

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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

FINAL 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) GRANTING RELATED RELIEF

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”), (i) seeking this Court’s authorization (a) 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 and Carmel Funding, LLC (“Lender”), (b) pursuant to Bankruptcy Code sections 364(c), to grant valid, automatically perfected, DIP Liens on the Collateral (as hereinafter

defined), subject and subordinate only to the Carveout¹ 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 (c) authorizing Debtor to use Cash Collateral pursuant to Sections 361 and 363(a); and (ii) 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 Court having granted the Motion on an interim basis at the Interim Hearing held before this Court on September 19, 2012; and the Court having held a hearing on entry of a final order approving the DIP Financing (the "Final Hearing") on October 4, 2012; and due and sufficient notice of the Motion and the Final Hearing having been given; upon the entire record made by Debtor at the Interim Hearing and the Final Hearing, no objections to the Motion having been filed, and the previously preserved limited objection of the Office of the United States Trustee having been overruled, 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.

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to such term in the DIP Agreement.

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 only 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. **Good Cause for Order.** Based on the record presented to this Court at the Interim Hearing and the Final 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.

WHEREFORE, based upon the foregoing findings and conclusions, and upon the record made before this Court at the Interim Hearing and the Final 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 shall be and hereby is granted on a final basis.
2. **Approval of Entry Into DIP Agreement.** The DIP Agreement in the form annexed hereto as **Exhibit A** shall be and hereby is approved in its entirety. 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 non-appealable 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 shall be and hereby is authorized to incur and use the DIP Financing. 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 collateral security for all of the DIP Obligations, Lender shall be and hereby is granted, pursuant to sections 364(c)(2) and (c)(3) of the Bankruptcy Code, (i) a valid, enforceable, senior, automatically perfected and unavoidable lien on and security interest in all property of the Debtor's estate under section 541 of the Bankruptcy Code (the "Primary Collateral") other than assets (the "Secondary Collateral") that are subject to a valid, enforceable, perfected, and unavoidable Permitted Lien (as that term is defined in the DIP Agreement) as of the Petition Date in favor of a creditor other than Lender (collectively, the "Preexisting Liens"), subject and subordinate only to the Carveout; and (ii) a valid, enforceable, automatically perfected and non-avoidable lien on and security interest in the Secondary Collateral, subject and subordinate only to any Preexisting Liens and the

Carveout (the liens and security interests referred to in clauses (i) and (ii) in this paragraph 4, collectively, the “DIP Liens”). Hereinafter, the Primary Collateral and the Secondary Collateral may be referred to collectively as the “Collateral.” Subject only to the Carveout and the Preexisting Liens, 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 Collateral. Notwithstanding anything else contained herein or in the DIP Loan Documents to the contrary, (i) this Order is not a determination of the validity or extent of the Debtor's asserted ownership interests in databases, data or records, and (ii) the granting of the DIP Liens hereunder does not grant the Lender any greater rights or interests in the databases, data or records than the rights and interests of Debtor in such property under applicable law.

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 (as defined below), (i) the Receiver shall be and hereby is 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 (ii) 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 the DIP Obligations, Lender shall be and hereby is 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.** The Lenders' postpetition fees and expenses shall constitute and be payable as DIP Obligations subject to and in accordance with the terms and conditions of the DIP Agreement.

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 holdback amounts, allowed and payable under sections 330 and 331 of the Bankruptcy Code to professional persons retained by Debtor pursuant to Court order ("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) Statutory Fees and (ii) 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 Collateral and Carveout; No § 506(c) Surcharge.** Notwithstanding anything herein or in any of the DIP Loan Documents to the contrary, no Collateral or any portion of the Carveout may be used to investigate, analyze, assert, monetize or otherwise realize upon in any way 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 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.

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. 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.

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