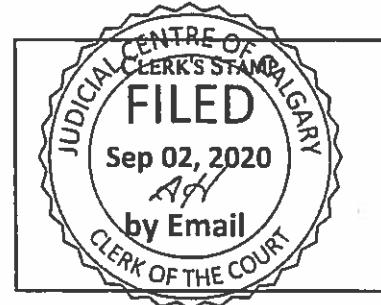


I hereby certify this to be a true copy of  
the original Order

Dated this 2 day of Sept 16/20

[Signature]  
for Clerk of the Court

903146



COURT FILE NUMBER

2001-08972

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

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

**APPLICATION OF BJ SERVICES  
HOLDINGS CANADA ULC**

DOCUMENT

**ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**

Barristers and Solicitors

4500 Bankers Hall East

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

Calgary, Alberta T2P 4K7

Attention: Kelsey Meyer / Keely Cameron

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

Fax No.: 403-265-7219

Client File No.: 78081-9

**DATE ON WHICH ORDER WAS  
PRONOUNCED:**

**Wednesday, September 2, 2020**

**LOCATION OF HEARING OR TRIAL:**

**Edmonton Courts Centre**

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

**The Honourable Madam Justice J. H. Goss**

**UPON** the application of BJ Services Holdings Canada ULC ("**BJ Canada**" or the "**Applicant**"),  
in its capacity as the foreign representative (the "**Foreign Representative**") for BJ Canada and

BJ Services, LLC; **AND UPON** reading the Affidavit No. 6 of Warren Zemlak, sworn August 27, 2020 ("**Affidavit No. 6 of Warren Zemlak**"); **AND UPON** hearing from counsel for the Applicant; **AND UPON** being advised that those parties on the service list maintained in these proceedings have been served with notice of this Application;

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

**SERVICE**

1. Service of notice of this Application and the Affidavit No. 6 of Warren Zemlak is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

**RECOGNITION OF FOREIGN ORDERS**

2. The following Orders (collectively, the "**Foreign Orders**") of the U.S. Bankruptcy Court made in the Chapter 11 Proceedings are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:
  - (a) The Third Interim Order (I) Authorizing Debtors to Use Cash Collateral Pursuant To Section 363(c) of the Bankruptcy Code, (II) Granting Adequate Protection to the Prepetition Secured Parties, and (III) Granting Related Relief (the "**Third Interim Cash Collateral Order**") granted August 27, 2020, attached hereto as **Schedule "A"**;
  - (b) The Final Order Authorizing the Debtors to Continue to (I) Operate Their Cash Management System and Maintain Existing Bank Accounts, and (II) Perform Limited Intercompany Transactions (the "**Final Cash Management Order**") granted August 26, 2020, attached hereto as **Schedule "B"**; and
  - (c) The Final Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims On Account of (A) Critical Vendors Claims, (B) Lien Claims, and (C) 503(b)(9)

Claims, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief (the "**Final Critical Vendors and Lienholders Order**") granted August 26, 2020, attached hereto as **Schedule "C"**.

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Chapter 11 Debtors (collectively, the "**Property**") in Canada.

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

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

### **Effect**

5. This Order is effective as of 12:01 a.m. MDT on the date that the Order is granted.

  
\_\_\_\_\_  
J.C.Q.B.A.

**SCHEDULE "A"**



ENTERED  
08/27/2020

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

In re:	)	
	)	Chapter 11
	)	
BJ SERVICES, LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 20-33627 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Re: Docket Nos. 40, 170, 261</b>

**THIRD INTERIM ORDER**

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

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

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

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

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

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

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

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

of the Debtors' estates, their creditors, and other parties in interest; and upon the Court's entry of the order approving the Motion on an interim basis on July 21, 2020 [Docket No. 88] (the "First Interim Order"), granting the relief requested in the Motion; and upon the Court's entry of the agreed first supplemental interim order on July 26, 2020 [Docket No. 170] (the "First Supplemental Interim Order"), modifying the budget included in the First Interim Order; and upon the Court's entry of the order approving the Motion on a further interim basis on August 3, 2020 [Docket No. 261] (the "Second Interim Order"); and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed this Interim Order (the "Third Interim Order") and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

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

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

2. *Jurisdiction.* This Court has core jurisdiction over the Debtors' chapter 11 cases commenced on July 20, 2020 (the "Chapter 11 Cases," and such date, the "Petition Date"), the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. *Notice.* Under the circumstances of these cases, proper, timely, adequate and sufficient notice of the Motion, the Hearing, and this Third Interim Order has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules, and no other or further notice of the Motion, the Hearing, or this Third Interim Order shall be required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing.

