access to and inspect and copy the Debtors' books and records, including all records and files of the Debtors pertaining to the Prepetition Collateral, (ii) have access to and inspect the Debtors' properties and (iii) to discuss the Debtors' affairs, finances, and condition with the Debtors' officers and financial advisors.

11. **Termination.** The Debtors' right to use the Cash Collateral pursuant to this Interim Order shall terminate (the date of any such termination, the "Termination Date") without further notice or court proceeding on the earlier to occur of: (i) the date that is thirty-five (35) days after the Petition Date (unless such period is extended by written consent of the Principal First Lien Lender) if the Final Order has not been entered by this Court on or before such date; (ii) March 28, 2016 (the "Expiration Date"); (iii) the occurrence of any of the events set forth in clauses (a), (b), (c) (d), (i), (j), (k), (l), (m), (n), (o), (p) and (q) below; and (iv) five (5) business days following the delivery of a written notice (any such notice, a "Default Notice")

Draft Subject to Revision

by the First Lien Agent, proposed counsel to the Debtors, Vinson & Elkins LLP, the United States Trustee, counsel to the Second Lien Trustee, and counsel to the Committee (if any) (any such five-business-day period of time, the “Default Notice Period”) of the occurrence of any of the events set forth in clauses (e), (f), (g), and (h) below unless such occurrence is cured by the Debtors prior to the expiration of the Default Notice Period with respect to such clause or such occurrence is waived by the Principal First Lien Lender in its sole discretion, *provided* that, during the Default Notice Period, the Debtors shall be entitled to continue to use the Cash Collateral in accordance with the terms of this Interim Order):

- (a) the dismissal of the Cases or the conversion of the Cases to cases under Chapter 7 of the Bankruptcy Code;
- (b) the entry by this Court of an order granting relief from the automatic stay imposed by section 362 of the Bankruptcy Code to any entity other than the First Lien Agent or the First Lien Lenders with respect to the Prepetition Collateral or the Collateral without the written consent of the First Lien Majority Lenders, which consent may be withheld in its sole discretion;
- (c) the Debtors entry into or seeking approval by the Court of any plan, restructuring transaction, or asset sale that is not in form and substance acceptable to the Principal First Lien Lender,
- (d) the appointment or election of a trustee, examiner with expanded powers or any other representative with expanded powers relating to the operation of the businesses in the Cases;
- (e) [Reserved.];
- (f) the failure by the Debtors to make any payment required pursuant to this Interim Order when due;
- (g) the failure by the Debtors to deliver to the Prepetition Agents any of the documents or other information required to be delivered pursuant to this Interim Order when due or any such documents or other information shall contain a material misrepresentation;
- (h) the failure by the Debtors to adhere to the Budget except, in each instance, with respect to Permitted Deviations or Non-Conforming Uses;

Draft Subject to Revision

- (i) the failure by the Debtors to observe or perform any of the material terms or material provisions contained herein;
- (j) the Debtors shall create, incur or suffer to exist any postpetition liens or security interests other than those permitted pursuant to paragraph 6 of this Interim Order;
- (k) the Debtors shall create, incur or suffer any other claim which is *pari passu* with or senior to the Adequate Protection Claims;
- (l) [reserved];
- (m) the entry of an order reversing, staying, vacating or otherwise modifying in any material respect the terms of this Interim Order;
- (n) if the Debtors have not filed a motion (the “Bidding Procedures Motion”) on or before November 6, 2015, seeking approval of the proposed bidding procedures, seeking approval of the sale of substantially all of the Debtors’ assets, and scheduling an auction for the sale of substantially all of the Debtors’ assets (the “Sale”) pursuant to section 363 of the Bankruptcy Code;
- (o) on the date that is 30 days after the date that the Bidding Procedures Motion is filed, if the Court has not entered an order approving the Bidding Procedures Motion (the “Bidding Procedures Order”);
- (p) the date that is 75 days after the date that the Bidding Procedures Motion is filed, if the Court has not entered an order approving the Sale (the “Sale Order”); and
- (q) the date that is 30 days after the date of entry of the Sale Order, if the closing of all transactions necessary to consummate the Sale if the Bidding Procedures Motion was filed.

