

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

In re:)	
)	
)	
UNITED FURNITURE INDUSTRIES, INC., <i>et al.</i> ¹)	Case No. 22-13422-SDM
)	Chapter 11
Debtors.)	Jointly Administered
)	

**FINAL ORDER (I) AUTHORIZING CHAPTER 11 TRUSTEE TO
(A) OBTAIN POSTPETITION FINANCING AND (B) GRANT LIENS AND
SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS; (II) MODIFYING
AUTOMATIC STAY; AND (III) GRANTING RELATED RELIEF**

Upon the *Motion for Entry of Interim and Final Orders (I) Authorizing Trustee to (A) Obtain Postpetition Financing and (B) Grant Liens and Superpriority Administrative Expense Claims; (II) Modifying Automatic Stay; (III) Setting a Final Hearing; and (IV) Granting Related Relief* [Dkt #181] (the “**Motion**”)² filed by Derek Henderson, Chapter 11 Trustee (“**Trustee**”) of

¹ The Debtors in these Chapter 11 cases, and the last four digits of each Debtor’s federal tax identification number, are as follows: United Furniture Industries, Inc. (2576); United Furniture Industries NC, LLC.(9015); United Furniture Industries CA, Inc. (9966); FW Acquisition, LLC (2133); Furniture Wood, Inc. (9186);United Wood Products, Inc. (1061); Associated Bunk Bed Company (0569); UFI Royal Development, LLC (8143); UFI Exporter, Inc. (6518); UFI Transportation, LLC (9471); and LS Logistics, LLC (7004).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Chapter 11 Trustee Credit Agreement or the Motion.

the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”)³ for entry of an interim order and a final order (the “**Final Order**”) pursuant to sections 105, 362, 363, 364, 503, 506, 507, and 552 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 4001, 6003, 6004, 9013, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 4001-1(b) of the Uniform Local Rules for the Northern and Southern Districts of Mississippi (the “**Local Rules**”), *inter alia*:

(i) authorizing the Chapter 11 Trustee on behalf of the Debtors to obtain secured postpetition financing pursuant to the terms and conditions of that certain Chapter 11 Trustee Loan and Security Agreement in substantially the form attached hereto (without exhibits or schedules) as **Exhibit B** (as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with its terms, and including the exhibits and schedules thereto, the “**Chapter 11 Trustee Credit Agreement**”), by and among the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and United Financial Services, Inc., as lender (the “**Postpetition Lender**”), in an aggregate principal amount not to exceed \$20,000,000 (plus interests, fees, costs, and expenses as set forth below), consisting of a multiple-draw term loan facility (the “**Trustee Facility**”, and any draws on the Trustee Facility, the “**Trustee Loans**”);

(ii) authorizing the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to execute the Chapter 11 Trustee Credit Agreement and all other documents, agreements, and instruments delivered pursuant thereto or executed or filed in furtherance or in connection therewith, all of which shall be in form and substance customary for transactions of this type, and acceptable to the Postpetition Lender and the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates (as the same may be amended, restated, supplemented

or otherwise modified from time to time in accordance with their respective terms, and collectively with the Chapter 11 Trustee Credit Agreement, the “**Trustee Loan Documents**”);

(iii) authorizing the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to use the proceeds from the Trustee Facility as permitted in the Trustee Loan Documents and in accordance with this Final Order and the Budget (as defined below);

(iv) granting to the Postpetition Lender automatically perfected security interests in and liens and mortgages on all assets owned by the Debtors, not leased, that constitute the Postpetition Lender Collateral (as defined below) to secure the Trustee Facility and all obligations owing and outstanding thereunder and under the Trustee Loan Documents and this Final Order (collectively, and including all “**Obligations**” as described in the Chapter 11 Trustee Credit Agreement, the “**Trustee Obligations**”)³, which shall rank junior in priority to Permitted Liens and senior in priority to all other liens other than payment of the Carve-Out (as defined below);

(v) granting superpriority administrative expense claims against the Debtors’ estates to the Postpetition Lender with respect to the Trustee Obligations in accordance with section 364(c)(1) of Bankruptcy Code over all administrative expenses of any kind or nature subject and subordinate only to the payment of the Carve-Out;

(vi) authorizing the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to provide the Adequate Protection Claims (as defined below) to Wells Fargo Bank, National Association, Renasant Bank, BNA Bank, the David A. Belford Separate Property Trust, and any other prepetition lender to the Debtors or a Debtor that has a Permitted Lien on the assets of any Debtor (collectively, the “**Prepetition Lenders**”);

³ For the avoidance of doubt, the Trustee Obligations include the Advances (as defined herein).

(vii) vacating and modifying the automatic stay pursuant to section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Final Order and the Trustee Loan Documents;

(viii) waiving any applicable stay with respect to the effectiveness and enforceability of this Final Order (including under Bankruptcy Rule 6004); and

(ix) granting such other and further relief as is just and proper.

The Court having reviewed the Motion and having heard the testimony and statements of counsel; and the Court having determined that the relief requested in the Motion is in the best interests of the Chapter 11 Trustee, the Debtors, their estates, creditors, and other parties in interest; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. The Chapter 11 Cases. On December 30, 2022 (the “**Involuntary Petition Date**”), certain creditors of the Debtors filed an involuntary petition for relief under Chapter 7 of the Bankruptcy Code against United Furniture Industries, Inc. (“**Parent**”) in the United States Bankruptcy Court for the Northern District of Mississippi (the “**Parent Bankruptcy Case**”). On January 6, 2023, Parent filed a motion to convert the Parent Bankruptcy Case to Chapter 11 (the “**Conversion Motion**”). The Court granted the Conversion Motion at a hearing held on January 18, 2023 and entered an order on January 27, 2023 converting the Parent’s Chapter 7 Case to a case under Chapter 11 of the Bankruptcy Code. *See* Dkt #106. In addition, on January 25, 2023, the Court entered an order approving the Acting United States Trustee for Region 5’s Application for Approval of Appointment of Chapter 11 Trustee [Dkt #94] and appointed Derek Henderson,

Esq. as Chapter 11 Trustee of the Parent and its bankruptcy estate. *See* Dkt #101. On January 31, 2023, the Chapter 11 Trustee filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code for Parent’s wholly owned subsidiaries (the “**Petition Date**”). On February 13, 2023, Derek Henderson, Esq. was appointed as Chapter 11 Trustee for the remaining Debtors and on February 14, 2023, orders were entered approving his appointment. On March 6, 2023, the Court entered an order approving the Motion on an interim basis. The bankruptcy cases are being jointly administered (the “**Chapter 11 Cases**”).

B. Chapter 11 Trustee is in Possession. The Chapter 11 Trustee has displaced the Debtors and he is control of the management, operation and/or liquidation of the Debtors’ businesses and properties as Chapter 11 Trustee pursuant to sections 1106 and 1108 of the Bankruptcy Code.

C. Jurisdiction and Venue. This Court has jurisdiction, pursuant to 28 U.S.C. §§ 157 and 1334, over these proceedings and over the persons and property affected hereby. Venue for the Chapter 11 Cases is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates has consented to the Court’s entry of a final order regarding the Motion, and the Court may enter a final order consistent with Article III of the United States Constitution.

D. Statutory Committee. On April 4, 2023, the United States Trustee for the Northern District of Mississippi (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors (the “**Committee**”) in the Chapter 11 Cases.

E. Necessary Approvals. Upon entry of this Final Order by the Court, the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates will have obtained all authorizations, consents, and approvals required to be obtained from, and have made all filings

with and given all notices required to be given to, all federal, state, and local governmental agencies, authorities, and instrumentalities in connection with the execution, delivery, validity, and enforceability of the Trustee Loan Documents as provided herein.

F. Advances.

(i) To avoid immediate and irreparable harm to the Debtors and their creditors, following the Involuntary Petition Date and prior to the Petition Date, the Debtors requested from the Postpetition Lender, and the Postpetition Lender agreed to provide to the Debtors, an advance in the amount of \$1,226,282 (the “**Total Gap Period Advance**”) to fund immediate and necessary expenses for the Debtors’ operations, including, but not limited to, utilities, property insurance, the Debtors’ payroll obligations and to fund payments to professionals to advise the Debtors of their rights and obligations.⁴

(ii) Thereafter, following January 18, 2023, (the “**Commencement Date**”) but before entry of this Final Order, to avoid immediate and irreparable harm to the Estates and their creditors, the Chapter 11 Trustee requested from the Postpetition Lender, and the Postpetition Lender agreed to provide to the Chapter 11 Trustee, an advance in the amount of \$141,314.77 (the “**Post-Commencement Advance**,”) to fund immediate and necessary expenses for the Debtors’ operations, including, but not limited to the Debtors’ payroll obligations. The Total Gap Period Advance together with the Post-Commencement Advance is referred to herein as the “**Advances.**”

⁴ For the avoidance of doubt, the Total Gap Period Advance includes retainers or payments made to the following former Debtor professionals: (a) Hahn Loeser & Parks, LLP in the amount of \$100,000.00; (b) Oxford Restructuring Advisors, LLC in the amount of \$100,000.00; (c) Riveron Management Services LLC in the amount \$200,000.00; (d) Sugar Felsenthal Grais & Helsinger LLP in the amount of \$150,000.00; and (e) WARN services by William E. Burke, III in the amount of \$6,120.00 plus the amount of \$2,550.00 (collectively, the amounts listed in (a) through (e) directly above are referred to herein as the “**Replenishing Retainer Amounts**”). Since entry of the interimo, Sugar Felsenthal Grais & Helsinger LLP has merged into the law firm Raines Feldman LLP.

