

SO ORDERED: September 20, 2012.



**Basil H. Lorch III**  
**United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re: ) Chapter 11  
 )  
TWG CAPITAL, INC., ) Case No. 12-11019-BHL-11  
 )  
Debtor. )

**INTERIM ORDER (i) AUTHORIZING DEBTOR TO OBTAIN POSTPETITION FINANCING PURSUANT TO 11 USC §§ 364(c); (ii) GRANTING LIENS AND SUPERPRIORITY CLAIMS; (iii) ALLOWING USE OF CASH COLLATERAL AND (iv) SCHEDULING A FINAL HEARING**

On the motion (the "Motion"), dated September 14, 2012, of TWG Capital, Inc., as debtor and debtor in possession in the above-captioned bankruptcy case (the "Debtor"), (a) seeking this Court's authorization (i) pursuant to section 364(c) of Title 11, United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code"), to obtain up to \$340,000 (plus the fees and expenses incurred by the Lender that constitute DIP Obligations (as defined in the Motion and the DIP Agreement)) of postpetition financing (the "DIP Financing") on the terms

and conditions set forth in the Debtor in Possession Loan Agreement (the “DIP Agreement”) (copy attached hereto as Exhibit A), dated as of September 14, 2012, between Debtor, on the one hand, and Carmel Funding, LLC (“Lender”), on the other hand, (ii) pursuant to Bankruptcy Code sections 364(c), to grant an automatic, valid, perfected, DIP Lien in the Primary Collateral (as hereinafter defined), subject and subordinate only to the Carveout and Permitted Liens, and a superpriority administrative claim, subject only to the Carveout, as collateral security for Debtor’s obligations to Lender in respect of the DIP Financing; and (iii) authorizing Debtor to use Cash Collateral pursuant to Sections 361 and 363(a); and (b) requesting a final hearing under Rule 4001 of the Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”) for the entry of a final order approving the DIP Financing; and due and sufficient notice of the Motion and the hearing thereon for interim relief (the “Interim Hearing”) having been given; and the Interim Hearing on the Motion having been held before this Court on September 19, 2012; and upon the entire record made by Debtor at the Interim Hearing, and this Court having found good and sufficient cause appearing therefor,

**IT IS HEREBY FOUND THAT:**

A. **Commencement of Case.** On September 14, 2012 (the “Petition Date”), Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (the “Chapter 11 Case”). Debtor is continuing in the management and possession of its business as a debtor in possession under sections 1107 and 1108 of the Bankruptcy Code. As of the date hereof, no request has been made for the appointment of a trustee or examiner, and no statutory committee of unsecured creditors or any other committee under section 1102 of the Bankruptcy Code has been appointed in this Chapter 11 Case.

B. **Jurisdiction.** This Court has jurisdiction of the Chapter 11 Case and the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of this Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice.** Notice of the relief requested in the Motion and the hearing thereon has been given to (i) the Office of the United States Trustee for the Southern District of Indiana, (ii) the U.S. Small Business Administration, as Receiver for Cardinal Growth, L.P. ("Receiver") and any other party asserting a security interest or lien of record against Debtor's real and personal property (collectively, the "Lienholders"); and (iii) Debtor's 20 largest unsecured creditors as set forth in the list accompanying Debtor's petition. In view of the relief requested, such notice of the Interim Hearing complies with sections 102(1), 363 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001, and the local rules of this Court.

D. **Prepetition Secured Obligations or Liens.** Based on the evidence presented by Debtor at the hearing on interim relief under the Motion, as of the Petition Date, the only party claiming a lien on assets of the Debtor is the Receiver. The Receiver claims a first, valid and perfected security interest in all assets of the Debtor (the "Receiver's Lien") to secure an obligation of approximately \$52,475.84 (the "Receiver's Claim"). The Debtor disputes the validity of the Receiver's Lien and the Receiver's Claim. Debtor has no other secured obligations, and the only liens on its assets, other than the disputed Receiver's Lien, are liens permitted under the DIP Agreement. The value of the Debtor's assets substantially exceeds the amount of the disputed Receiver's Claim.

E. **Need for DIP Financing.** Prior to the Petition Date, Debtor, in consultation with its financial and legal advisors, determined to pursue the sale of substantially all of Debtor's

assets (the “Proposed Transaction”), followed by confirmation of a liquidating Chapter 11 plan (a “Plan”). In order to permit the maintenance and proper preservation of Debtor’s assets, and to satisfy other working capital and operations, financial and general corporate needs, and facilitate the Proposed Transaction and confirmation of a Plan, Debtor requires the DIP Financing. Lender is advancing the DIP Financing to provide Debtor the means to pay administrative expense claims incurred in the ordinary course of Debtor’s businesses in accordance with the Budget (attached hereto as Exhibit B) through the confirmation of a Plan.

F. **No Credit Available on More Favorable Terms.** Debtor is unable to obtain sufficient financing from sources other than Lender on terms more favorable than under the DIP Agreement. Debtor has been unable to obtain sufficient unsecured credit solely under Bankruptcy Code section 503(b)(1) as an administrative expense. New credit is unavailable to Debtor without providing Lender the DIP Liens and the DIP Superpriority Claim (as defined below).

G. **Use of Proceeds of DIP Financing.** Proceeds of the DIP Financing shall be used in a manner consistent with the terms and conditions of the DIP Agreement and in strict compliance with the Budget and the terms set forth herein, subject to a permitted variance as set forth below.

H. **Willingness to Extend Financing.** Lender has stated a willingness to provide Debtor the DIP Financing in accordance with the DIP Agreement, subject to entry of this Order and findings by this Court that (i) such financing is essential to Debtor’s estate, (ii) Lender is extending the DIP Financing in good faith, and (iii) as provided in section 364(e) of the Bankruptcy Code, Lender’s superpriority claims, liens, and other protections granted pursuant to

this Order and the DIP Agreement will not be affected by any later reversal, modification, vacatur, or amendment of this Order or any other order concerning the DIP Financing.

I. **Business Judgment and Good Faith Pursuant to Section 364(e)**. The terms and conditions of the DIP Financing and DIP Agreement are fair, reasonable, and the best available under the circumstances, reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties as debtor in possession, and are supported by equivalent value and consideration. Debtor and Lender have negotiated the terms and conditions of the DIP Financing as provided in this Order at arm's length and in good faith. The proceeds to be extended under the DIP Financing will be so extended in good faith and for valid business purposes and uses to fund the continued operation of Debtor's businesses pending consummation of the Proposed Transaction. Consequently, Lender is entitled to the protection and benefits of section 364(e) of the Bankruptcy Code.

J. **Need for Interim Relief**. To prevent immediate and irreparable harm to Debtor and its estate pending the Final Hearing, Debtor requires the use of the DIP Financing and Cash Collateral to pay the expenses enumerated in the Budget to preserve the value of Debtor and its assets.

K. **Good Cause for Order**. Based on the record presented to this Court at the Interim Hearing, good cause has been shown for entry of this Order. The relief requested in the Motion is necessary, essential, and appropriate for the management and preservation of Debtor's assets. The terms of the DIP Financing are fair and reasonable, and reflect Debtor's exercise of prudent business judgment consistent with its fiduciary duties. Entry of this Order is in the best interests of Debtor's estate and creditors.

L. **Objections Preserved.** At the Interim Hearing, an objection was raised regarding the payment of Lender's professional fees (the "Fee Objection"). The Fee Objection is preserved and will be heard at the Final Hearing.