Each of subparagraph (a) through (q) is referred to herein as a “Termination Event.” On and after the Termination Date, the Debtors shall immediately cease using Cash Collateral and the First Lien Agent may in accordance with the terms and conditions of this Interim Order, absent further order of the Court, following the applicable Termination Date exercise the rights and remedies available under the Prepetition Loan Documents, this Interim Order or applicable law, including, without limitation, foreclosing upon and selling all or a portion of the Prepetition

Draft Subject to Revision

Collateral or Collateral in order to collect any amounts payable to the First Lien Secured Parties and the Second Lien Secured Parties pursuant to this Interim Order and apply the same to such obligations. The automatic stay under section 362 of the Bankruptcy Code shall be deemed modified and vacated to the extent necessary to permit such actions. In any hearing regarding any exercise of rights or remedies, the only issues that may be raised by any of the Debtors in opposition thereto shall be (x) whether, in fact, the Termination Date shall have occurred and (y) what is the quantum of the Collateral Diminution, and each of the Debtors hereby waives any right to seek relief, including, without limitation, under Bankruptcy Code section 105, to the extent such relief would in any way impair or restrict the rights and remedies of the First Lien Agent and the First Lien Secured parties or, subject to the Intercreditor Agreement, the rights and remedies of the Second Lien Secured parties set forth in this Interim Order or the Second Lien Notes Documents. Any delay or failure of a Prepetition Secured Party to exercise rights under any First Lien Loan Document or Second Lien Loan Document or this Interim Order shall not constitute a waiver of their respective rights hereunder, thereunder or otherwise. Notwithstanding the occurrence of the Termination Date or anything herein, all of the rights, remedies, benefits and protections provided to the Prepetition Secured Parties (subject to the Intercreditor Agreement) under this Interim Order shall survive the Termination Date.

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

13. **Reservation of Rights of the First Lien Secured Parties.** This Interim Order and the transactions contemplated hereby shall be without prejudice to (i) the rights of the First Lien Secured Parties to seek additional or different adequate protection, move to vacate the automatic stay, move for the appointment of a trustee or examiner, move to dismiss or convert the Cases, or to take another action in the Cases and to appear and be heard in any matter raised in the Cases, in all cases, subject to the Intercreditor Agreement, and (ii) any and all rights, remedies, claims and causes of action which the Prepetition First Lien Agent or the First Lien Secured Parties may have against any non-Debtor party liable for the First Lien Prepetition Indebtedness.

14. **Modification of Automatic Stay.** The Debtors are authorized and directed to perform all acts and to make, execute and deliver any and all instruments as may be reasonably necessary to implement the terms and conditions of this Interim Order and the transactions contemplated hereby. The stay of section 362 of the Bankruptcy Code is hereby modified to permit the Debtors and each of the Prepetition Secured Parties to accomplish the transactions contemplated by this Interim Order.

15. **Survival of Interim Order.** The provisions of this Interim Order shall be binding upon any trustee appointed during the Cases or upon a conversion to cases under Chapter 7 of the Bankruptcy Code, and any actions taken pursuant hereto shall survive entry of any order which may be entered converting the Cases to Chapter 7 cases, dismissing the Cases under section 1112 of the Bankruptcy Code or otherwise, or confirming or consummating any plan(s) of reorganization. The terms and provisions of this Interim Order, as well as the priorities in payments, liens, and security interests granted pursuant to this Interim Order shall continue notwithstanding any conversion of the Cases to Chapter 7 cases under the Bankruptcy

Draft Subject to Revision

Code, dismissal of the Cases or confirmation or consummation of any plan(s) of reorganization. Subject to the reservation of rights set forth in paragraph 3(c) of this Interim Order and the limitations described in paragraphs 18 of this Interim Order, the adequate protection payments made pursuant to this Interim Order shall not be subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance in the Cases or any subsequent Chapter 7 cases (other than a defense that the payment has actually been made).

16. **No Liability to Third Parties.** Subject to entry of the Final Order, none of the Prepetition Agents or the other Prepetition Secured Parties shall: (i) be deemed to be in “control” of the operations of the Debtors; (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates; and (iii) be deemed to be acting as a “Responsible Person” or “Owner” or “Operator” with respect to the operation or management of the Debtors (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980 or any similar federal or state statute).