4. *Debtors' Stipulations.* In requesting use of their Cash Collateral and the other Prepetition ABL Collateral, and in exchange for and as a material inducement to the Prepetition ABL Secured Parties' agreement to permit consensual use of their Cash Collateral and the other Prepetition ABL Collateral, the Debtors acknowledge, represent, stipulate, and agree, subject to the challenge rights set forth in paragraph 31 below (but subject to the limitations thereon contained herein), as follows (collectively defined as the "Debtors' Stipulations"):

- a. *Prepetition ABL Credit Facility.* On May 30, 2017, BJS entered into that certain Revolving Credit and Guaranty Agreement (as amended by the Limited Waiver and First Amendment to Revolving Credit and Guaranty Agreement dated October 3, 2018, and further amended by the Second Amendment to Revolving Credit and Guaranty Agreement and First Amendment to Canadian Security Agreement and U.S. Security Agreement, dated January 28, 2019, and as otherwise amended, supplemented, or modified prior to the date hereof, the "Prepetition ABL Credit Agreement," and further supplemented and modified by those certain Limited Waivers, dated as of June 2, 2020, June 12, 2020, and June 23, 2020, and together with all mortgage, security, pledge and guaranty agreements and all other Loan Documents (as defined in the Prepetition ABL Credit Agreement) and all other documentation executed by any Debtor in connection with any of the foregoing, each as amended, restated,



amended and restated, supplemented, or otherwise modified from time to time, the “Prepetition ABL Loan Documents”), with JPMorgan Chase Bank, N.A., in its capacity as administrative agent (the “Prepetition ABL Agent”), and the lenders party thereto (the “Prepetition ABL Lenders,” and together with the Prepetition ABL Agent, the “Prepetition ABL Secured Parties”).

- b. *Prepetition ABL Obligations.* As of the Petition Date, pursuant to the Prepetition ABL Loan Documents and applicable law, the Prepetition ABL Secured Parties hold valid, enforceable, secured, and allowable claims against the Debtors in an aggregate amount equal to \$101,550,000 plus any and all other accrued and unpaid interest, fees, expenses (including advisors fees and expenses, in each case, that are chargeable or reimbursable under the Prepetition ABL Loan Documents), disbursements, charges, claims, indemnities and other costs and obligations of whatever nature incurred in connection therewith which are chargeable or otherwise reimbursable under the Prepetition ABL Loan Documents or applicable law, whether arising before or after the Petition Date, including any “Obligations” (as defined in the Prepetition ABL Credit Agreement), of any kind or nature, whether or not evidenced by any note, agreement or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors’ obligations under the Prepetition ABL Loan Documents (collectively defined as the “Prepetition ABL Obligations”).
- c. *Prepetition ABL Liens.* The Prepetition ABL Obligations are secured by continuing, legal, valid, binding, properly perfected, enforceable, non-avoidable first priority liens on and security interests in (the “Prepetition ABL Liens”) all of the “Collateral” as defined in the Prepetition ABL Credit Agreement (the “Prepetition ABL Collateral”), including all of the Debtors’ cash (including the cash in their deposit accounts and other accounts, wherever located, whether as original collateral or proceeds of other Prepetition ABL Collateral except for Excluded Property (as defined in the Prepetition ABL Credit Agreement)) that constitutes Cash Collateral (as defined below). As of the Petition Date, the aggregate book value of the Prepetition ABL Collateral exceeded the aggregate amount of the Prepetition ABL Obligations.
- d. *Validity, Perfection, and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that, as of the Petition Date: (i) the Prepetition ABL Liens on the Prepetition ABL Collateral were valid, binding, and enforceable in accordance with the terms of the applicable Prepetition ABL Loan Documents, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Secured Parties for fair consideration and reasonably equivalent value; (ii) the Prepetition ABL Liens were and remain senior in priority over any and all other liens on and security interests in the Prepetition ABL

Collateral, subject only to (x) the Carve Out (as defined below) and (y) valid, perfected and unavoidable liens permitted under Section 7.01 of the Prepetition ABL Credit Agreement to the extent that such liens or security interests are senior to or *pari passu* with the Prepetition ABL Liens (including, for the avoidance of doubt, valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code) (a “Permitted Encumbrance”); (iii) the Prepetition ABL Obligations constituted legal, valid, binding and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (iv) no portion of the Prepetition ABL Obligations or any payments made to the Prepetition ABL Secured Parties or applied to or paid on account of the obligations owing under the Prepetition ABL Loan Documents prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition ABL Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition Obligations, the priority of the Debtors’ obligations thereunder and the validity, extent, and priority of the Prepetition ABL Liens.