Wherefore, based upon the foregoing findings and conclusions, and upon the record made before this Court at the Interim Hearing, and with the consent of Debtor and Lender to the form and entry of this Order, and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED** that:

1. **Motion Granted.** The Motion is granted on an interim basis on the terms set forth below. This Order shall control in the event of any inconsistency between its terms and the terms of the DIP Agreement, incorporated by reference herein and attached hereto as **Exhibit A.**

2. **Approval of Entry Into DIP Agreement.** The DIP Agreement is approved. Debtor is expressly and immediately authorized, empowered, and directed to execute and deliver (i) the DIP Agreement and to incur and perform its obligations under the DIP Agreement in accordance with and subject to the terms of this Order and the DIP Agreement and (ii) all instruments and documents that may be required or necessary for the performance by the Debtor under the DIP Agreement and the creation and perfection of the DIP Liens described in and provided for by this Order and the DIP Agreement. Debtor is hereby authorized, empowered, and directed to do and perform all acts required by the DIP Agreement. On execution and delivery, the DIP Agreement shall represent valid and binding obligations of Debtor enforceable against Debtor in accordance with its terms. In addition, Debtor is hereby authorized and directed to indemnify and hold harmless Lender from and against any and all obligations, losses, damages, costs and expenses of any kind or nature whatsoever with respect to the DIP Financing, except to the extent any such liabilities, losses, damages, costs and expenses are found by a final

and nonappealable order of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of Lender.

3. **Authorization to Borrow; Lender's Prior Approval of Budgets.** Subject to the terms and conditions of this Order, the DIP Agreement, and the Budget, Debtor is hereby authorized to use the DIP Financing in an amount not to exceed \$50,000. Debtor may use such DIP Financing only to the extent required to pay those expenses enumerated in the Budget as and when such expenses become due and payable, subject as set forth in the DIP Agreement to a permitted variance of up to ten percent (10%) with respect to any one line item of the Budget, provided that the overall disbursements for any four (4) week period do not exceed one hundred and ten percent (110%) of the budgeted expenses of Debtor for any four (4) week period (or shorter period since the Petition Date), as reflected in the Budget (the "Permitted Variance"). Debtor shall obtain Lender's prior written approval of all Budgets and amendments to Budgets.

4. **DIP Liens.** As security for Debtor's obligations and indebtedness in respect of the DIP Financing, Lender is hereby granted, in each case subject to the Carveout and Preexisting Liens (defined below), pursuant to sections 364(c)(2) and (c)(3) of the Bankruptcy Code, (A) a valid, enforceable, senior, non-avoidable, perfected lien on all of the property of Debtor's estate under section 541 of the Bankruptcy Code (the "Primary Collateral"), except for (i) claims and causes of action arising under chapter 5 of the Bankruptcy Code (the "Avoidance Actions") and (ii) those assets of the Debtor as of the Petition Date (the "Secondary Collateral") that secure prepetition obligations of Debtor as to which a valid, enforceable, first priority, perfected, and unavoidable Permitted Lien (as that term is defined in the DIP Agreement) existed as of the Petition Date in favor of a creditor other than Lender (collectively, the "Preexisting Liens"); and (B) a valid, enforceable, non-avoidable, perfected second priority lien on the

Secondary Collateral, subordinate only to any Preexisting Liens (collectively, the “DIP Liens”). Subject to the Carveout and the Preexisting Liens and except as expressly provided otherwise above, the DIP Liens shall be prior and senior to all liens and encumbrances of all other secured creditors and judgment creditors in and to the Primary Collateral granted or arising after the Petition Date.

5. **Adequate Protection To Receiver For Use Of Cash Collateral.** If the disputed Receiver's Claim is determined to be valid and enforceable, and the disputed Receiver's Lien is determined to be valid, enforceable and perfected, the Receiver's Lien shall remain as a first priority lien and considered a Permitted Lien (as that term is defined in the DIP Agreement). The value of the Debtor's assets substantially exceeds the amount of the disputed Receiver's Claim. As and for adequate protection to the Receiver for the use of its cash collateral (hereinafter defined), a) the Receiver is hereby granted a replacement lien in and to the Debtor's cash and cash equivalents ("Cash Collateral") which lien shall have the same validity and priority of the Receiver's Lien, and b) the Debtor agrees to segregate and hold in escrow proceeds from the sale or disposition of its assets in the amount of \$52,475.84, pending a determination of the validity of the Receiver's Lien and the allowed amount of the Receiver's Claim.

6. **DIP Superpriority Claim.** For all of Debtor's obligations and indebtedness in respect of the DIP Financing, Lender is hereby granted, pursuant to section 364(c)(1) of the Bankruptcy Code, an allowed administrative expense claim having priority over any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code (the “DIP Superpriority Claim”), including, but not limited to, sections 326, 328, 330, 331, 503(b), 507(a), 507(b) and 726 of the Bankruptcy Code, subject only to the Carveout, as to which the DIP Superpriority Claim shall be subordinate. No other claim having a



priority superior to or pari passu with the DIP Superpriority Claim shall be granted while any portion of the DIP Financing remains outstanding or available to Debtor.

7. **Payment of Lender's Fees and Expenses.** Notwithstanding any provisions to the contrary in the DIP Agreement, the issue of whether and under what terms the Debtor may be required to pay reasonable and documented unpaid fees and expenses (pre and postpetition) incurred by Lender, including the fees and expenses of counsel and other professionals retained by Lender, are reserved for consideration at the Final Hearing on the Motion.

8. **Reporting Requirements.** Debtor shall comply with the following "Reporting Requirements." Debtor shall provide Lender reporting as reasonably requested by Lender, including timely providing Lender all of the reporting required under the DIP Agreement. In addition, on prior reasonable written notice to Debtor, Debtor shall promptly permit representatives of Lender from time to time, during normal business hours, to (a) visit and inspect any property of Debtor as often as Lender shall reasonably deem advisable, (b) make such inspections of, abstracts from and copies of Debtor's books and records as Lender shall deem advisable, and (c) discuss with Debtor's employees, officers, and the auditors of Debtor, Debtor's business, operations, assets, liabilities, financial positions, results of operations, and business prospects as often as Lender shall deem advisable.

9. **Carveout; Priority of Carveout.** As used in this Order, "Carveout" means:
- i. the unpaid fees of the clerk of the Bankruptcy Court or District Court, as applicable, and of the Office of the United States Trustee pursuant to 28 U.S.C. §§ 1930(a) and (b) and 31 U.S.C. § 3717 (the "Statutory Fees");
  - ii. the aggregate accrued and unpaid fees and expenses, including any hold back amounts, allowed and payable under sections 330 and 331 of the Bankruptcy Code to professional persons retained by Debtor pursuant to Court order (the "Professional Fees and Expenses") incurred prior to a Termination Date (as defined in section 14 of this Order), and in amounts not to exceed that which are set forth in the Budget, subject to the Permitted Variance;

- iii. up to \$15,000 of allowed and unpaid Professional Fees and Expenses incurred by Debtor after a Termination Date (as defined in section 14 of this Order), but only to the extent that any then remaining retainer held by such professional person and any unencumbered funds of the estate are insufficient to pay such allowed Professional Fees and Expenses; and
- iv. the costs and administrative expenses not to exceed \$10,000 in the aggregate that are permitted to be incurred by any chapter 7 trustee pursuant to an order of this Court following any conversion of the Chapter 11 Case pursuant to section 1112 of the Bankruptcy Code.

The Carveout shall be senior in priority to the DIP Liens.

10. **Payment of Statutory Fees and Professional Fees and Expenses.** As long as written notice of the occurrence of an Event of Default shall not have been delivered under this Order or any such Event of Default shall have been waived by Lender or cured, Debtor shall be permitted to pay without reduction of the Carveout (i) the Statutory Fees and (ii) the Professional Fees and Expenses, as the same may be due and payable. Nothing herein shall be construed as a waiver of the right of Lender to object to the allowance of any Professional Fees and Expenses.