(iii) On March 6, 2023, the Court entered an order which authorized inclusion of the Advances with the exception of the Replenishing Retainer Amounts, to which the Court reserved judgment. Specifically, the Court directed the Chapter 11 Trustee to provide information to the Court no later than the date of the Final Hearing concerning: (a) the actual amounts paid; (b) when the services were performed for the amounts paid; (c) the scope of the services; and (d) any other information the Chapter 11 Trustee considers relevant for the Court to determine whether the services performed were reasonable and necessary and are allowed gap period claims under the Bankruptcy Code. The interim order provided that to the extent that the Court approves the payment of all or a portion of the Replenishing Retainer Amounts, such amounts shall be included as part of the Trustee Loans and Trustee Obligations. On March 28, 2023, the Chapter 11 Trustee submitted fee information regarding the Replenishing Retainer Amounts for the Debtors' former professional firms, including: (a) Hahn Loeser & Parks, LLP; (b) Oxford Restructuring Advisors, LLC; (c) Riveron Management Services LLC; and (d) Sugar Felsenthal Grais & Helsinger LLP. On April 4, 2023, the Chapter 11 Trustee submitted fee information for Mr. William E. Burke, III, who provided WARN related services to the Debtors.

G. Necessity of Relief Requested; Best Interest. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates requires the Trustee Loans, including the Advances, in order to finance the administration of these Chapter 11 Cases, the preservation and disposition of assets, and effective liquidations of the Debtors' bankruptcy estates, absent which immediate and irreparable harm will result to the Debtors, their estates and creditors, and the prospects for a successful conclusion of the Chapter 11 Cases. Without the Trustee Loans it would be impracticable for the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to manage and administer these estates for purposes of maximizing the value of the

Debtors' assets, even for a limited period of time, and serious and irreparable harm to the Debtors, their estate, and creditors would occur. The Chapter 11 Trustee and the Debtors do not have sufficient available sources of working capital and financing to remain in Chapter 11 of the Bankruptcy Code without the Trustee Loans. The relief requested in the Motion is therefore necessary to the preservation and maintenance of the value of the Debtors' assets and their bankruptcy estates. The Postpetition Lender and the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates have negotiated at arms' length and in good faith regarding the Trustee Loans to fund the liquidation of the Debtors' owned real property for the period through the Termination Date, all subject to the terms and conditions set forth in this Final Order and the Trustee Loan Documents, including the protection afforded an entity acting in "good faith" under section 364(e) of the Bankruptcy Code. Based on the record presented to the Court at the Interim and Final Hearings, the terms of the Trustee Facility are fair and reasonable under the circumstances, reflect the Chapter 11 Trustee's exercise of prudent business judgment consistent with his fiduciary duties, and is supported by reasonably equivalent value and fair consideration. Entry of this Final Order is in the best interests of the Debtors, their estates, and creditors.

H. No Credit Available on More Favorable Terms. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates has not been unable to obtain post-petition financing on terms more favorable than those offered by the Postpetition Lender under the Trustee Loan Documents.

I. Business Judgment and Good Faith.

(i) The Postpetition Lender has indicated a willingness to provide financing to the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, but solely on the terms and conditions set forth in the Trustee Loan Documents, including, without limitation: (a)

entry of this Final Order; (b) approval of the terms and conditions of the Trustee Facility and the Trustee Loan Documents, including, without limitation, the Chapter 11 Trustee's ability, on behalf of each of the Debtors and their bankruptcy estates, to enter into such documents and to incur all of the obligations thereunder, and to confer upon the Postpetition Lender all rights, powers and remedies thereunder; (c) satisfaction of the closing conditions set forth in the Trustee Loan Documents; and (d) findings by this Court that the Trustee Facility and the Chapter 11 Trustee's use of the Trustee Loans on behalf of the Debtors and their bankruptcy estates are essential, that the Postpetition Lender is extending credit to the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates pursuant to the Trustee Loan Documents and this Final Order in good faith, and that the Postpetition Lender's claims, superpriority claims, security interests and liens and other protections granted pursuant to this Final Order and the Trustee Loan Documents will have the protections provided by section 364(e) of the Bankruptcy Code. Accordingly, after considering all of its practical alternatives, the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates has concluded, in an exercise of his sound business judgment, that the Trustee Loans to be provided by the Postpetition Lender, pursuant to the terms of the Trustee Loan Documents, represent the best financing currently available to the Debtors and their bankruptcy estates.

(ii) The terms of the Trustee Loan Documents, including, without limitation, the interest rates and fees applicable, are more favorable to the Debtors than any available from alternative sources. Based upon the record before the Court, the Trustee Loan Documents have been negotiated in good faith and at arm's-length among the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and the Postpetition Lender. Any Trustee Loans and other financial accommodations made to the Chapter 11 Trustee on behalf of each of the Debtors

and their bankruptcy estates by the Postpetition Lender pursuant to the Trustee Loan Documents and this Final Order shall be deemed to have been extended by the Postpetition Lender in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and the Postpetition Lender shall be entitled to all protections afforded thereby.

J. Fair Consideration and Reasonably Equivalent Value. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates will receive fair and reasonable consideration in exchange for access to the Trustee Loans and all other financial accommodations provided under the Trustee Loan Documents and this Final Order. The terms of the Trustee Loan Documents are fair and reasonable, reflect the Chapter 11 Trustee's exercise of prudent business judgment on behalf of each of the Debtors and their bankruptcy estates, are consistent with the Chapter 11 Trustee's fiduciary duties, and are supported by reasonably equivalent value and fair consideration.

K. Prior Liens. The Chapter 11 Trustee, on his own behalf and on behalf of the Debtors, but without prejudice to the rights of other duly authorized parties in interest, to initiate a Challenge (as defined herein) as set forth in paragraph 19 below, admits, stipulates, acknowledges and agrees that (paragraph K(i) shall be referred to herein as the "**Chapter 11 Trustee's Stipulations**"):

(i) Prepetition Liens of the David A. Belford Separate Property Trust. On June 30, 2022, Debtor United Furniture Industries NC, LLC ("**UFNC**") and the David A. Belford Separate Property Trust, an irrevocable trust established under Ohio law and that certain trust deed dated December 26, 2001, as amended (the "**Trust**"), entered into that certain Loan and Security Agreement in the principal sum of \$25,000,000.00 (the "**UFNC Loan Agreement**"). The obligations of UFNC under the UFNC Loan Agreement are secured by a first-priority lien on the real property located at (a) 401 W. Hanes Road, Winston-Salem, North Carolina 27105; (b) 100

United Furniture Drive, Lexington, North Carolina 27292; and (c) 3761 Old Glenola Road, Trinity, North Carolina 27370 (collectively, the “**Trust Real Property Collateral**”), pursuant to that certain (x) Deed of Trust and Assignment of Rents and Leases dated June 30, 2022, by and between UFNC and the Trust, which was recorded with the Forsyth County, NC Register of Deeds on July 7, 2022, recordation number 2022032025 00074 (the “**Winston-Salem Deed of Trust**”), (y) Deed of Trust and Assignment of Rents and Leases dated June 30, 2022, by and between UFNC and the Trust, which was recorded with the Davidson County, NC Register of Deeds on July 7, 2022, recordation number 2022015339 (the “**Lexington Deed of Trust**”), and (z) Deed of Trust, Assignment of Rent and Leases, Security Agreement and Fixture Filing dated June 30, 2022, by and between UFNC and the Trust, which was recorded with the Randolph County, NC Register of Deeds on July 7, 2022, recordation number 20148331, in Book 2813 pages 586-607 (22) (the “**Trinity Deed of Trust**,” and collectively with the Winston-Salem Deed of Trust and the Lexington Deed of Trust, the “**UFNC Deeds of Trust**”). Pursuant to the UFNC Loan agreement and the UFNC Deeds of Trust, UFNC granted the Trust a first-priority valid, perfected and enforceable lien on and continuing security interest in the Trust Real Property Collateral to secure the performance of the covenants and agreements contained in the UFNC Loan Agreement and the UFNC Deeds of Trust and to secure the payment when due of (a) the obligations of UFNC under the UFNC Loan Agreement and the Note (as defined in the UFNC Loan Agreement), together with applicable interest, (b) all amounts expended or advanced by the Trust pursuant to the UFNC Loan Agreement and/or the UFNC Deeds of Trust, and (c) all unpaid advances made by the Trust with respect to the Trust Real Property Collateral, for the payment of taxes, assessments, insurance premiums and all other liabilities and indebtedness owing by UFNC to the Trust. The liens, security interests and/or UFNC Deeds of Trust granted by UFNC to the Trust

prior to the Petition Date on the Trust Real Property Collateral are referred to herein as the “**Trust Prepetition Liens.**” As of January 31, 2023, the principal amount of the obligations owed by UFNC to the Trust under the UFNC Loan Agreement and the Note (as defined in the UFNC Loan Agreement) was \$25,000,00.00, plus unpaid interest, fees and expenses.