- e. *Validity, Perfection, and Priority of Liens and Obligations under the CLMG Term Loan Agreement.* The Debtors acknowledge and agree that, as of the Petition Date: (i) the CLMG Secured Parties’ (as defined below) liens on the CLMG Collateral (such liens, the “Prepetition CLMG Liens”) were valid, binding, and enforceable in accordance with the terms of the CLMG Term Loan Agreement (as defined below), non-avoidable and properly perfected and were granted to, or for the benefit of, the CLMG Secured Parties for fair consideration and reasonably equivalent value; (ii) the Prepetition CLMG Liens were and remain senior in priority over any and all other liens on and security interests in the CLMG Collateral (as defined below); (iii) the prepetition obligations owed to the CLMG Secured Parties under the CLMG Term Loan Agreement, including any “Obligations” as defined in the CLMG Term Loan Agreement, of any kind or nature, whether or not evidenced by any note, agreement, or other instrument, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors’ obligations (collectively, the “Prepetition CLMG Obligations”) constituted legal, valid, binding, and non-avoidable obligations of the Debtors, enforceable in accordance with the terms of the CLMG Term Loan Agreement; (iv) no portion of the

Prepetition CLMG Obligations or any payments made to the CLMG Secured Parties or applied to or paid on account of the obligations owing under the CLMG Term Loan Agreement prior to the Petition Date is subject to any contest, avoidance, reduction, recharacterization, subordination (whether equitable, contractual or otherwise), recovery, reduction, recoupment, disallowance, impairment, rejection, attack, effect, counterclaim, cross-claim, set-off, offset, defense or any other claim (as defined in the Bankruptcy Code) of any kind, cause of action or any other challenge of any kind or nature under the Bankruptcy Code or any other applicable law or regulation or otherwise and the Debtors do not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition CLMG Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition CLMG Obligations, the priority of the Debtors' obligations thereunder and the validity, extent, and priority of the Prepetition CLMG Liens.

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

defense of any kind, nature or description that would in any way affect the validity, enforceability and non-avoidability of any Prepetition GACP Obligations; and (v) the Debtors waive, discharge, and release any right to challenge any of the Prepetition GACP Obligations, the priority of the Debtors' obligations thereunder and the validity, extent, and priority of the Prepetition GACP Liens

5. *Cash Collateral.* For purposes of this Third Interim Order, the term "Cash Collateral" shall mean and include all "cash collateral," as defined in section 363 of the Bankruptcy Code, in or on which the Prepetition ABL Secured Parties have a lien, security interest or other interest (including, without limitation, any adequate protection liens or security interests), and shall include, without limitation, all Prepetition ABL Collateral that is cash of the Debtors' estates and all cash equivalents, whether in the form of negotiable instruments, documents of title, securities, deposit accounts, commodity accounts, securities accounts, investment accounts, or in any other form, that were on the Petition Date in any of the Debtors' possession, custody or control (or persons in privity with any of the Debtors) or which present income, proceeds, products, rents, or profits of any of the Prepetition ABL Collateral, including to the extent the Debtors obtain an interest in such funds after the Petition Date in the case of each of the foregoing, except for any Excluded Property (as defined in the Prepetition ABL Credit Agreement). The Prepetition ABL Agent has, for the benefit of the Prepetition ABL Lenders, first-priority, perfected liens in the Cash Collateral pursuant to the applicable provisions of the Prepetition ABL Loan Documents, sections 363(a) and 552(b) of the Bankruptcy Code, and this Third Interim Order.

6. *Findings Regarding the Use of Cash Collateral and Prepetition ABL Collateral.*

- a. Good cause has been shown for the entry of this Third Interim Order.
- b. The Debtors have an immediate need to use the Prepetition ABL Collateral, including Cash Collateral to, among other things, fund the ongoing orderly sale of their assets, pay their operating expenses, and preserve the value of the Debtors' estates.