11. **Restriction on Use of Primary Collateral and Carveout; No § 506(c) Surcharge.** Notwithstanding anything herein to the contrary, no Primary Collateral or any portion of the Carveout may be used to investigate or assert any claims or causes of action against Lender. Subject to entry of a final order authorizing the DIP Financing, Debtor shall not assert a claim, other than the Carveout, under section 506(c) of the Bankruptcy Code for any costs and expenses incurred in connection with the preservation, protection or enhancement of, or realization by Lender on the Primary Collateral.

12. **Limits on Other Liens and Claims.** Except as expressly set forth in this Order, the DIP Liens granted pursuant to this Order shall not be (i) subject to any lien that is avoided and preserved for the benefit of Debtor's estate under section 551 of the Bankruptcy Code or (ii) subordinated to or made pari passu with any other lien under sections 363 and 364 of the

Bankruptcy Code. Subject to the Carveout, no cost or expense of administration under sections 503(b) or 507(b) of the Bankruptcy Code or otherwise, including those resulting from the conversion of the Chapter 11 Case pursuant to section 1112 of the Bankruptcy Code, shall be senior to the DIP Superpriority Claim.

13. **Automatic Perfection; Modification of Automatic Stay to Permit Perfection.**

The DIP Liens granted pursuant to this Order shall constitute valid and duly perfected security interests and liens effective upon the date of this Order, and Lender shall not be required to file or serve financing statements, notices of lien or similar instruments, or take any action, including taking possession, to validate and perfect such security interests and liens; and the failure by Debtor to execute any documentation relating to the DIP Liens shall in no way affect the validity, perfection or priority of such DIP Liens; provided, however, that the automatic stay is hereby modified, pursuant to section 362 of the Bankruptcy Code and Bankruptcy Rule 4001, to permit Lender, in its sole discretion (a) to file financing statements, deeds of trust, mortgages or other similar documents to evidence its security interests under the DIP Agreement and under the final order authorizing the DIP Financing, and (b) to take other actions required or permitted by the DIP Loan Documents (as defined in the DIP Agreement).

14. **Termination Date.** As used in this Order, "Termination Date" means the effective date of any termination of the DIP Loan Commitment in accordance with the DIP Agreement. Debtor shall promptly provide written notice to Lender (with a copy to the United States Trustee) of the occurrence of any Default (as defined in the DIP Agreement). All written notices under this paragraph shall be deemed to have been duly given if provided in the manner specified in Section 7.2 of the DIP Agreement.

15. **Termination and Acceleration.** Unless otherwise consented to by Lender, on the Termination Date, (i) the DIP Financing and, except as otherwise provided in this Order, the right to use advances made under the DIP Financing shall terminate, and Lender shall have no further obligation to make any further advances under the DIP Agreement, and (ii) all of the DIP Obligations shall become immediately due and payable in full.

16. **Notice of Default and Certain Remedies.** If any Event of Default shall occur, Lender may provide written notice (a “Notice of Default”) to the Debtor, counsel to the holders of Permitted Liens, and the United States Trustee (collectively, the “Notice Parties”) of such Event of Default. If an Event of Default shall have occurred and Lender shall have provided a Notice of Default, then, upon expiration of any applicable cure period, so long as any such Default shall be continuing, Lender may file a motion to modify the automatic stay to exercise its rights and remedies against all or a portion of the Collateral, and shall be entitled to a hearing on the motion on three (3) Business Days notice to the Notice Parties, and the only issue that may be raised at such hearing is whether an Event of Default has occurred. In no event shall Lender be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Collateral or otherwise.

17. **Survival of This Order’s Provisions.** The provisions of this Order, including all rights and relief granted under it, and any actions taken pursuant hereto shall survive the Termination Date and entry of any order which may be entered (a) denying, reversing, amending, supplementing, vacating, or otherwise modifying the grant to Debtor of the final relief requested in the Motion; (b) confirming any plan of reorganization or plan of liquidation in the Chapter 11 Case; (c) converting the Chapter 11 Case to a chapter 7 case; or (d) dismissing the Chapter 11 Case. If an order dismissing the Chapter 11 Case under section 1112 of the

Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with section 349 of the Bankruptcy Code) that (a) the DIP Liens shall continue in full force and effect and shall remain binding on all parties in interest notwithstanding such dismissal until the obligations secured thereby shall have been paid and satisfied in full and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the limited purposes of enforcing such DIP Liens. The provisions of this Order shall be binding upon and inure to the benefit of Debtor and Lender and their respective successors and assigns.

18. **Final Hearing**. A final hearing (the "Final Hearing") on the Motion shall be held before this court on October 4, 2012 at 10:30 a.m.

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**Exhibit A**

**DEBTOR IN POSSESSION LOAN AGREEMENT**

THIS DEBTOR IN POSSESSION LOAN AGREEMENT (this “Agreement”), dated September 14, 2012, is entered into between TWG Capital, Inc., a Delaware corporation (“Debtor”), on one hand, and Carmel Funding, LLC (“Lender”), on the other hand.

W I T N E S S E T H:

WHEREAS, on September 14, 2012 (the “Petition Date”) the Debtor is filing with the United States Bankruptcy Court for the Southern District of Indiana (the “Bankruptcy Court”) a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”); and

WHEREAS, the Debtor has requested that Lender make a DIP Loan (as defined hereinafter) to the Debtor subject to the terms and conditions set forth herein; and

WHEREAS, Lender is willing, on the terms and conditions hereinafter set forth, to make such a DIP Loan.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound hereby, the parties hereto agree as follows:

SECTION 1. DEFINITIONS.

1.1 Defined Terms. Certain terms are defined in the text of this Agreement. In addition as used in this Agreement, the following terms shall have the following meanings:

“Agreement” means this Debtor in Possession Loan Agreement, as it may hereafter be amended, modified, extended, restated or supplemented from time to time.

“Asset Purchase Agreement” means that certain Asset Purchase Agreement, dated as of September 14, 2012, by and between Debtor, as Seller, and Lender, as Buyer, as it may be amended from time to time.

“Avoidance Actions” means causes of action of Debtor’s estate arising under sections 544, 545, 547, 548 and 550 of the Bankruptcy Code.

“Bankruptcy Code” means Title 11 of the United States Code, as may hereafter be amended from time to time.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as promulgated under 28 U.S.C. § 2075, as may be amended from time to time.

“Budget” means the initial budget annexed hereto as Exhibit A.

“Business Day” means any day on which banks are required to be open in Chicago, Illinois.

“Carveout” means an amount equal to the sum of (i) any and all unpaid fees under 28 U.S.C. §§1930(a) and (b) or 31 U.S.C. §3717, (ii) accrued and unpaid Professional Fees and Expenses incurred prior to a termination of the DIP Loan Commitment hereunder in amounts not to exceed those set forth in Budget, subject to the Permitted Variance, (iii) \$15,000 of allowed and unpaid Professional Fees and Expenses incurred by Debtor after the termination of the DIP Loan Commitment hereunder, but only to the extent that any then remaining retainer held by such professional and any unencumbered cash of the estate are insufficient to pay such fees and expenses, and (iv) the costs and administrative expenses not to exceed \$10,000 in the aggregate that are permitted to be incurred by any Chapter 7 trustee pursuant to an order of the Bankruptcy Court following any conversion of the Chapter 11 case pursuant to Section 1112 of the Bankruptcy Code.

“Chapter 11 Case” means the voluntary bankruptcy case of the Debtor.

“Collateral” means all Property securing the DIP Obligations hereunder, including, without limitation all assets, all real property and all personal property, tangible or intangible, including without limitation, all bank accounts, deposits and cash, wherever located, whether now existing or hereafter acquired, of the Debtor, and all proceeds (including the proceeds of any asset sales to third parties), products, rents, revenues and profits of any of the foregoing, all causes of action and such other collateral of any nature.