(ii) Subject to the Challenge rights set forth in paragraph 19 below with respect to the Trust Prepetition Liens and the Chapter 11 Trustee’s Stipulations, nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest with standing to do so, including, but not limited to, the Chapter 11 Trustee, the Postpetition Lender, or the Committee to Challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Lien.

L. Notice. Notice of the Final Hearing and relief requested in the Motion has been provided by the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, whether by facsimile, email, overnight courier or hand delivery, to (i) the Office of the United States Trustee for the Northern District of Mississippi; (ii) the Office of the United States Attorney for the Northern District of Mississippi; (iii) the Internal Revenue Service; (iv) counsel for the Postpetition Lender; (v) counsel for Wells Fargo Bank, National Association; (vi) counsel for Renasant Bank; (vii) counsel for BNA Bank; (viii) the Trust; and (ix) the Committee. Notice of the Motion and the hearing thereon was provided pursuant to Bankruptcy Rules 2002, 4001(c) and (d), 6004, and 9014 and any applicable Local Rules.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Motion Approved. The Motion is granted in accordance with the terms and conditions set forth in this Final Order and the Trustee Loan Documents. This Final Order shall

become effective immediately upon its entry. Any objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived or settled, are denied and overruled with prejudice.

AUTHORIZATION FOR TRUSTEE FINANCING

2. **Authorization for Trustee Financing Pursuant to Budget.**

a. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is hereby immediately authorized on a final basis to incur Trustee Obligations, subject to the terms of this Final Order, the Budget attached hereto as **Exhibit A** (the “**Budget**”) (subject to the Permitted Variances), and the Trustee Loan Documents, in the aggregate principal amount of up to \$20,000,000 (the “**Approved Amount**”), inclusive of the Advances, subject to any conditions and limitations on availability in the Chapter 11 Trustee Credit Agreement, plus all interest, fees and other charges payable in connection with such Trustee Loans as provided in the Chapter 11 Trustee Credit Agreement and other Trustee Loan Documents.⁵ The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is hereby authorized to borrow money pursuant to the Chapter 11 Trustee Credit Agreement, subject to any limitations on and conditions precedent to borrowing under the Trustee Loan Documents, and to use the proceeds of such borrowings to fund the Chapter 11 Cases, for working capital and general corporate purposes of the Debtors, for other uses permitted under the Chapter 11 Trustee Credit Agreement, bankruptcy-related costs and expenses, and any other amounts required or allowed to be paid in accordance with this Final Order, but only as and to the extent authorized by the Budget (subject to the Permitted Variances) and the Trustee Loan Documents.

⁵ To the extent any budgeted expenses are not approved on a final basis, availability under the Trustee Facility will be reduced on a dollar-for-dollar basis.

b. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is authorized to enter into and deliver the Trustee Loan Documents, in each case including any amendments thereto. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is further authorized to enter into and deliver any UCC financing statements, pledge and security agreements, deposit account control agreements, mortgages or deeds of trust, or similar documents or agreements encumbering all of the Postpetition Lender Collateral and securing all of the Chapter 11 Trustee's Trustee Obligations under the Trustee Loan Documents, each as may be provided for under the Chapter 11 Trustee Credit Agreement or as otherwise reasonably requested by the Postpetition Lender.

c. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is further authorized to (i) perform and incur all of the Trustee Obligations under the Trustee Loan Documents, and such other agreements as may be required by the Trustee Loan Documents to give effect to the terms of the financing provided for therein and in this Final Order, and (ii) perform all acts required under the Trustee Loan Documents and this Final Order, including without limitation, the non-refundable payment or reimbursement of the reasonable and documented fees, costs and expenses referred to in the Trustee Loan Documents, including the fees and expenses of the Postpetition Lender, including its legal fees, and costs and expenses payable under the Trustee Loan Documents.

3. Payment of Expenses. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates is authorized and directed, without further order of this Court, to pay or reimburse the Postpetition Lender when due for all present and future costs, expenses and indemnities, including, without limitation, all reasonable professional fees and reasonable legal expenses, paid or incurred by the Postpetition Lender on or after the Involuntary Petition Date in

connection with the financing transactions as provided in this Final Order, any Final Order and the Trustee Loan Documents (payable on demand), including, without limitation, all such reasonable professional fees and reasonable legal expenses paid or incurred by the Postpetition Lender in connection with the Advances, all of which shall be and are included as part of the principal amount of the Trustee Obligations and shall be secured by the Postpetition Lender Collateral. Professionals for the Postpetition Lender (collectively, the “**Postpetition Lender Professionals**”) shall not be required to comply with the U.S. Trustee fee rules and guidelines and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with this Court, but the Postpetition Lender Professionals shall provide summary invoices (redacted if necessary for privileged, confidential or otherwise sensitive information, as to those invoices provided to any party other than the U.S. Trustee) for fees incurred after entry of the interim order to the Office of the U.S. Trustee, counsel for the Committee and the Chapter 11 Trustee and his counsel. Within ten (10) Business Days of presentment of such statements, if no written objections to the reasonableness of the fees and expenses charged in any such invoice (or portion thereof) is made (the “**Professional Fee Review Period**”), the Chapter 11 Trustee shall pay in cash, to the extent of available cash to do so, all such fees and expenses of the Postpetition Lender, and its Postpetition Lender Professionals promptly, and in any event within five (5) calendar days after the expiration of the Professional Fee Review Period, without the need for further application to or order of the Court. Any objection to the payment of such fees or expenses shall be made only on the basis of “reasonableness,” and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection any objection shall be submitted by the objecting party to the respective professional by email correspondence. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid and in any

event within three (3) Business Days following the end of the Professional Review Period, without the need for further application to or order of the Court. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the objecting party and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice. This Court shall resolve any dispute as to the reasonableness of any fees and expenses.

4. Amendments, Consents, Waivers, and Modifications. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, with the express written consent of the Postpetition Lender in accordance with the Chapter 11 Trustee Credit Agreement, may enter into any non-material amendments, consents, waivers, or modifications to the Trustee Loan Documents without the need for further notice and hearing or any order of this Court, it being further understood that further approval of this Court, upon notice and a hearing, shall be required for any such authorizations, amendments, waivers, consents or other modifications to and under the Trustee Loan Documents that are material or that shorten the maturity of the extensions of credit thereunder or increase the aggregate commitments or the rate of interest payable thereunder; provided that, for the avoidance of doubt, updates and supplements to the Budget required to be delivered under the Trustee Loan Documents shall not be considered amendments or modifications to the Budget or the Trustee Loan Documents; provided further that, the Debtors and the Postpetition Lender shall have the right to seek approval from the Court of material amendments, waivers, consents or other modifications on an expedited basis. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates shall provide written notice of any such amendment, supplement or modification to the U.S. Trustee and the Committee.

5. Valid and Binding Obligations. All Trustee Obligations under the Trustee Loan Documents shall constitute valid, binding, and non-avoidable Trustee Obligations of the Chapter 11 Trustee and the Debtors, enforceable against the Chapter 11 Trustee, the Debtors, and their respective successors and assigns, in accordance with their terms and the terms of this Final Order, and no obligation, payment, transfer, or grant of a lien or security interest under the Trustee Loan Documents or this Final Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under section 502(d) of the Bankruptcy Code) or subject to any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, or any other challenges under the Bankruptcy Code or any applicable law or regulation by any person or entity. Without limiting the generality of the foregoing, in no event shall the Chapter 11 Trustee and/or the Debtors be authorized to offset or recoup any amounts owed, or allegedly owed, by the Postpetition Lender or any of its owners and affiliates to the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and/or the Debtors, against any of the Trustee Obligations without the prior written consent of the Postpetition Lender, and no such consent shall be implied by any action, inaction, or acquiescence by the Postpetition Lender.