17. **Binding Effect.** The terms of this Interim Order shall be valid and binding upon the Debtors, all creditors of the Debtors and all other parties in interest from and after the entry of this Interim Order by this Court. In the event the provisions of this Interim Order are reversed, stayed, modified or vacated following any further hearing, such reversals, modifications, stays or vacatur shall not affect the rights and priorities of the Prepetition Secured Parties granted pursuant to this Interim Order.

18. **Reversal, Stay, Modification or Vacatur.** Notwithstanding any such reversal, stay, modification or vacatur, any indebtedness, obligation or liability incurred by the Debtors pursuant to this Interim Order arising prior to the Prepetition Agents’ receipt of notice of the effective date of such reversal, stay, modification or vacatur shall be governed in all respects

Draft Subject to Revision

by the original provisions of this Interim Order, and the Prepetition Secured Parties shall continue to be entitled to all of the rights, remedies, privileges and benefits, including any payments authorized herein and the security interests and liens granted herein, with respect to any such indebtedness, obligation or liability, and the validity of any payments made or obligations owed or credit extended or lien or security interest granted pursuant to this Interim Order is and shall remain subject to the protection afforded under the Bankruptcy Code.

19. **Reservation of Certain Third Party Rights and Bar of Challenge and Claims.** The Debtors' admissions and releases contained in paragraphs D, E, F and G of this Interim Order shall be binding upon the Debtors for all purposes; and shall be binding upon all other parties in interest, for all purposes unless any Committee, or another party in interest with standing (subject in all respects to any agreement or applicable law which may limit or affect such entities right or ability to do so) has properly filed an adversary proceeding or contested matter by no later than on or before either (i) if no Committee has been appointed, the earlier of (1) 75 days from entry of this Interim Order, and (2) the date on which objections to confirmation of the Plan are due, or (ii) if a Committee has been appointed, the earlier of (1) 60 days after such Committee is appointed and (2) the date on which objections to confirmation of the Plan are due, (x) challenging the amount, validity, enforceability, priority or extent of the First Lien Prepetition Indebtedness, the Second Lien Prepetition Indebtedness (as defined below) or the Prepetition Secured Parties' security interests in and liens upon the Prepetition Collateral, or (y) otherwise asserting any claims or causes of action against the Prepetition Secured Parties on behalf of the Debtors' estates. For purposes hereof, "Second Lien Prepetition Indebtedness" shall mean indebtedness in respect of the notes held by the Second Lien Secured Noteholders pursuant to, and in accordance with, the Second Lien Note Documents in a principal amount of

Draft Subject to Revision

\$[], plus accrued and unpaid interest and other obligations expressly owing under the Second Lien Note Documents. If no such adversary proceeding or contested matter is properly filed as of such dates or the Court does not rule in favor of the plaintiff in any such proceeding, then: (a) the Debtors' admissions and releases contained in paragraphs D, E, F and G of this Interim Order shall be binding on all parties in interest, including the Committee (if any); (b) the obligations of the Debtors under the First Lien Loan Documents and Second Lien Notes Documents shall constitute allowed claims for all purposes in the Cases, and any subsequent Chapter 7 case(s); (c) the First Lien Secured Parties' security interests in and liens upon the Prepetition Collateral shall be deemed to have been, as of Petition Date, legal, valid, binding, and perfected first priority security interests and liens, not subject to recharacterization, subordination or otherwise avoidable; and (d) the First Lien Prepetition Indebtedness and the First Lien Secured Parties' security interests in and liens on the Prepetition Collateral shall not be subject to any other or further challenge by the Committee or any other party in interest seeking to exercise the rights of the Debtors' estates, including, without limitation, any successor thereto. If any such adversary proceeding or contested matter is properly filed as of such dates, the Debtors' admissions and releases contained in paragraphs D, E, F and G of this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) except to the extent that such admissions and releases were expressly challenged in such adversary proceeding or contested matter. Nothing contained in this Interim Order shall be deemed to grant standing to the Committee (if any) or any other party to commence any such adversary proceeding or contested matter.