“Debtor Representative” shall mean the President or the Chief Financial Officer of the Debtor, or any individual designated by any of the foregoing to act as an “Authorized Representative” hereunder.

“Default” means any event specified in Section 6 hereof, whether or not any requirement in connection with such event for the giving of notice, lapse of time, or happening of any further condition has been satisfied.

“Default Rate” has the meaning given such term in Section 3.2(b) hereof.

“DIP Loan” has the meaning given such term in Section 2.1 hereof.

“DIP Loan Commitment” means the commitment of the Lender to make the Interim DIP Advance and the DIP Loan in the aggregate maximum principal amount of \$340,000 (plus the fees and expenses incurred by the Lender that constitute DIP Obligations) on the terms and conditions herein.

“DIP Loan Documents” means, collectively, this Agreement, the Interim DIP Order, the Final DIP Order, each other order of the Bankruptcy Court or other court of competent jurisdiction entered in connection with this Agreement, and each other instrument, document or agreement required to be delivered pursuant to this Agreement in connection with this Agreement, including without limitation any documents or instruments executed or delivered by any Entity from time to time as security for the DIP Obligations, in each case as amended, modified, waived, substituted, replaced or extended from time to time.

“DIP Obligations” means all present and future obligations, indebtedness and liabilities,



and all renewals and extensions of all or any part thereof, of the Debtor to Lender relating to, arising from, by virtue of, or pursuant to the Asset Purchase Agreement, any of the DIP Loan Documents, and any and all renewals or extensions thereof or any part thereof, or future amendments thereto, all interest accruing on all or any part thereof and the reasonable attorneys' fees incurred by Lender for the negotiation, documentation and preparation of any of the foregoing and consummation of the same, execution of waivers, amendments and consents, and in connection with the enforcement or the collection of all or any part thereof, and reasonable attorneys' fees incurred by Lender in connection with the enforcement or the collection of all or any part of the Obligations during the continuance of a Default, in each case whether such obligations, indebtedness and liabilities are direct, indirect, fixed, contingent, joint, several or joint and several.

"Entity" means an individual, partnership, limited liability company, joint venture, corporation, trust, Governmental Unit, unincorporated organization, and government, or any department, agency, or political subdivision thereof.

"Final DIP Order" means the order entered by the Bankruptcy Court approving the DIP Loan and the DIP Loan Documents on a final basis, which order shall be in and substance satisfactory to Lender in its sole discretion.

"Final Order" means an order, ruling or judgment of a court of competent jurisdiction (a) that is in full force and effect, (b) that is not stayed, (c) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired, and no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending, and (d) is no longer subject to review, reversal, modification or amendment by appeal or writ of certiorari.

"GAAP" means generally accepted accounting principles applied on a consistent basis.

"Governmental Unit" means any state, commonwealth, federal, foreign, territorial, or other court or government body, subdivision, agency, department, commission, board, bureau, or instrumentality of a governmental body.

"Highest Lawful Rate" means, at the particular time in question, the maximum rate of interest which, under applicable law, Lender is then permitted to charge on the DIP Obligations. If the maximum rate of interest which, under applicable law, Lender is permitted to charge on the DIP Obligations shall change after the date hereof, the Highest Lawful Rate shall be increased or decreased automatically, as the case may be, from time to time as of the effective time of each change in the Highest Lawful Rate without notice to the Debtor.

"Interim DIP Advance" means the initial advance made by Lender to Debtor under the terms and conditions of this Agreement and the Interim DIP Order in the amount of the lower of \$50,000 or such lower amount as is approved by the Bankruptcy Court in the Interim DIP Order.

"Interim DIP Order" means the order annexed hereto as Exhibit B or such other order entered by the Bankruptcy Court approving the Interim DIP Advance that is acceptable to the Lender in its sole discretion.

“Law” means any constitution, statute, law, ordinance, regulation, rule, order, writ, injunction, or decree of any Governmental Unit.

“LIBOR” means the unadjusted per annum London Interbank Offered Rate as quoted to Lender from time to time for a thirty (30) day borrowing period.

“Lien” means any properly filed, valid, unavoidable and perfected mortgage, pledge, security interest, encumbrance, lien, or charge of any kind, including without limitation any agreement to give or not to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of or agreement to give any financing statement or other similar form of public notice under the Laws of any jurisdiction (except for the filing of a financing statement or notice in connection with an operating lease).

“Litigation” means any proceeding, claim, lawsuit, arbitration, and/or investigation conducted by or before any Governmental Unit or arbitrator, including without limitation proceedings, claims, lawsuits, and/or investigations under or pursuant to any environmental, occupational, safety and health, antitrust, unfair competition, securities, Tax, or other Law, or under or pursuant to any contract, agreement, or other instrument.

“Permitted Liens” means:

(a) any Lien in favor of Lender pursuant to the DIP Loan Documents to secure the DIP Obligations hereunder;

(b) Liens of carriers, warehousemen, mechanics, laborers and materialmen and other similar Liens incurred in the ordinary course of business for sums not yet due or being contested in good faith, but only to the extent such Liens are (i) valid, enforceable and properly perfected and (ii) afforded priority over all other Liens under applicable law;

(c) The lien claimed by the U.S. Small Business Administration, as Receiver for Cardinal Growth, L.P. (the "Receiver") against Debtor (the "Receiver's Lien"), which purports to secure an obligation of the Debtor to the Receiver under a certain Credit Enhancement and Security Agreement dated as of June 30, 2009 (the "Receiver's Claim"), if the Receiver's Claim is ultimately determined to be valid and enforceable, and the Receiver's Lien is determined to be valid, enforceable and perfected; and

(d) Liens incurred in the ordinary course of business after the Petition Date in connection with worker’s compensation, unemployment insurance or similar legislation.

“Permitted Variance” means a variance of up to ten percent (10%) with respect to any one line item of the Budget, provided that the overall disbursements for any four (4) week period do not exceed one hundred ten percent (110%) of the budgeted expenses of the Debtor for any four (4) week period (or shorter period since the Petition Date), as reflected in the Budget.

“Professional Fees and Expenses” means fees and expenses, including hold back amounts, allowed and payable under sections 330 and 331 of the Bankruptcy Code to professional persons retained by the Debtor with Bankruptcy Court approval.

“Property” means any interest of any nature or type whatsoever of the Debtor in any real, personal, tangible, intangible, or mixed property, currently owned or hereafter acquired, wherever located.

“Schedules” means the Schedules of Assets and Liabilities and Statement of Financial Affairs filed by the Debtor in the Chapter 11 Case on or after the Petition Date, as they may be amended from time to time.

“Superpriority Claims” means any debt or other claim arising out of credit obtained or debt incurred by the Debtor having priority in accordance with the provisions of Section 364(c)(1) of the Bankruptcy Code over any or all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code, including but not limited to Sections 326, 328, 330, 331, 503(b), 507(a), 507(b), and 726 of the Bankruptcy Code.

“Tax” or “Taxes” means all taxes, assessments, imposts, fees, or other charges at any time imposed by any Laws or Governmental Unit.

“Tax Code” means the Internal Revenue Code of 1986, as amended.

“UCC” means the Uniform Commercial Code as adopted in the State of Illinois as of the date of this Agreement.

## 1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have meanings ascribed to such terms in this Agreement when used in any other DIP Loan Document or any certificate or other document made or delivered pursuant hereto.

(b) As used herein, in any other DIP Loan Document and in any certificate or other document made or delivered pursuant hereto, accounting terms relating to the Debtor not defined herein, and accounting terms partly defined herein to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, subsection, schedule and exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to the singular and plural forms of such terms.