6. Postpetition Lender's Superpriority Claim. For any and all Trustee Obligations of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to the Postpetition Lender under and pursuant to the Trustee Loan Documents, and in addition to the rights granted below, subject to the Carve-Out, the Postpetition Lender is hereby granted an allowed superpriority administrative claim (the "**Postpetition Lender Superpriority Claims**"), in accordance with section 364(c)(1) of the Bankruptcy Code, having a priority in right of payment (to the extent permitted by the Bankruptcy Code and other applicable law) over any and all other

obligations, expenses, claims, liabilities and indebtedness of the Chapter 11 Trustee and/or the Debtors, whether or not such obligations, expenses, claims, liabilities and indebtedness may become secured by a judgment lien or other non-consensual lien, levy or attachment (including, but not limited to, the obligations owed to the Prepetition Lenders, which for avoidance of doubt are not entitled to treatment as an ordinary or superpriority administrative claim except to the extent of any Adequate Protection Claim, as defined below, for diminution in value, or as otherwise ordered by this Court), now in existence or hereafter incurred by the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and/or the Debtors, and over any and all administrative expenses or priority claims of any kind including as specified in, or ordered pursuant to, sections 105, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1113 and/or 1114 and any fees not allowed under Section 326 and/or 330 of the Bankruptcy Code (in each case to the extent permitted by law), whether arising in the Chapter 11 Cases or any case under chapter 7 of the Bankruptcy Code upon the conversion of the Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, a “**Successor Case**”). The Postpetition Lender Superpriority Claims shall be payable from and have recourse to all prepetition and postpetition property of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and the Debtors, and all proceeds thereof, including, without limitation, Avoidance Claims (defined in section 7 below) and/or the Avoidance Proceeds (defined in section 7 below), however, any such claim against Postpetition Lender and/or Postpetition Lender’s Related Parties, not otherwise precluded or waived hereunder or in the Chapter 11 Trustee Credit Agreement shall be excluded and the Avoidance Proceeds resulting from a successful final, non-appealable, Avoidance Claim against Postpetition Lender and/or Postpetition Lender’s Related Parties shall be excluded. The Postpetition Lender Superpriority Claims granted

in this paragraph shall be subject and subordinate in priority of payment only to prior payment of the Carve-Out.

7. Postpetition Lender Liens.

a. To secure the Trustee Obligations, including the Advances, were immediately effective and perfected upon the date of entry of the interim order and without the necessity of the execution and/or recordation of filings of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, the Postpetition Lender Liens set forth below (the “**Postpetition Lender Liens**”) are hereby granted to the Postpetition Lender on the Collateral (as defined in the Chapter 11 Trustee Credit Agreement), whether existing on the Involuntary Petition Date or thereafter acquired, including, without limitation, all real and personal property owned by the Debtors and/or any Debtor, including, without limitation: (i) all cash, money, cash equivalents, deposit accounts, securities accounts, accounts, other receivables, chattel paper, contract rights, goods and inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, intellectual property, general intangibles of any kind, rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments, supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action and all substitutions, books and records related to the foregoing, and accessions, and the equity interests owned by the Debtors, and proceeds (as defined in the Uniform Commercial Code) of the foregoing, wherever located, including insurance or other proceeds), and (ii) all owned real property, all leased real property, all rents and leases from any real property interests, and all other

proceeds of real property; (collectively, the “**Postpetition Lender Collateral**”). Notwithstanding the foregoing provisions of this section 7(a) or anything to the contrary in the Trustee Loan Documents or any other document: (x) the Postpetition Lender Liens shall not attach to and the Postpetition Lender Collateral does not include any of the following property: (x) any claims pursuant to Sections 502(d), 544, 545, 547, 548, 549, 550, 551 or 553 of the Bankruptcy Code (the “**Avoidance Claims**”), (y) any proceeds of property recovered in connection with the successful prosecution or settlement of Avoidance Claims (the “**Avoidance Proceeds**”); or (z) any real or personal property not owned by any Debtor.

b. First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, subject to the Carve-Out, the Postpetition Lender is hereby granted and shall have a binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon any and all Postpetition Lender Collateral that is not subject to valid, perfected, non-avoidable and enforceable Permitted Liens, provided, however, that the foregoing Postpetition Lender Liens shall not attach to any of the Avoidance Claims or Avoidance Proceeds.

c. Junior Lien. Pursuant to section 364(c)(3) of the Bankruptcy Code. Subject to the Carve-Out, the Postpetition Lender is hereby granted and shall have a binding, continuing, enforceable, fully-perfected best available junior priority security interest in and lien upon any and all Postpetition Lender Collateral that is subject to a valid, perfected, non-avoidable and enforceable Permitted Lien, provided, however, that the foregoing Postpetition Lender Liens shall not attach to any of the Avoidance Claims or Avoidance Proceeds.

d. Liens Senior to Certain Other Liens. The Postpetition Lender Liens granted to the Postpetition Lender shall be senior to and shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and/or the Chapter

11 Trustee on behalf of each of the Debtors and their bankruptcy estates under section 551 of the Bankruptcy Code (other than any transfer avoided as part of an Avoidance Claim) , or (ii) subject to applicable law, any liens arising after the Involuntary Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Chapter 11 Trustee and/or the Debtors other than as expressly permitted under the Trustee Loan Documents. The Postpetition Lender Liens are subject only to the Carve-Out.

e. Trustee Funding/Proceeds Account. Any and all Trustee Loans shall be deposited into one or more accounts of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates designated for the sole purpose of holding Trustee Loan proceeds of the Trustee Facility (collectively, the “Trustee Proceeds Account”). The Postpetition Lender is hereby granted a valid, enforceable, fully perfected and non-avoidable lien on the Trustee Proceeds Account. Disbursements from the Trustee Proceeds Account shall be made solely in accordance with this Final Order, the Budget, and the other Trustee Loan Documents.

f. The Postpetition Lender is not granted a Postpetition Lender Lien on any assets that are not property of the Debtors’ bankruptcy estates.

g. The Postpetition Lender Liens shall be enforceable against the Chapter 11 Trustee, the Debtors, their estates, and any successors thereto, including without limitation, any successor trustee or other estate representative appointed in the Chapter 11 Cases, or any Successor Case. The Postpetition Lender Liens were effective upon the entry of the interim order and shall not at any time be made subject or subordinated to, or made pari passu with, any other lien, security interest or claim existing as of the Involuntary Petition Date or created under sections 363 or 364 of the Bankruptcy Code or otherwise, other than (i) Permitted Liens and (ii) prior payment of the

Carve-Out. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be made pari passu with or senior to the Postpetition Lender Liens.

8. Adequate Protection of Prepetition Lenders' Interests. In this Final Order, the term “**Replacement Lien**” shall mean that, subject to the terms and conditions set forth in this Final Order, the Prepetition Lenders shall have and are hereby granted (effective upon the date of entry of this Final Order and without the necessity of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, the Debtors, or the Prepetition Lenders' execution of mortgages, deeds of trust, security agreements, pledge agreements, control agreements, financing statements or otherwise), perfected, security interests in, and liens upon the Postpetition Lender Collateral, in the same priority and to the same extent, priority, enforceability, unavailability and validity applicable to the Prepetition Liens in the Prepetition Collateral, which Replacement Lien(s) shall have the priority set forth herein provided, however, that the foregoing lien(s) shall not attach to any of the Avoidance Claims or Avoidance Proceeds. The Prepetition Lenders are granted the following adequate protection postpetition as such term is used in section 361 of the Bankruptcy Code under sections 362 and 363 of the Bankruptcy Code solely for any diminution in the value of their respective interests in the Prepetition Collateral from the Involuntary Petition Date (collectively, the “**Adequate Protection Claims**”) provided, however, that the Adequate Protection Claims shall not attach to or be payable from or have recourse to any of the Avoidance Proceeds or the Avoidance Claims:

a. The Prepetition Lenders shall have and are hereby granted the Replacement Liens subject to (i) unavoidable, duly perfected Permitted Liens existing as of the Involuntary Petition Date, and (ii) the priorities set forth in this subsection. Subject to the foregoing, the

Replacement Liens granted to the Prepetition Lenders pursuant to this Final Order shall be (x) prior and senior to all liens and encumbrances (other than fees arising under 28. U.S.C. §1930) of all other secured creditors in and to such property granted, or arising, subsequent to the date of this Final Order, and (y) junior and subordinate to the Carve-Out and the Postpetition Lender Liens granted to the Postpetition Lender, to which the Replacement Liens shall be immediately junior and subordinate;

b. Subject to the priorities set forth below in this subsection, pursuant to section 364(c)(1) of the Bankruptcy Code, the Adequate Protection Claims shall constitute allowed claims against the Debtors and their bankruptcy estates with priority over all administrative expenses (other than any fees arising under 28 U.S.C. §1930), diminution claims and all other claims against the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over all administrative expenses or other claims arising under sections 105, 328, 330, 331, 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(c), 726, 1113, and/or 1114 and any fees not allowed under Section 326 and/or 330 of the Bankruptcy Code (in each case to the extent permitted by law) (collectively, the “**Prepetition Lenders 507(b) Claims**”), whether or not such expenses or claims may become secured by judgment lien or other non-consensual lien, levy, or attachment or otherwise, which allowed Prepetition Lenders 507(b) Claims shall be payable from and have recourse to all prepetition and postpetition property of the Debtors, their bankruptcy estates, and all proceeds thereof; provided, however, that the Prepetition Lenders 507(b) Claims granted to Prepetition Lenders shall be junior and subordinate to the Carve-Out and the Postpetition Lender Superpriority Claims, which are also subject to the Carve-Out,

and shall not attach to or be payable from or have recourse to any of the Avoidance Proceeds or the Avoidance Claims.