20. **Limitation on Use of Collateral.** Notwithstanding the foregoing or any other provision of this Interim Order, no Cash Collateral may be used to: (a) object to, contest or

Draft Subject to Revision

raise any defense to, the validity, perfection, priority, extent or enforceability of the Prepetition Indebtedness, or the liens or claims granted under this Interim Order or the Prepetition Loan Documents and/or assert any claims, defenses or causes of action against the First Lien Secured Parties or their respective agents, affiliates, representatives, attorneys, or advisors; (b) prevent, hinder, or otherwise delay the First Lien Agent's assertion, enforcement, or realization on the Cash Collateral or the Collateral in accordance with the First Lien Loan Documents and this Interim Order; (c) seek to modify any of the rights granted in this Interim Order or the First Lien Loan Documents without the Majority First Lien Lender's prior written consent; or (d) pay any amount on account of any claims arising prior to the Petition Date unless such payments are both approved by an Order of this Court and in accordance with the Budget. Notwithstanding the foregoing, (i) Cash Collateral may be used for participation in formal or informal discovery not initiated by the Debtors; *provided, however* any expenses associated with such discovery shall reduce dollar for dollar the Committee Investigation Cap (as defined herein), and (ii) advisors to the Committee (if any) may investigate the claims and liens of the First Lien Secured Parties prior to the Committee Challenge Deadline at an aggregate expense not to exceed \$25,000 (the "Committee Investigation Cap").

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

Draft Subject to Revision

22. **No Impact on Certain Contracts or Transactions.** No rights of any entity in connection with a contract or transaction of the kind listed in sections 555, 556, 559, 560 and 561 of the Bankruptcy Code, whatever they might or might not be, are affected by the provisions of this Interim Order.

23. **Proofs of Claim.** None of the First Lien Agent nor the First Lien Secured Parties will be required to file proofs of claim in any of the Cases or successor cases, and the Debtors' stipulations in paragraphs D, E, F and G herein shall be deemed to constitute a timely filed proof of claim against the applicable Debtors. Notwithstanding the foregoing, each of the First Lien Agent (on behalf of itself and the other First Lien Secured Parties) and the Second Lien Trustee (on behalf of itself and the applicable Second Lien Secured Parties) is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a master proof of claim for any claims of the Prepetition Secured Parties arising from the applicable Prepetition Loan Documents; provided, that nothing herein shall waive the right of any Prepetition Secured Party to file its own proofs of claim against the Debtors.

24. **Intercreditor Agreement.** Nothing in this Interim Order shall amend or otherwise modify the terms and enforceability of the Intercreditor Agreement, and the Intercreditor Agreement shall remain in full force and effect. The rights of the Prepetition Secured Parties shall at all times remain subject to the Intercreditor Agreement.

25. **Section 552(b) of the Bankruptcy Code.** The Prepetition Agents and the Prepetition Secured Lenders shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and, subject to entry of the Final Order, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Agents

Draft Subject to Revision

and the Prepetition Secured Lenders with respect to proceeds, products, offspring or profits of any of the Prepetition Collateral or the Collateral.

26. **No Marshaling.** Neither the Prepetition Agents nor the Prepetition Secured Lenders shall be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition Collateral or Collateral, as applicable.

27. **Interest True Up.** Any payment of interest made as an Adequate Protection Payment pursuant to this Interim Order shall be without prejudice, and with a full reservation of rights, as to whether such payment should be recharacterized or reallocated pursuant to section 506(b) of the Bankruptcy Code as payments under the First Lien Loan Documents.

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

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

30. **Final Hearing.** The Final Hearing on the Motion is scheduled for [____], 2015, at [____] before this Court.

31. **Objections.** The Debtors shall promptly mail copies of this Interim Order to the parties having been given notice of the Interim Hearing and to any other party which has filed a request for notices with this Court. Any party in interest objecting to the relief sought at the Final Hearing shall submit any such objection in writing and file same with the Court (with a courtesy copy to Chambers) and serve such objection on the following parties so as to be received no later than 4:00 p.m. (Eastern Time) on [____], 2015: (i) [____], Proposed Counsel to the Debtors; (ii) [____], Attorneys for the First Lien Agent; (iii) [____], Attorneys for the Principal

Draft Subject to Revision

First Lien Lenders, (iv) [___], Attorneys for the Second Lien Trustee; and (v) the United States Trustee for the [___].

Dated: Houston, Texas
_____, 2015

THE HONORABLE [_____]
UNITED STATES BANKRUPTCY JUDGE

Draft Subject to Revision

EXHIBIT A

BUDGET