## SECTION 2. DIP LOAN.

2.1 DIP Loan Commitment. Subject to and in accordance with the terms and conditions of this Agreement, including without limitation entry of the Final DIP Order, Lender shall make advances to the Debtor up to the maximum principal amount of the DIP Loan Commitment (the “DIP Loan”).

2.2 Advances. Provided that no Default shall have occurred and that no circumstances shall exist that, with the giving of notice and/or the passage of time, would constitute a Default, advances under the DIP Loan shall be made if and when requested in writing on behalf of the Debtor by a Debtor Representative in order to meet the Debtor's cash needs as set forth in the Budget. The Debtor Representative will be required to make any requests for advances from the Lender in writing to Lender by 12:00 noon on the Friday preceding the week during which such advances are required in accordance with the Budget and the Debtor's cash position.

2.3 Use of Proceeds. The proceeds of the DIP Loan, including the Initial DIP Advance, shall be used by the Debtor for the sole purpose of financing expenditures in accordance with the Budget, subject to the Permitted Variance.

2.4 Collateral. As provided in the Interim DIP Order and the Final DIP Order, the DIP Obligations shall be secured by automatically perfected security interests and Liens granted pursuant to Section 364(c) of the Bankruptcy Code, with first priority on all Collateral, subject and subordinate only to (i) the Carveout and (ii) Permitted Liens; provided, however, that the Interim DIP Advance shall not be secured by a Lien on Avoidance Actions unless and until the Final DIP Order is entered.

2.5 Repayment of the DIP Loan. The Debtor shall pay monthly interest payments to the Lender in accordance with the terms of this DIP Loan as computed in accordance with Section 3.2 of this Agreement. Unless otherwise agreed to in writing by the Lender, all of the DIP Obligations shall be immediately due and payable in full, the DIP Loan Commitment shall terminate, and the Lender shall have no obligation to make any further advances under this Agreement, upon the earliest of (a) February 28, 2013 (the "Maturity Date") and (b) the occurrence and continuance of a Default and expiration following Notice of Default of any applicable cure period. Additionally, the DIP Obligations shall be due and payable upon the closing of a sale to Lender under the Asset Purchase Agreement to the extent, if any, Lender elects to pay the Purchase Price under the Asset Purchase Agreement in the form of a credit bid of the DIP Obligations.

### SECTION 3. GENERAL PROVISIONS APPLICABLE TO DIP LOAN.

3.1 No Note. This Agreement, the DIP Loan Documents, any Interim DIP Orders and the Final DIP Order fully evidence and memorialize the DIP Obligations, and no other instrument is required to evidence such DIP Obligations.

3.2 Interest Rates. The principal amount outstanding under the DIP Loan shall bear interest as follows:

(a) DIP Loan LIBOR Rate. The DIP Loan shall bear interest at a daily rate (computed on the basis of a three hundred sixty (360) day year and charged for actual days elapsed), equal to the daily rate equivalent of seven hundred (700) basis points in excess of LIBOR but in no event to exceed the Highest Lawful Rate (the "DIP Loan LIBOR Rate"), and the rate of interest for the DIP Loan or such part thereof shall fluctuate hereafter from time to time concurrently with and in any amount equal to each increase or decrease in the DIP Loan

LIBOR Rate. The DIP Loan LIBOR Rate shall reset on the first Business Day of each month any portion of the DIP Loan or any other DIP Obligation is outstanding.

(b) Default Rate. Upon the occurrence and during the continuance of a Default, and provided that Lender shall have provided a Notice of Default as provided in Section 6.2 and any applicable cure period has expired, the DIP Loan and all other amounts unpaid and outstanding under this Agreement shall bear interest at a rate equal to the LIBOR Rate plus 10%, but in no event to exceed the Highest Lawful Rate (the "Default Rate").

3.3 Fees and Expenses. Debtor shall pay the following fees and reimburse the following expenses to Lender:

(a) Facility Fee. A facility fee of five percent (5.0%) of the DIP Loan Commitment shall be deemed fully earned and payable as of the date of this Agreement, but such amounts shall be due in installments of (1) two percent (2.0%) of the DIP Loan Commitment on the date the DIP Loan is approved and funded, and (2) three percent (3.0%) of the DIP Loan Commitment on the earlier of (i) the Maturity Date, (ii) the payment in full of the DIP Obligations and (iii) termination of the DIP Loan Commitment.

(b) Expenses and Professional Fees. All legal and professional fees and expenses of counsel to Lender constituting DIP Obligations shall be paid by Debtor monthly upon submission of invoices within 10 days.

3.4 Collateral.

(a) Grant of Security Interest. The Debtor hereby grants to Lender a first priority, superpriority security interest in all of the Collateral as security for the full and prompt payment in cash and performance of the DIP Obligations, subject and subordinate only to (i) the Carveout and (ii) Permitted Liens.

(b) Perfection; Duty of Care. Until all the DIP Obligations have been paid and performed in full, the Debtor shall take all actions reasonably requested by Lender or otherwise required to perfect, maintain and protect Lender's security interest in the Collateral, including delivering to Lender all Collateral in which Lender's security interest may be perfected by possession together with such endorsements as Lender may request, provided that the security interest of Lender shall be automatically perfected through the Final DIP Order. The Debtor shall pay when due all Tax assessments and other charges imposed upon or with respect to the Collateral or any part thereof, first arising after the Petition Date, unless such assessments and charges are subject to a good faith contest adequately reserved by the Debtor. If the Debtor shall fail to pay such amounts, upon prior written notice to the Debtor, Lender may do so and add the amount of such payment to the principal owed under the DIP Loan. Upon prior written notice to the Debtor, Lender may discharge any Lien that is not a Permitted Lien, pay for any insurance, or take any other action the Debtor is required to take pursuant to this Agreement but has not taken, and add the amount of such payment to the principal owed under the DIP Loan.

#### SECTION 4. AFFIRMATIVE COVENANTS.

The Debtor hereby agrees that, so long as any portion of the DIP Loan or other DIP Obligation remains outstanding and unpaid or any other amount is owing to Lender hereunder, the Debtor shall:

4.1 Payment of DIP Obligations. Pay, discharge or otherwise satisfy all post-Petition Date obligations and liabilities as required pursuant to the Bankruptcy Code or by order of the Bankruptcy Court.

4.2 Insurance.

(a) Maintain with financially sound and reputable insurance companies insurance on all its Property in at least such amounts and with only such deductibles as are usually maintained by, and against at least such risks (but including, in any event, public liability and product liability insurance) as are usually insured against in the same general area, by companies engaged in the same or a similar business; and furnish to Lender, at their request, full information as to the insurance carried.

(b) Name the Lender as an additional insured, loss payee and as its interests may appear on all insurance maintained by the Debtor pursuant to Section 4.2(a) hereof.

4.3 Budget Updates. Provide to Lender a weekly 13-week rolling receipt and disbursement forecast for the Debtors' cash receipts and expenses (such report to be delivered to the Lender on a weekly basis on each Monday).

4.4 Financial Information. Provide Lender with monthly financial information, such information to be provided prior to the beginning of each month in monthly increments and to include, but not be limited to, (a) projections of itemized disbursements and receipts (in a format similar to the Budget) through the Maturity Date (plus actual to date itemized disbursements and receipts for comparative purposes), (b) all distributions made with respect to pre-petition indebtedness of Debtor (for the current month and cumulative since the Petition Date), and (c) itemized list of net proceeds from the disposition of collateral of Debtor (for the current month and cumulative since the Petition Date).

4.5 Information. Provide such financial and other information as the Lenders may reasonably request, including, but not limited to, detailed reporting of inventory and accounts receivable. Such information to be delivered promptly after such request.