c. All net payments of accounts for inventory, machinery and equipment, raw materials, work-in-process, or net proceeds of sales of prepetition priority collateral of Wells Fargo Bank, National Association will be paid to Wells Fargo Bank, National Association, to be applied to the Revolving Note (as defined in the Wells Fargo Prepetition Credit Agreement) until paid in full, and thereafter to the Trustee Obligations, provided, however, any payments in connection with a surcharge under section 506(c) of the Bankruptcy Code ordered by the Court against Wells Fargo Bank, National Association shall be held by the Chapter 11 Trustee in trust until all Trustee Obligations are paid in full.

d. All net proceeds resulting from the sale of any or all of the Trust Real Property Collateral shall be paid to the Trust at the closing of such sale(s) to be applied to the obligations owed by UFNC to the Trust under the UFNC Loan Agreement and the UFNC Deeds of Trust until paid in full, and thereafter to the Trustee Obligations, provided, however, any payments in connection with a surcharge under section 506(c) of the Bankruptcy Code ordered by the Court against the Trust shall be held by the Chapter 11 Trustee in trust until all Trustee Obligations are paid in full.

e. All net proceeds resulting from the sale of any or all of the real property serving as collateral of Renasant Bank (and to Three Rivers Planning & Development District as co-lender and co-first deed of trust holder with respect to the proceeds from the sale of the Debtors' Nettleton, Mississippi, property) shall be paid to Renasant Bank (and, as applicable, Three Rivers Planning & Development District) at the closing of such sale(s) to be applied to the obligations owed by the Debtors to Renasant Bank (and, as applicable, Three Rivers Planning & Development

District) under its loan and security documents until paid in full, and thereafter to the Trustee Obligations, provided, however, any payments in connection with a surcharge under section 506(c) of the Bankruptcy Code ordered by the Court against Renasant Bank shall be held by the Chapter 11 Trustee in trust until all Trustee Obligations are paid in full.

f. All net proceeds resulting from the sale of any or all of the real property serving as collateral of Bank of New Albany shall be paid to Bank of New Albany at the closing of such sale(s) to be applied to the obligations owed by the Debtors to Bank of New Albany under its loan and security documents until paid in full, and thereafter to the Trustee Obligations, provided, however, any payments in connection with a surcharge under section 506(c) of the Bankruptcy Code ordered by the Court against Bank of New Albany shall be held by the Chapter 11 Trustee in trust until all Trustee Obligations are paid in full.

g. All net proceeds resulting from the sale of any or all of the collateral subject to a holder of a Permitted Lien shall be paid to the holder of such Permitted Lien at the closing of such sale(s) to be applied to the obligations owed by the Debtors to the holder of such Permitted Lien under its note, loan and security documents until paid in full, and thereafter to the Trustee Obligations, provided, however, any amounts withheld by the Trustee as (i) Trustee compensation under § 326 of the Bankruptcy Code or (ii) as a surcharge under section 506(c) of the Bankruptcy Code against the holder of such Permitted Lien shall be held by the Chapter 11 Trustee in trust until all Trustee Obligations are paid in full.

h. The Prepetition Lenders reserve, and this Final Order is without prejudice to, their rights to, among other things: (i) object to any surcharge of their alleged collateral; (ii) object to the terms of any sale of their alleged collateral; and (iii) seek additional adequate protection; provided that any adequate protection provided hereafter shall be junior and

subordinate to the Postpetition Lender Liens, the Carve-Out and the Postpetition Lender Superpriority Claims, and provided, further, that the Postpetition Lender, the Chapter 11 Trustee, and any other party in interest with standing to do so may object to any such request for additional adequate protection.

AUTOMATIC PERFECTION AND SURVIVAL

9. Perfection of Postpetition Lender Liens and the Replacement Liens. This Final Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Postpetition Lender Liens and the Replacement Liens without the necessity of filing or recording any mortgage, financing statement, pledge agreements, control agreements, assignment documents with any applicable governmental agency, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the Postpetition Lender Liens, the Replacement Liens, or to entitle the Postpetition Lender and/or the Prepetition Lenders to the priorities granted herein. The Chapter 11 Trustee, in his business judgement and consistent with this Final Order, on behalf of the Debtors and their bankruptcy estates, is authorized and directed to execute and deliver promptly to the Postpetition Lender and/or the Prepetition Lenders, as applicable, all such financing statements, mortgages, notices and other documents as the Postpetition Lender and/or the Prepetition Lenders may reasonably request, and the Postpetition Lender and/or the Prepetition Lenders may file a photocopy of this Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien, or similar instruments.

10. Survival of Postpetition Lender Liens, Replacement Liens, and Claims. The Postpetition Lender Liens, Postpetition Lender Superpriority Claims, the Replacement Liens, the Prepetition Lenders 507(b) Claims, and other rights and remedies granted under this Final Order to the Postpetition Lender and the Prepetition Lenders shall continue in this and any Successor Case and shall be valid and enforceable against the Chapter 11 Trustee, the Debtors, any successor trustee appointed in the Debtors' Chapter 11 Cases and/or upon the dismissal or conversion of the Debtors' Chapter 11 Cases or any Successor Case, and such liens, security interests, and claims shall maintain their priority as provided in this Final Order until all Trustee Obligations have been indefeasibly paid in full in cash and the Postpetition Lender's commitments have been terminated in accordance with the Trustee Loan Documents. For the avoidance of doubt, the Postpetition Lender shall have no obligation to release its security interest in or any other Postpetition Lender Lien on any Postpetition Lender Collateral until Full Payment has occurred and the Postpetition Lender shall have received a general release by Debtors of all claims and causes of action arising under or with respect to the Trustee Loan Documents, Trustee Obligations, and Trustee Loans.

DISPOSITION OF COLLATERAL: ADDITIONAL FINANCING

11. Disposition of Collateral. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates shall not sell, transfer, lease, encumber, or otherwise dispose of any of the Postpetition Lender Collateral other than in the ordinary course of business, without the prior written consent of the Postpetition Lender.

12. Protection of Postpetition Lender's Rights.

a. Unless the Postpetition Lender shall have provided its prior written consent or all Trustee Obligations have been indefeasibly paid in full in cash and the Trustee Facility has terminated, there shall not be entered in these Chapter 11 Cases or in any Successor Case any order

which authorizes (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the Postpetition Lender Collateral or that is entitled to administrative priority status, in each case which is superior to or *pari passu* with the Postpetition Lender Liens or Postpetition Lender Superpriority Claims granted pursuant to this Final Order; or (ii) the use of Postpetition Lender Collateral or Trustee Facility advances and/or proceeds for any purpose other than in accordance with the Budget and the Trustee Loan Documents.

b. Without limiting the provisions and protections herein, if at any time prior to the indefeasible payment in full in cash of all Trustee Obligations and the termination of the Trustee Facility, the Debtors' estates, the Chapter 11 Trustee, any successor trustee, any examiner with enlarged powers or any responsible officer subsequently appointed shall obtain credit or incur debt pursuant to sections 364(b), 364(c), 364(d) or any other provision of the Bankruptcy Code or other applicable law in violation of the Trustee Loan Documents (including this Final Order), then all of the cash proceeds derived from such credit or debt shall immediately be turned over to the Postpetition Lender until indefeasible payment in full in cash of the Trustee Obligations.