- c. The terms of the use of the Prepetition ABL Collateral pursuant to this Third Interim Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.
- d. The terms of the use of the Prepetition ABL Collateral pursuant to this Third Interim Order have been the subject of extensive negotiations conducted in good faith and at arm's length among the Debtors, the Prepetition ABL Agent, and other Prepetition ABL Secured Parties and, pursuant to sections 105, 361, and 363 of the Bankruptcy Code, the Prepetition ABL Agent and the other Prepetition ABL Secured Parties are hereby found to be entities that have acted in "good faith" in connection with the negotiation and entry of this Third Interim Order, and each is entitled to the protection provided under section 363(m) of the Bankruptcy Code.
- e. The Debtors have requested entry of this Third Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and (d) of the Complex Case Procedures. Absent granting the interim relief sought by this Third Interim Order, the Debtors' estates could be immediately and irreparably harmed. The use of the Prepetition ABL Collateral in accordance with this Third Interim Order is in the best interest of the Debtors' estates.

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

Expenses (each as defined herein) are consistent with and authorized by the Bankruptcy Code. Absent authorization to immediately access and use Cash Collateral, the Debtors, the estates, and their creditors would suffer immediate and irreparable harm.

8. *Consent by the Prepetition ABL Agent.* The Prepetition ABL Agent consents to the Debtors' use of Cash Collateral, in accordance with and subject to the terms and conditions contained in this Third Interim Order, which consent has been supported or unopposed by the Required Lenders (as defined in the Prepetition ABL Credit Agreement) after receipt of notice and shall be deemed sufficient under the circumstances for purposes of this Third Interim Order. All use of Cash Collateral by the Debtors shall, subject to any Non-Conforming Use (as such term is defined below) permitted hereunder, be consistent with the cash flow budget attached hereto as **Exhibit 1**, as may be amended or replaced pursuant to paragraph 16 hereof (the "Budget"); provided, however, the actual aggregate cash balance, which shall be tested on a daily basis, shall not be less than the projected amount therefore set forth in the Budget for such applicable time period by more than 15%; provided that Allowed Professional Fees, the Adequate Protection Fees and Expenses (as defined in paragraph 10 below), and payments to the U.S. Trustee shall not be subject to such test; provided further, that Allowed Professional Fees shall not exceed the projected amount therefor set forth in the Budget for such applicable time period by more than 15% (any variance not exceeding the maximum amounts set forth above, a "Permitted Variance") (provided that nothing herein shall operate as a limitation on the amount of professional fees a Professional Person may seek to be paid by the Debtors pursuant to an order of the Court, nor shall anything herein limit the Prepetition ABL Agent's rights to oppose any request for payment of professional fees in excess of the Permitted Variance). Any transfer or use of Cash Collateral by the Debtors shall be conditioned upon the Debtors' compliance with the Budget, including any Permitted

Variances or Non-Conforming Uses. The Prepetition ABL Agent may (with the consent of the Required Lenders if the proposed amount is equal to or greater than \$1 million) agree in writing to the use or receipt of the Cash Collateral of the Prepetition ABL Lenders in a manner or amount which does not conform to the manner or amount, as applicable, set forth in the Budget (including, for the avoidance of doubt, any Permitted Variances) (each such approved non-conforming use of Cash Collateral, a “Non-Conforming Use”). If such written consent is given (which consent may be given through email by the Prepetition ABL Agent or the Prepetition ABL Agent’s counsel), the Debtors shall be authorized pursuant to this Third Interim Order to use Cash Collateral for any such Non-Conforming Use without further Court approval, and the Prepetition ABL Secured Parties shall be entitled to all of the protections specified in this Third Interim Order for any such Non-Conforming Use; provided that each such permitted Non-Conforming Use shall be deemed a modification to the Budget for all testing purposes. For the avoidance of doubt and notwithstanding anything to the contrary in this Third Interim Order, the Prepetition ABL Agent does not consent to the Debtors’ use of, and the Debtors shall not be permitted to use, the Cash Collateral constituting Prepetition ABL Collateral or ABL Adequate Protection Collateral (as defined below, and subject to satisfaction of claims on account of ABL Diminution in Value, if any) for (i) payment to any other secured party in these chapter 11 cases (including the GACP Secured Parties and CLMG Secured Parties), (ii) payment of any costs attributable to the GACP Collateral or CLMG Collateral (each as defined below), including costs and expenses of preserving, or disposing of, the GACP Collateral or CLMG Collateral or incurred in connection with any sale of such GACP Collateral or CLMG Collateral, or (iii) payment of any transition services to be provided under a transition service agreement in connection with any of the Debtors’ asset sales.