4.6 Application of Collateral Proceeds. Apply net cash proceeds from the sale of Collateral first to repay the amounts secured by allowed Permitted Liens, then to outstanding DIP Obligations (such payments to be made immediately upon the sale of assets) or to the extent the Lender is the successful purchaser of any such Collateral, credited against the purchase price. Any remaining net cash proceeds will be applied to repay the pre-petition obligations of Debtor in accordance with the provisions of the Bankruptcy Code. The DIP Loan Commitment amount will be reduced, permanently and on a dollar-for-dollar basis, by the amount of the net cash proceeds from the sale of Collateral applied to the principal repayment of DIP Loans.

4.7 Books and Records. Keep proper books of record and account in which complete and correct entries are made of all dealings and transactions in relation to the Debtor's business and activities and which permit financial statements to be prepared in conformity with GAAP and all applicable Laws.

4.8 Cash Accounts. Deposit and maintain all proceeds of the DIP Loan in only such accounts permitted by the Bankruptcy Court's order approving the Debtor's use after the Petition Date of its existing bank accounts, cash management system and investment guidelines.

4.9 Visits and Inspections. Promptly permit representatives of Lender from time to time upon prior written notice to the Debtor, during normal business hours, to (a) visit and inspect any Property of the Debtor as often as Lender shall reasonably deem advisable, (b) make such inspections of, abstracts from and copies of the Debtor's books and records as Lender shall deem advisable, and (c) discuss with the Debtor's stockholders, officers and the auditors of the Debtor, the Debtor's business, operations, assets, liabilities, financial positions, results of operations and business prospects as often as Lender shall deem advisable.

4.10 Use of DIP Loan Proceeds. Use the proceeds of the DIP Loan solely in accordance with the Budget (as applicable) subject to the Permitted Variance and upon the terms and conditions set forth in this Agreement, including without limitation Section 2.3 hereof.

4.11 Subsequent Loans. Use the proceeds from any subsequent loans obtained by Debtor and approved in writing by Lender to first repay the DIP Loan.

4.12 Compliance with Asset Purchase Agreement. Observe and perform in good faith and in full all obligations of Seller under the Asset Purchase Agreement.

4.13 Compliance with Law. Comply in all material respects with all requirements of law applicable to the Property.

## SECTION 5. NEGATIVE COVENANTS.

The Debtor hereby agrees that it shall not, directly or indirectly, so long as any of the DIP Obligations remains outstanding and unpaid, or any other amount is owing to Lender:

- 5.1 Debt. Create, incur, assume or suffer to exist any debt, except:
- (a) Debt outstanding on the Petition Date in the form as is in existence on the date of this Agreement, including Debt secured by the Permitted Liens;
  - (b) the DIP Loan and this Agreement; and
  - (c) Debt incurred by the Debtor within the Budget, subject to the Permitted Variance, in the ordinary course of business in the form of accounts payable and accrued expenses.

5.2 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets, income or profits, whether now owned or hereafter acquired, except Permitted Liens and the Carveout.

5.3 Use of Proceeds. Use the proceeds of the DIP Loan for any purpose not set forth in each respective Budget or in Section 2.3 hereof, subject to the Permitted Variance.

5.4 DIP Financing. Incur, or apply to the Bankruptcy Court for authority to incur, or suffer to exist, any (a) indebtedness having the priority afforded by Section 364(c) or (d) of the Bankruptcy Code (including any Superpriority Claims) other than the financing provided for under this Agreement and the other DIP Loan Documents or (b) obligation to make adequate protection payments, or otherwise provide adequate protection, other than as contemplated by the Interim DIP Order or the Final DIP Order or in the Budget, or as may be required by order of the Bankruptcy Court in connection with the provision of adequate protection to holders of Permitted Liens whose collateral is sold or otherwise disposed of or as to which Lender consents.

5.5 Alteration of Rights of Lender. Limit, affect or modify, or apply to the Bankruptcy Court to limit, affect or modify, any of Lender's rights with respect to the DIP Obligations, including rights with respect to the Collateral and the priority thereof, except with the prior written consent of Lender.

5.6 Chapter 11 Claims. Except as permitted under the Final DIP Order, apply to the Bankruptcy Court for the authority to incur, create, assume, suffer or permit any claim, Lien or encumbrance (other than Permitted Liens and the Carveout) against the Debtor, or any of their assets in the Chapter 11 Case to be pari passu with, or senior to, the Liens and claims of Lender granted and arising under the DIP Loan Documents.

5.7 Superpriority Administrative Expense. Create or permit to exist any Superpriority Claims (other than with respect to this Agreement or the Interim DIP Order or Final DIP Order and other than the Carveout).

5.8 Alterations. Undertake any alterations or modifications to the Property without Lender's prior written consent.

5.9 Transfers. Transfer, directly or indirectly, any of its right, title or interest in, to or under any of the Collateral without the Lender's prior written consent.

## SECTION 6. DEFAULT.

6.1 Default. Each of the following shall constitute a Default hereunder:

(a) The Debtor shall fail to pay any principal or interest of the DIP Loan or any other DIP Obligation (including any fees or reimbursable amounts) when any such amount becomes due in accordance with the terms hereof, which failure continues for a period of five (5) Business Days after notice thereof from Lender;



(b) The Debtor, shall default in the observance or performance of any covenant, agreement, obligation or restriction set forth in the Asset Purchase Agreement, this Agreement or any other DIP Loan Document, and, to the extent such default is curable, such Default shall continue unremedied for a period of ten (10) Business Days after notice thereof from Lender;

(c) The Bankruptcy Court shall enter an order with respect to the Debtor dismissing the Chapter 11 Case or converting it to a case under chapter 7 of the Bankruptcy Code, or, without the prior written consent of Lender (i) appointing a trustee in its Chapter 11 Case or (ii) appointing a responsible officer or an examiner with enlarged powers relating to the operation of the Debtor's business (beyond those set forth in Section 1106(a)(3) or (4)) under Bankruptcy Code Section 1106(b);

(d) A Chapter 11 plan of reorganization with respect to the Debtor is filed, and such plan does not provide for the indefeasible payment in full in cash of the DIP Obligations on or prior to the earlier of the Maturity Date and the termination of the DIP Loan Commitment or such other treatment to which Lender may agree in writing;

(e) Debtor shall fail to comply with the terms of the Interim DIP Order or the Final DIP Order, if any;

(f) Debtor's use of any cash collateral or advances under the DIP Loan for any purpose other than those set forth in the Budget or as otherwise approved by the Bankruptcy Court;

(g) The Bankruptcy Court grants any superpriority administrative expense claim or Lien, or enters any order granting relief from the automatic stay (if not in favor of Lender) on any assets of the Debtor which have an aggregate value in excess of \$25,000.00, except with the express written consent of Lender; or

(h) Except as provided in the Budget, payment of any pre-petition claims without Lender's prior consent.

6.2 Notice of Default and Certain Remedies. Upon the occurrence of any Default, Lender may provide written notice (a "Notice of Default") to the Debtor, counsel for the Office of the United States Trustee, and counsel for the official committee of unsecured creditors, if any, (collectively, the "Notice Parties") of such Default. Upon the later of (i) one (1) business day after the date of such Notice of Default or (ii) the expiration of any applicable cure period following such Notice of Default (the "Termination Date"), Lender may (a) file a motion to lift the automatic stay imposed by section 362 of the Bankruptcy Code and shall be entitled to a hearing on the same on three (3) Business Days notice to the Notice Parties, and the only issue that may be raised at such hearing is whether the Event of Default has occurred, and (b) without further order of the Bankruptcy Court declare the DIP Loan Commitment to be terminated and all DIP Obligations due and payable, without further notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, protest, or other formalities of any kind, all of which are hereby expressly waived by the Debtor; provided, however, Lender shall remain obligated to fund any portion of the Carveout that has not been funded on the effective

date of termination under this subsection. Except as expressly provided above in this Section 6 hereof, presentment, notice, notice of dishonor, notice of acceleration, notice of intent to accelerate, demand, protest and all other notices of any kind are hereby expressly waived.