EVENTS OF DEFAULT; REMEDIES

13. Events of Default. The following shall constitute an event of default under this Final Order, unless waived in writing by the Postpetition Lender (the "**Events of Default**"):

a. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and/or any Debtor fails to pay when due any of the Trustee Obligations, including but not limited to any payment of principal or interest on the Trustee Loans;

b. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and/or any Debtor fails to perform any of the terms, covenants, conditions or provisions contained in this Final Order, the Final Order, or any of the Trustee Loan Documents;

c. An order is entered, modifying, reversing, revoking, staying, rescinding, vacating, or amending this Final Order or any of the Trustee Loan Documents, without the consent and approval of the Postpetition Lender;

d. An order is entered approving or allowing any claim, security interest or other Lien ranking junior, equal or senior in priority to the Postpetition Lender Liens, the Postpetition Lender Superpriority Claims, and any other Liens granted to the Postpetition Lender under this Final Order or the Trustee Loan Documents or any such equal or prior claim, security interest or other Lien shall be established in any manner, except, in any case, as expressly permitted under this Final Order and any Final Order;

e. The entry of an order dismissing any of the Chapter 11 Cases or converting any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code;

f. The entry of an order which provides relief from the automatic stay otherwise imposed pursuant to Section 362 of the Bankruptcy Code, which order permits any creditor, other than Postpetition Lender, to realize upon, or to exercise any right or remedy with respect to, any real Property Postpetition Lender Collateral, which would result in triggering an Event of Default under this Final Order, the Final Order, or any of the Trustee Loan Documents, without the prior written consent of the Postpetition Lender;

g. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and/or any Debtor fails to pay employee benefit liabilities at the time such liabilities come due related to any Debtor's unpaid payroll taxes or IBNR;

h. The Court enters any order approving an asset purchase agreement with any third party which would result in triggering an Event of Default under this Final Order, or any of the Trustee Loan Documents unless such asset purchase agreement has been approved in writing by the Postpetition Lender in Postpetition Lender's sole discretion; and

i. Bankruptcy Case Milestones. If any of the following shall fail to occur in the Chapter 11 Cases:

- i. the failure of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to file an application to retain a real estate broker or investment banker acceptable to the Postpetition Lender in its sole reasonable discretion to market and sell the Property (as defined in the Chapter 11 Trustee Credit Agreement) on or before fifteen (15) days after the date of this Final Order;
- ii. the failure of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to obtain an order approving bidding procedures for the sale of the any owned real Property in form and substance acceptable to the Postpetition Lender in its sole

reasonable discretion to be entered by the Court on or before May 16, 2023;

- iii. the failure of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates to obtain any Sale Order for the sale of the any owned real Property in form and substance satisfactory to the Postpetition Lender in its sole discretion to be entered by the Court on or before July 14, 2023.

14. Remedies and Stay Modification. Subject to the Carve-Out and applicable law, if any Event of Default occurs and is continuing, Postpetition Lender may deliver written notice to the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and file a notice with the Court declaring the occurrence of an Event of Default, the termination of the Trustee Facility and/or subject to paragraph 15 of this Final Order, that the automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the Postpetition Lender to exercise all rights and remedies provided for in the Trustee Loan Documents and applicable law, and to take any or all of the following actions without further order of or application to the Court (as applicable):

- a. Declare (with notice to the Chapter 11 Trustee and the United States Trustee) the commitment of the Postpetition Lender to make any Trustee Loan to be terminated, whereupon such commitments and obligation shall be terminated;
- b. Declare (with notice to the Chapter 11 Trustee and the United States Trustee) the unpaid principal amount of the Trustee Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any of the Trustee Loan Documents, including, without limitation, the Trustee Obligations, to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates;
- c. Exercise any and all remedies available under the Trustee Loan Documents and otherwise available under applicable law, including without limitation the remedies available under Article 9 of the UCC;
- d. Immediately terminate the Chapter 11 Trustee's use on behalf of each of the Debtors and their bankruptcy estates, and/or the Debtors' or any Debtor's use of any and all cash collateral;

e. Freeze monies or balances in the Chapter 11 Trustee's Trustee Proceeds Account, *provided, however*, Postpetition Lender shall be prohibited from sweeping and transferring funds in the Trustee Proceeds Account for a period of 14 days from and after freezing the account to allow any party to seek emergency relief from the Court, to include injunctive relief; and/or

f. Take any other actions or exercise any other rights or remedies permitted under this Final Order, the Trustee Loan Documents or applicable law to effectuate the repayment of the Trustee Obligations;

provided, however, that (y) although the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates and/or any Debtor, as applicable, shall be prohibited from requesting any further draws under the Trustee Facility, the Chapter 11 Trustee shall be permitted to continue to use proceeds of the Trustee Facility (to the extent drawn prior to the occurrence of an Event of Default) solely (i) in the ordinary course of business and in accordance with the Budget and the other Trustee Loan Documents and (ii) to satisfy the Carve-Out.

15. Prior to the exercise of any rights in the above clauses of paragraph 14 of this Final Order, the Postpetition Lender, the Chapter 11 Trustee on behalf of the Debtors and the bankruptcy estates, and any other party in interest with standing in these Chapter 11 cases shall provide (5) days written notice of the right to cure the Event of Default. In the event that the Default is not cured, the parties shall request, in accordance with the Local Rules, an expedited hearing before this Court (the "**Remedies Hearing**"). Upon the effectiveness of any relief from the automatic stay granted or deemed to have been granted pursuant to this Final Order, the Postpetition Lender may, in its discretion, enforce the Postpetition Lender Liens, and, as applicable, take all other actions and exercise all other rights and remedies under the Trustee Loan Documents, this Final Order and applicable law that may be necessary or deemed appropriate to collect any of its Trustee Obligations, proceed against or realize upon all or any portion of the Postpetition Lender Collateral as if these Chapter 11 Cases or any Successor Cases were not pending, and otherwise enforce any

of the provisions of this Final Order. The Postpetition Lender's delay or failure to exercise rights and remedies under any Trustee Loan Documents, this Final Order or applicable law shall not constitute a waiver of any of its rights and remedies hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed by the Postpetition Lender. If at the Remedies Hearing, the Court declines to stay the enforcement thereof, the Termination Date shall be deemed to have occurred for all purposes and the Postpetition Lender will have automatic and immediate relief from the automatic stay with respect to the Postpetition Lender Collateral. Subject to entry of a Final Order, at any Remedies Hearing, the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and each Debtor, hereby waive, and shall not be entitled to assert (including, without limitation, under section 105 of the Bankruptcy Code), the right to challenge or dispute the effectiveness of any provision of the Financing Orders, to the extent such relief would impair or restrict the rights and remedies of the Postpetition Lender as set forth in the Financing Orders or in any of the Trustee Loan Documents.

BUDGET MAINTENANCE; CARVE OUT

16. Budget Maintenance. Except as otherwise expressly set forth herein, the Budget may be amended or modified in writing from time to time only with the written consent of the Postpetition Lender in its sole discretion, and any modifications to, or extensions, amendments or updates of, the Budget shall be in form and substance acceptable to and approved in writing by the Postpetition Lender in its sole discretion; provided that any amendment to the Budget shall not provide for advances under the Trustee Facility in excess of the Approved Amount, subject to the Permitted Variances. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates shall deliver to the Postpetition Lender on or before the close of business on the third day of each week (and if such day is not a business day, then the next succeeding business day) the

following: (a) comparison for the prior week of actual results of all items contained in the Budget to the amounts originally contained in the Budget and (b) cumulative comparison for the period from the Petition Date through the end of the prior week of the actual results of all items contained in the Budget to the amounts originally contained in the Budget, in each case along with such supporting information and additional reporting as the Postpetition Lender may request. The Chapter 11 Trustee's and/or the Debtors' aggregate expenditures shall not exceed 110% of the aggregate of the Budget expenditures (the "**Permitted Variances**"), tested on a cumulative weekly basis (for the avoidance of doubt, excluding disbursements for Professional Fees (as defined below), which shall not be subject to a variance). The Chapter 11 Trustee, the Debtors, and their professionals, consultants, and other advisors shall be available weekly (subject to reasonable scheduling conflicts) for a telephonic conference call with the Postpetition Lender and/or its professionals to discuss the status of the Chapter 11 Cases, the liquidation of assets, asset sales, results of operation, if any, other matters pertaining to the Chapter 11 Trustee and/or the Debtors, including sale and liquidation efforts. The Postpetition Lender shall have independent access to the Chapter 11 Trustee's and the Debtors' advisors, including any financial advisors, to discuss matters relating to the Debtors.

17. Carve-Out. Subject to the terms and conditions contained in this paragraph 17, the Postpetition Lender Liens and Postpetition Lender Superpriority Claims shall be subject to and subordinate in all respects to payment of the Cave-Out (as defined below):

a. For purposes of this Final Order, "**Carve-out**" means (i) all unpaid fees required to be paid in these Chapter 11 Cases to the Clerk of the Court and to the office of the United States Trustee under 28 U.S.C. § 1930 and 31 U.S.C. § 3717, and (ii) all reasonable and documented unpaid fees and expenses (the "**Professional Fees**") of professionals retained by the

Chapter 11 Trustee in these Chapter 11 Cases (collectively, the “**Chapter 11 Trustee’s Professionals**”) that are allowed by the Court under sections 105(a), 327, 330 or 331 of the Bankruptcy Code and remain unpaid after application of any retainers or available funds remaining in the Debtors’ estates for such Chapter 11 Trustee’s Professionals, up to an aggregate amount for all such Professional Fees not to exceed \$815,000 (the “**Carve-Out Cap**”).

b. Any payments actually made pursuant to Bankruptcy Code sections 327, 328, 330, 331, 503 or 1103 or otherwise to the Chapter 11 Trustee’s Professionals and/or the Chapter 11 Trustee shall (i) not be paid from the proceeds of any Postpetition Lender Collateral (including, without limitation, Cash Collateral) until such time as all retainers, if any, held by the Chapter 11 Trustee’s Professionals have been reduced to zero, and (ii) in the case of any payments made on account of any fees and expenses described in clauses (ii) of the definition of Carve-Out, reduce the applicable Carve-Out Cap on a dollar-for-dollar basis. So long as no Event of Default has occurred, the Chapter 11 Trustee on behalf of the Debtors and their bankruptcy estates is authorized to use advances under the Trustee Facility, in accordance with and limited to the amounts set forth on the Budget, on a cumulative basis by the Chapter 11 Trustee’s Professionals, as applicable, to pay such compensation and expense reimbursements of the Chapter 11 Trustee’s Professionals as the same may be due and payable (but regardless of when such compensation and reimbursement of expenses are so allowed).

c. No portion of the Carve-Out, Postpetition Lender Collateral proceeds, or any proceeds of the Trustee Facility may be used for the payment of the fees, costs and expenses of any person incurred challenging (the “**Challenge**”), or in relation to the Challenge of, the Postpetition Lender Liens, the Postpetition Lender Superpriority Claims, the other Trustee Obligations, or any other Liens or claims of the Postpetition Lender or the Related Parties to the

Postpetition Lender, including, without limitation, the Trust Liens, or in the initiation or prosecution of any claim or cause of action against any or all of the Postpetition Lender, including, without limitation, any claim under Chapter 5 of the Bankruptcy Code, provided, further, however, that no more than a total of \$10,000.00 of the proceeds of the Trustee Facility or any proceeds of the Collateral may be used to fund an investigation by the Chapter 11 Trustee, the Debtors, or any other duly authorized interested party into the existence of any Challenge, cause of action or other type of litigation against the Trust or any Related Party to the Trust solely with respect to the Trust Liens and/or the obligations owed by UFNC to the Trust under the UFNC Loan Agreement and the UFNC Deeds of Trust.

d. Furthermore, none of the Carve-Out, Postpetition Lender Collateral proceeds, or any proceeds of the Trustee Facility shall be used to prevent, hinder or delay the Postpetition Lender and/or its designee from enforcing or realizing upon the Postpetition Lender Collateral once a default or Event of Default has occurred and is continuing under the Trustee Loan Documents in accordance with this Final Order.

e. Nothing herein shall be construed as consent to the allowance of any Professional Fees, fees and expenses of the Chapter 11 Trustee, or the professional fees or expenses of any other party in interest, or shall affect the right of the Postpetition Lender to object to the allowance and payment of such fees and expenses.

f. The Postpetition Lender shall not be responsible for the direct payment or reimbursement of any Professional Fees and/or fees or expenses of the Chapter 11 Trustee incurred in these Chapter 11 Cases or any Successor Case. Nothing in this Final Order or otherwise shall be construed (i) to obligate the Postpetition Lender in any way to pay compensation or to reimburse expenses of any of the Chapter 11 Trustee's Professionals, any professionals retained by the

Debtors, or to guarantee that the Chapter 11 Trustee and/or the Debtors have sufficient funds to pay such compensation or reimbursement; (ii) to increase the Carve-Out if the actual Professional Fees are higher than reflected in the Budget or there are otherwise permitted by this Final Order; or (iii) as consent to the allowance of any Professional Fees. Any funding of the Carve-Out shall be added to and made a part of the Trustee Obligations and secured by the Postpetition Lender Collateral and otherwise entitled to the protections granted under this Final Order, the Trustee Loan Documents, the Bankruptcy Code and applicable law. Notwithstanding anything to the contrary herein, the Postpetition Lender shall have the right to establish a reserve against its commitments under the Trustee Facility in an amount equal to the Carve-Out (including the Carve-Out Cap), as such amount may change from time to time.

MISCELLANEOUS

18. Postpetition Lender Not Responsible Person; No Control. In (a) making the decision to make the Trustee Loans; (b) administering the Trustee Loans; (c) extending other financial accommodations to the Debtors under the Trustee Loan Documents; and (d) making the decision to collect the indebtedness and obligations of the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, the Postpetition Lender shall not be considered to (i) owe any fiduciary obligation to the Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates, and/or any Debtor, or any other party with respect to its exercise of any consent rights afforded them under the Trustee Loan Documents or this Final Order or (ii) be exercising control over the Chapter 11 Trustee, the Debtors or their operations, have authority to determine the manner in which any of the Chapter 11 Trustee's and/or the Debtors' operations are conducted, or acting in any way as a responsible person, a control person, insider or as an owner or operator of the Chapter 11 Trustee, the Debtors or any of their affiliates by virtue of any of the actions taken

with respect to, in connection with, related to, or arising from this Final Order, the Trustee Facility, and/or the Trustee Loan Documents, under any applicable law.

19. Challenge Rights and Deadline. Nothing in this Final Order shall prejudice the rights of any party in interest to object to or Challenge the Chapter 11 Trustee's Stipulations; provided however, that unless such other party in interest obtains proper standing and commences a contested matter or adversary proceeding raising such objection or Challenge to any claim or cause of action against the Trust objecting to the Trust Prepetition Liens or in the nature of a setoff, counterclaim or defense to the obligations owed by UFNC to the Trust under the UFNC Loan Agreement and/or the UFNC Deeds of Trust (including, but not limited to, those under sections 506, 544, 547, 548, 550 and/or 552 of the Bankruptcy Code or by way of suit against the Trust) within 90 days from the entry of the Final Order approving the Motion (the "**Challenge Period**", unless such Challenge Period is extended in a writing signed by the Trust and filed with the Court⁶, and in the event that no contested matter or adversary proceeding is commenced during the Challenge Period shall be referred to as the "**Challenge Period Termination Date**"), then, upon the Challenge Period Termination Date, any Challenge and all such Challenges and objections by any party (including, without limitation, the Chapter 11 Trustee and any other chapter 11 or chapter 7 trustee appointed in the Chapter 11 Cases or in any Successor Case) shall be deemed to be forever waived, barred and discharged and the Chapter 11 Trustee's Stipulations shall be binding on all persons, entities, creditors, interest holders and parties in interest in the Chapter 11 Cases or any Successor Case, and upon the Challenge Termination Period Date, the obligations

⁶ The Challenge Period of 90 days from the entry of the Final Order provides more time to commence a Challenge than the time period required by Local Rule 4001(b)(1)(B)(ii) - at least seventy-five (75) days from the entry of the order and at least sixty (60) days from the date of formation of the Committee. In the event an extension is allowed by the Court, such extension of the Challenge Period shall only apply to the UFNC Loan Agreement and/or the UFNC Deeds of Trust and shall not apply to other investigations by parties in interests or the Committee.

owed by UFNC to the Trust under the UFNC Loan Agreement and/or the UFNC Deeds of Trust and the Trust Prepetition Liens shall be deemed to be fully and finally allowed under the Bankruptcy Code for all purposes in connection with the Chapter 11 Cases and any Successor Case. Only those parties in interest that have properly and with requisite standing initiated an adversary proceeding or contested matter challenging the Chapter 11 Trustee's Stipulations prior to the Challenge Period Termination Date shall be permitted to prosecute such adversary proceeding or contested matter. If any such Challenge is timely commenced within the Challenge Period, the agreements, stipulations and findings contained in this Final Order shall nonetheless remain binding and preclusive on the Chapter 11 Trustee, the Debtors, the Debtors' bankruptcy estates, and their creditors, the Committee, equity holders, and all other parties in interest in these Chapter 11 Cases, except to the extent that such findings or admissions are expressly and successfully challenged and the Court enters a final order with respect thereto. If a Challenge is timely commenced hereunder and the case is subsequently converted to a case under chapter 7 of the Bankruptcy Code, the chapter 7 trustee shall be deemed to have timely initiated such Challenge and may pursue it on behalf of the Debtors' bankruptcy estates.

20. No Third-Party Rights. Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third-party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

21. Section 506(c) Claims. No costs or expenses of administration which have been or may be incurred in the Chapter 11 Cases at any time shall be charged against the Postpetition

Lender, any of its claims, or the Postpetition Lender Collateral pursuant to section 506(c) of the Bankruptcy Code, or otherwise.⁷

22. No Marshaling/Application of Proceeds. The Postpetition Lender and the Trust shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Postpetition Lender Collateral and the Real Property Collateral, as applicable, and proceeds thereof shall be received and applied in accordance with this Final Order and the Trustee Loan Documents notwithstanding any other agreement or provision to the contrary

23. Section 552(b). The Postpetition Lender and the Prepetition Lenders are entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and the “equities of the case” exception therein shall not apply.

24. Rights Preserved.

a. Notwithstanding anything herein to the contrary, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) the Postpetition Lender’s right to seek any other or supplemental relief in respect of the Chapter 11 Trustee and/or the Debtors; or (b) any of the rights of the Postpetition Lender under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right to (i) request further modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of the Chapter 11 Cases or a Successor Case, conversion of the Chapter 11 Cases to cases under chapter 7, or appointment of an or examiner with expanded powers, or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans.