SECTION 7. MISCELLANEOUS.

7.1 Amendments and Waivers. No DIP Loan Document nor any terms thereof may be amended, supplemented or modified except in writing signed by Lender and Debtor.

7.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three (3) Business Days after being deposited in the mail, postage prepaid, or one Business Day after being entrusted to a reputable commercial overnight delivery service, or, in the case of facsimile notice, when sent, confirmation of receipt received, addressed as follows in the case of the Debtor and Lender or to such other address as may be hereafter notified by such respective parties hereto:

The Debtor: TWG Capital, Inc.  
7434 Shadeland Station Way  
Indianapolis, Indiana 46256  
Attention: Melanie Otto  
Mark Nondorf

With a copy to: Faegre Baker Daniels LLP  
600 East 96th St., Suite 600  
Indianapolis, Indiana 46240  
Attn: Jay Jaffe, Esq.  
J. Jeffrey Brown, Esq.

Lender: Carmel Funding, LLC  
221 North LaSalle Street, Suite 900  
Chicago, IL 60601  
Attn: Mr. Ray Siegel

With a copy to: Hunton & Williams, LLP  
200 Park Avenue  
New York, New York 10166  
Attn: Peter S. Partee, Sr., Esq.

7.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided

are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

7.4 Survival of Representations and Warranties. All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the DIP Loan.


7.5 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

7.6 Additional Grant of Lien. All DIP Obligations, contingent or absolute (including, without limitation, the principal thereof, interest thereon, and any costs and expenses owing in connection therewith) which may now or from time to time hereafter be owing by the Debtor to Lender under any of the DIP Loan Documents shall be secured as set forth in the Final DIP Order.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Debtor In Possession Loan Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**TWG Capital, Inc.**

By:   
Name: Mark Nagel  
Its: President

**Carmel Funding, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Debtor In Possession Loan Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**TWG Capital, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Carmel Funding, LLC**

By: Raymond J. Sage  
Name: Raymond J. Sage  
Its: Manager

**EXHIBIT A**

**BUDGET**

See Attached

**Analysis of Cash Position**  
 TWG Capital, Inc.

| Week Ended   | 1         | 2        | 3        | 4        | 5        | 6        | 7        | 8         | 9         | 10        | 11        | 12        | 13        |
|--|-----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
|  | 9/21/12   | 9/28/12  | 10/5/12  | 10/12/12 | 10/19/12 | 10/26/12 | 11/2/12  | 11/9/12   | 11/16/12  | 11/23/12  | 11/30/12  | 12/7/12   | 12/14/12  |
| Cash at beginning of period                        | 234,175   | 101,572  | 78,853   | 13,596   | 47,986   | 17,136   | 6,883    | (92,494)  | (101,888) | (132,010) | (171,292) | (200,808) | (220,727) |
| Current Contractual Fees:                          |           |          |          |          |          |          |          |           |           |           |           |           |           |
| Management fees                                    | 48,216    | -        | -        | 44,575   | -        | -        | -        | -         | -         | 102,500   | -         | -         | 48,797    |
| Progeny servicing fee/LTPC                         | 3,400     | -        | -        | 3,400    | -        | -        | 3,400    | -         | -         | -         | -         | -         | 3,400     |
| Other (downline, expense reserve, LTPC)            | 4,299     | -        | -        | -        | 5,000    | -        | -        | -         | -         | -         | -         | -         | -         |
| Total cash in                                      | 55,914    | -        | 47,975   | -        | 5,000    | -        | 3,400    | -         | 102,500   | -         | -         | -         | 52,197    |
| Payroll, benefits, and payroll taxes               | 27,670    | 1,705    | 50,276   | 27,791   | -        | 35,791   | -        | 27,266    | -         | 27,266    | 500       | -         | 27,266    |
| Insurance (Health, Disability, Etc.)               | -         | 9,207    | -        | -        | 9,207    | -        | -        | -         | 9,207     | -         | -         | -         | -         |
| Rent   | -         | -        | -        | -        | -        | -        | 3,149    | -         | -         | -         | -         | 3,149     | -         |
| Bank service fee                                   | 10        | -        | 200      | -        | -        | -        | -        | -         | 10        | -         | -         | -         | 10        |
| Phone  | 346       | 1,542    | 331      | 1,012    | -        | -        | 331      | 1,012     | -         | -         | -         | 477       | 850       |
| Licenses   | -         | 500      | -        | 670      | 500      | -        | 960      | -         | -         | -         | -         | -         | -         |
| Office supplies                                    | -         | 835      | -        | -        | 50       | 35       | -        | -         | 50        | -         | -         | 35        | 75        |
| Paychex  | 92        | 88       | 90       | -        | 88       | 90       | -        | 90        | 88        | -         | 90        | -         | 178       |
| I/C payable IR1                                    | 4,210     | -        | 550      | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Legal and Professional                             | 135,261   | -        | -        | -        | -        | 60,000   | -        | -         | 90,000    | -         | -         | -         | 90,000    |
| Acctg and tax fees                                 | 11,320    | -        | 4,000    | -        | 4,000    | 1,652    | -        | -         | -         | -         | -         | -         | -         |
| Postage  | 45        | 568      | -        | 500      | 50       | -        | -        | -         | 550       | -         | -         | -         | 50        |
| Consulting   | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Travel & ent                                       | 43        | 100      | 100      | 100      | 100      | 100      | 100      | 100       | 100       | 100       | 100       | 100       | 100       |
| Trustee Fees                                       | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | 5,000     | -         | -         |
| Capital expenditures/ IT Outsourcing               | 394       | 383      | -        | 7,620    | 306      | 669      | 7,039    | 218       | 200       | 666       | 88        | 7,169     | 200       |
| Other Servicing                                    | 401       | 1,290    | 9,750    | 1,150    | 850      | 750      | 925      | 1,100     | 40,950    | 750       | 750       | 925       | 41,100    |
| Downlines on behalf of IR7                         | 8,724     | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| DIP Financing (interest and payments)              | -         | 6,500    | 291      | 291      | 291      | 291      | 291      | 336       | 627       | 714       | 735       | 801       | 10,867    |
| Total cash out                                     | 188,517   | 22,719   | 65,257   | 13,586   | 30,849   | 15,253   | 99,378   | 12,794    | 141,782   | 29,515    | 7,262     | 12,657    | 170,696   |
| Net cash   | (132,603) | (22,719) | (65,257) | (34,389) | (30,849) | (10,253) | (99,378) | (9,394)   | (30,122)  | (39,282)  | (29,515)  | (7,262)   | (118,499) |
| TWG Operating Cash                                 | 101,572   | 78,853   | 13,596   | 47,986   | 17,136   | 6,883    | (92,494) | (101,888) | (132,010) | (171,292) | (200,808) | (220,727) | (339,226) |
| Professional Services Accrual - FB&D               | 60,261    | (75,000) | (51,000) | (27,000) | (3,000)  | 21,000   | 45,000   | 9,000     | 33,000    | 57,000    | 15,000    | 39,000    | 63,000    |
| FB&D Beg Bal Owed (Prepaid)                        | -         | 24,000   | 24,000   | 24,000   | 24,000   | 24,000   | 24,000   | 24,000    | 24,000    | 24,000    | 24,000    | 24,000    | 24,000    |
| Add: Weekly Accrual                                | (135,261) | -        | -        | -        | -        | (60,000) | -        | -         | (90,000)  | -         | -         | -         | (90,000)  |
| Less: Payments                                     | (75,000)  | (51,000) | (27,000) | (3,000)  | 21,000   | 45,000   | 9,000    | 33,000    | 57,000    | 15,000    | 39,000    | 63,000    | (3,000)   |
| FB&D End Bal (Prepaid)                             | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Professional Services Accrual - Creditor Committee | -         | 5,700    | 11,400   | 17,100   | 22,800   | 28,500   | 34,200   | 39,900    | 45,600    | 51,300    | 57,000    | 63,000    | 69,000    |
| FB&D Beg Bal Owed (Prepaid)                        | 5,700     | 5,700    | 5,700    | 5,700    | 5,700    | 5,700    | 5,700    | 5,700     | 5,700     | 5,700     | 5,700     | 5,700     | 5,700     |
| Add: Weekly Accrual                                | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Less: Payments                                     | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| FB&D End Bal (Prepaid)                             | 5,700     | 11,400   | 17,100   | 22,800   | 28,500   | 34,200   | 39,900   | 45,600    | 51,300    | 57,000    | 63,000    | 69,000    | (200)     |