⁷ The Prepetition Lenders, including, without limitation, the Trust, retain all rights to consent to or object to any surcharge of their alleged collateral.

b. Notwithstanding anything herein to the contrary, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) the Prepetition Lenders' rights to seek any other or supplemental relief relating to the Chapter 11 Trustee and/or the Debtors; or (b) any of the rights of the Prepetition Lenders under the Bankruptcy Code or under non-bankruptcy law or at equity, including, without limitation, the right to (i) request further modification of the automatic stay of section 362 of the Bankruptcy Code; (ii) advance or object to the sale of any real or personal property securing the respective Prepetition Lenders' pre-petition claim or the terms and conditions thereof or submit a credit bid in connection with any such sale; (iii) request dismissal of the Chapter 11 Cases or Successor Case, conversion of the Chapter 11 Cases to cases under Chapter 7, or appointment of an examiner with expanded powers; (iv) object to any proposed abandonment of property of the estate under 11 U.S.C. §554; (v) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (vi) seek additional or supplemental relief with respect to this Final Order including, without limitation, the right to seek the Court's determination as to whether an "Event of Default" has occurred.

c. Notwithstanding anything herein to the contrary, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly the right of any party in interest to oppose any actions taken by the Prepetition Lenders or the Postpetition Lenders set forth in this paragraph 24,

25. No Waiver by Failure to Seek Relief. The failure of the Postpetition Lender to seek relief or otherwise exercise its rights and remedies under this Final Order or applicable law, as the case may be, shall not constitute a waiver of any rights hereunder, thereunder, or otherwise of the Postpetition Lender.

26. Permitted Liens. Other than with respect to the Chapter 11 Trustee's Stipulations, nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, subject to paragraphs 17 and 19 of this Final Order, nothing herein shall prejudice the rights of any party-in-interest with standing to do so, including, but not limited to, the Chapter 11 Trustee, the Debtors, the Postpetition Lender, or any other duly authorized interested party to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Lien.

27. Good Faith. The Postpetition Lender has acted in good faith in connection with this Final Order and its reliance on this Final Order is in good faith. Postpetition Lender is entitled to the protections of section 364(e) of the Bankruptcy Code.

28. Access to Debtors. The Chapter 11 Trustee and the Debtors shall permit representatives, agents and/or employees of the Postpetition Lender, including professionals retained by the Postpetition Lender's legal professionals, to have reasonable access to its premises and records during normal business hours and shall cooperate, consult with, and provide to such persons all such non-privileged information as they may reasonably request.

29. Postpetition Lender Credit Bid Rights. Subject to section 363(k) of the Bankruptcy Code, the Postpetition Lender shall be entitled to credit bid up to the full amount of the outstanding Trustee Obligations, including, without limitation, any accrued interest and expenses, in any sale of any Postpetition Lender Collateral, whether such sale is effectuated through section 363 of the Bankruptcy Code in a chapter 11 or chapter 7 proceeding, under section 1129 of the Bankruptcy Code in a chapter 11 proceeding, by a chapter 7 trustee in a chapter 7 proceeding, or otherwise. Nothing in this Final Order shall prohibit the Postpetition Lender from being a stalking horse

purchaser or actual purchaser of any of the Debtors' assets and/or the assets being administered and sold by the Chapter 11 Trustee.

30. Trust Credit Bid Rights. Subject to section 363(k) of the Bankruptcy Code and entry of a Final Order, the Trust shall be entitled to credit bid up to the full amount of the outstanding obligations it is owed by UFNC under the UFNC Loan Agreement and UFNC Deeds of Trust, including, without limitation, any accrued interest and expenses, in any sale of any Trust Real Property Collateral, whether such sale is effectuated through section 363 of the Bankruptcy Code in a chapter 11 or chapter 7 proceeding, under section 1129 of the Bankruptcy Code in a chapter 11 proceeding, by a chapter 7 trustee in a chapter 7 proceeding, or otherwise. Nothing in this Final Order shall prohibit the Trust from being a stalking horse purchaser or actual purchaser of any of the Debtors' assets and/or the assets being administered and sold by the Chapter 11 Trustee. In addition, nothing in this Final Order impairs or prohibits any of the other Prepetition Lenders from seeking Court approval under section 363(k) of the Bankruptcy Code to credit bid in connection with any sale of any of their alleged collateral that is subject to a Permitted Lien, whether such sale is effectuated through section 363 of the Bankruptcy Code in a chapter 11 or chapter 7 proceeding, under section 1129 of the Bankruptcy Code in a chapter 11 proceeding, by a chapter 7 trustee in a chapter 7 proceeding, or otherwise.

31. Indemnification. Notwithstanding anything to the contrary contained in Section 11 of the Chapter 11 Trustee Credit Agreement, the "Indemnatee" shall only be defined to mean the Postpetition Lender, the Trust in connection with its ownership of the Postpetition Lender, and the Postpetition Lender's Related Parties solely in connection with the Trustee Loans, the Trustee Loan Documents, this Final Order and any Final Order, provided, however, that the Chapter 11 Trustee and the Debtors' bankruptcy estates shall not use Avoidance Proceeds obtained from a

timely and successful, final and non-appealable order authorizing an Avoidance Claim against the Postpetition Lender and/or the Postpetition Lender's Related Parties to indemnify such Indemnitee.

32. Proof of Claim. Any order entered by the Court establishing a bar date for any claims (including without limitation administrative claims) in any of the Chapter 11 Cases shall not apply to the Postpetition Lender. The Postpetition Lender shall not be required to file a proof of claim or requests for approval of administrative expenses authorized by this Final Order in any of the Chapter 11 Cases, and the provisions of this Final Order, relating to the amount of the Trustee Obligations and the Postpetition Lender Superpriority Claim, and the Postpetition Lender Liens shall constitute a timely filed proof of claim and/or administrative expense request. For the avoidance of doubt, the books and records of the Postpetition Lender shall be deemed conclusive as to the amount of the claims of the Postpetition Lender.

33. Binding Effect of Final Order.

a. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Involuntary Petition Date immediately upon execution thereof. Immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Final Order shall become valid and binding upon and inure to the benefit of the Chapter 11 Trustee, the Debtors, the Postpetition Lender, the U.S. Trustee, all other creditors of the Debtors, the Committee, and all other parties in interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in the Chapter 11 Cases, any Successor Case, or upon dismissal of the Chapter 11 Cases or a Successor Case.

b. The Chapter 11 Trustee on behalf of each of the Debtors and their bankruptcy estates expressly stipulates, and the Court finds and adjudicates that, the Trustee Obligations shall not be discharged or otherwise impaired by the entry of an order confirming any plan of reorganization, notwithstanding the provisions of sections 524 and/or 1141(d) of the Bankruptcy Code, unless the Trustee Obligations have been indefeasibly paid in full in cash on or before the effective date of a confirmed plan of reorganization and all commitments under the Trustee Facility have been terminated.

34. No Modification of Final Order. If any of the provisions of this Final Order are hereafter modified, amended, or vacated by a subsequent order of this Court or any other court, such modification, amendment, or vacatur shall not affect the validity, perfection, priority, allowability, enforceability, or non-availability of any advances, payments, or use of cash whether previously or hereunder, or lien, claim, or priority authorized or created hereby. Any liens or claims granted to the Postpetition Lender hereunder arising prior to the effective date of any such modification, amendment, or vacatur of this Final Order shall be governed in all respects by the original provisions of this Final Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

35. Survival. The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of liquidation or reorganization in the Chapter 11 Cases; (b) converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code; (c) dismissing the Chapter 11 Cases or any Successor Case; or (d) pursuant to which this Court abstains from hearing the Chapter 11 Cases or a Successor Case. The terms and provisions of this Final Order, including the claims, liens, security interests, and other protections granted to the Postpetition Lender pursuant to this Final Order, notwithstanding

the entry of any such order, shall continue in the Chapter 11 Cases, in any Successor Case, or following dismissal of the Chapter 11 Cases or any Successor Case, and shall maintain their priority as provided by this Final Order until the Trustee Obligations have been indefeasibly paid in full.

36. Rights Preserved. Other than as expressly set forth in this Final Order, any other rights, claims, or privileges (whether legal, equitable, or otherwise) of the Postpetition Lender, the Prepetition Lenders, or any other party in interest are preserved.

37. Controlling Effect. To the extent that any provision of this Final Order conflicts with any provision of any of the Trustee Loan Documents, this Final Order controls and shall supersede the conflicting provision(s).

38. Retention of Jurisdiction. The Court has and will retain exclusive jurisdiction to enforce this Final Order according to its terms.

End of Order

Order submitted by:

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Exhibit A

The Budget

Exhibit B

Chapter 11 Trustee Credit Agreement