**Exhibit B**



**Analysis of Cash Position**  
 TWG Capital, Inc.

| Week Ended   | 1         | 2        | 3        | 4        | 5        | 6        | 7        | 8         | 9         | 10        | 11        | 12        | 13        |
|--|-----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
|  | 9/21/12   | 9/28/12  | 10/5/12  | 10/12/12 | 10/19/12 | 10/26/12 | 11/2/12  | 11/9/12   | 11/16/12  | 11/23/12  | 11/30/12  | 12/7/12   | 12/14/12  |
| Cash at beginning of period                        | 234,175   | 101,572  | 78,853   | 13,596   | 47,986   | 17,136   | 6,883    | (92,494)  | (101,888) | (132,010) | (171,292) | (200,808) | (220,727) |
| Current Contractual Fees:                          |           |          |          |          |          |          |          |           |           |           |           |           |           |
| Management fees                                    | 48,216    | -        | -        | 44,575   | -        | -        | -        | -         | -         | 102,500   | -         | -         | 48,797    |
| Progeny servicing fee/LTPC                         | 3,400     | -        | -        | 3,400    | -        | -        | 3,400    | -         | -         | -         | -         | -         | 3,400     |
| Other (downline, expense reserve, LTPC)            | 4,299     | -        | -        | -        | 5,000    | -        | -        | -         | -         | -         | -         | -         | -         |
| Total cash in                                      | 55,914    | -        | 47,975   | -        | 5,000    | -        | 3,400    | -         | 102,500   | -         | -         | -         | 52,197    |
| Payroll, benefits, and payroll taxes               | 27,670    | 1,705    | 50,276   | 27,791   | -        | 35,791   | -        | 27,266    | -         | 27,266    | 500       | -         | 27,266    |
| Insurance (Health, Disability, Etc.)               | -         | 9,207    | -        | -        | 9,207    | -        | -        | -         | 9,207     | -         | -         | -         | -         |
| Rent   | -         | -        | -        | -        | -        | -        | 3,149    | -         | -         | -         | -         | 3,149     | -         |
| Bank service fee                                   | 10        | -        | 200      | -        | -        | -        | -        | -         | 10        | -         | -         | -         | 10        |
| Phone  | 346       | 1,542    | 331      | 1,012    | -        | -        | 331      | 1,012     | -         | -         | -         | 477       | 850       |
| Licenses   | -         | 500      | -        | 670      | 500      | -        | 960      | -         | -         | -         | -         | -         | -         |
| Office supplies                                    | -         | 835      | -        | -        | 50       | 35       | -        | -         | 50        | -         | -         | 35        | 75        |
| Paychex  | 92        | 88       | 90       | -        | 88       | 90       | -        | 90        | 88        | -         | 90        | -         | 178       |
| I/C payable IR1                                    | 4,210     | -        | 550      | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Legal and Professional                             | 135,261   | -        | -        | -        | -        | 60,000   | -        | -         | 90,000    | -         | -         | -         | 90,000    |
| Acctg and tax fees                                 | 11,320    | -        | 4,000    | -        | 4,000    | 1,652    | -        | -         | -         | -         | -         | -         | -         |
| Postage  | 45        | 568      | -        | 500      | 50       | -        | -        | -         | 550       | -         | -         | -         | 50        |
| Consulting   | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Travel & ent                                       | 43        | 100      | 100      | 100      | 100      | 100      | 100      | 100       | 100       | 100       | 100       | 100       | 100       |
| Trustee Fees                                       | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | 5,000     | -         | -         |
| Capital expenditures/ IT Outsourcing               | 394       | 383      | -        | 7,620    | 217      | 669      | 7,039    | 218       | 200       | 666       | 88        | 7,169     | 200       |
| Other Servicing                                    | 401       | 1,290    | 9,750    | 1,150    | 850      | 750      | 925      | 1,100     | 40,950    | 750       | 750       | 925       | 41,100    |
| Downlines on behalf of IR7                         | 8,724     | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| DIP Financing (interest and payments)              | -         | 6,500    | 291      | 291      | 291      | 291      | 291      | 336       | 627       | 714       | 735       | 801       | 10,867    |
| Total cash out                                     | 188,517   | 22,719   | 65,257   | 13,586   | 30,849   | 15,253   | 99,378   | 12,794    | 141,762   | 29,515    | 7,262     | 12,657    | 170,696   |
| Net cash   | (132,603) | (22,719) | (65,257) | (34,389) | (30,849) | (10,253) | (99,378) | (9,394)   | (30,122)  | (39,282)  | (29,515)  | (7,262)   | (118,499) |
| TWG Operating Cash                                 | 101,572   | 78,853   | 13,596   | 47,986   | 17,136   | 6,883    | (92,494) | (101,888) | (132,010) | (171,292) | (200,808) | (220,727) | (339,226) |
| Professional Services Accrual - FB&D               | 60,261    | (75,000) | (51,000) | (27,000) | (3,000)  | 21,000   | 45,000   | 9,000     | 33,000    | (9,000)   | 15,000    | 39,000    | 63,000    |
| FB&D Beg Bal Owed (Prepaid)                        | -         | 24,000   | 24,000   | 24,000   | 24,000   | 24,000   | 24,000   | 24,000    | 24,000    | 24,000    | 24,000    | 24,000    | 24,000    |
| Add: Weekly Accrual                                | (135,261) | -        | -        | -        | -        | (60,000) | -        | -         | (90,000)  | -         | -         | -         | (90,000)  |
| Less: Payments                                     | (75,000)  | (51,000) | (27,000) | (3,000)  | 21,000   | 45,000   | 9,000    | 33,000    | 57,000    | (9,000)   | 15,000    | 39,000    | 63,000    |
| FB&D End Bal (Prepaid)                             | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Professional Services Accrual - Creditor Committee | -         | 5,700    | 11,400   | 17,100   | 22,800   | 28,500   | 39,900   | 45,600    | 51,300    | 17,000    | 22,700    | 28,400    | 34,100    |
| FB&D Beg Bal Owed (Prepaid)                        | 5,700     | 5,700    | 5,700    | 5,700    | 5,700    | 5,700    | 5,700    | 5,700     | 5,700     | 5,700     | 5,700     | 5,700     | 5,700     |
| Add: Weekly Accrual                                | -         | -        | -        | -        | -        | -        | -        | -         | -         | -         | -         | -         | -         |
| Less: Payments                                     | -         | -        | -        | -        | -        | -        | -        | -         | (40,000)  | -         | -         | -         | (40,000)  |
| FB&D End Bal (Prepaid)                             | 5,700     | 11,400   | 17,100   | 22,800   | 28,500   | 34,200   | 39,900   | 45,600    | 51,300    | 17,000    | 22,700    | 28,400    | 34,100    |