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

10. *ABL Adequate Protection Claims and Liens.* The Prepetition ABL Secured Parties are hereby granted the following (collectively, the "ABL Adequate Protection Obligations"), solely to the extent of any ABL Diminution in Value; provided that the collateral set forth in this paragraph 10 shall not include assets or property (other than Prepetition ABL Collateral, including Cash Collateral) upon which, and solely to the extent that, the grant of an Adequate Protection Lien as contemplated in this Third Interim Order, would constitute a default or event of default under any of the Debtors' contracts or leases, excluding, for the avoidance of doubt, the GACP Term Loan Agreement (and such default would not be excused or rendered ineffective by operation of the Bankruptcy Code or applicable nonbankruptcy law), but shall include the proceeds thereof:

- a. *ABL Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual ABL



Diminution in Value (if any) of the Prepetition ABL Collateral, including Cash Collateral, effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by the Prepetition ABL Agent of security agreements, control agreements, pledge agreements, mortgages or other Collateral Documents (as defined in the Prepetition ABL Credit Agreement) or financing statements or other similar documents, or the possession or control by the Prepetition ABL Agent of any Adequate Protection Collateral, the Prepetition ABL Agent is hereby granted for the ratable benefit of the Prepetition ABL Lenders, as security for the payment of the ABL Adequate Protection Obligations, subject and subordinate only to the Carve Out, the following security interests and liens (all such liens and security interests, the “ABL Adequate Protection Liens,” and all property identified in clauses (i) - (iii) below being collectively referred to as the “ABL Adequate Protection Collateral”):

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

in existence as of the Petition Date, including, without limitation, the liens of (i) GACP Finance Co., LLC (“GACP”), as administrative agent and collateral agent under the Term Loan Credit and Guaranty Agreement, dated as of January 28, 2019, by and among BJS, GACP, and the other parties thereto (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the “GACP Term Loan Agreement”), which encumber the “Collateral” as defined therein (the “GACP Collateral”) and (ii) CLMG Corp. (“CLMG”), as administrative agent and collateral agent under the Credit Agreement, dated as of December 31, 2019, by and among BJS, CLMG, and the other parties thereto (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the “CLMG Term Loan Agreement”), which encumber the “Collateral” as defined therein (the “CLMG Collateral”) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of the Prepetition ABL Agent (the foregoing liens being collectively referred to as the “Junior ABL Adequate Protection Liens”).

(iii) ABL Adequate Protection Liens Senior to Prepetition ABL Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the Prepetition ABL Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.

b. *Status of the ABL Adequate Protection Liens.* Subject in all respects to the Carve Out, the Adequate Protection Liens shall not be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(iii) of this paragraph 11, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and whether authorized under sections 363 or 364 of the Bankruptcy Code or otherwise.

c. *Allocation of Proceeds.* Except as otherwise provided herein, all proceeds from Cementing Sale and sale of the Debtors’ fracturing assets (the “Fracturing Sale”) [Docket Nos. 452, 462] shall be reserved or distributed in accordance with the respective orders authorizing such sales or by subsequent order of the Court.

- d. *Enforceability.* Subject in all respects to the Carve Out, the ABL Adequate Protection Liens shall not be subject to sections 506(c) (upon entry of the Final Order), 510, 549, 550, or 551 of the Bankruptcy Code. The ABL Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors' Chapter 11 Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Debtors' Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (each, a "Successor Case").
- e. *Adequate Protection Superpriority Claims.* The ABL Adequate Protection Obligations due to the Prepetition ABL Agent shall constitute allowed superpriority administrative expense claims against the Debtors in the amount of any Diminution in Value of the Prepetition ABL Collateral, including Cash Collateral, as provided in section 507(b) of the Bankruptcy Code, with priority in payment over any and all unsecured claims and administrative expense claims against the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 552(b), 726, 1113, 1114 and any other provision of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtors and any successor trustee or creditor in these Chapter 11 Cases or any Successor Case (the "ABL Adequate Protection Superpriority Claims"), subject and subordinate only to the Carve Out (as defined herein).

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

- a. *Payment of Prepetition and Postpetition Interest.* The Debtors shall pay to the Prepetition ABL Agent for the benefit of the Prepetition ABL Lenders all accrued and unpaid interest (including, for the avoidance of doubt, interest accruing and becoming due after the Petition Date) at the non-default rates and consistent with the ordinary course interest payment dates set forth in the Prepetition ABL Credit Agreement (the "ABL Adequate Protection Interest Payments").
- b. *Payment of Prepetition ABL Agent Fees and Expenses.* As additional adequate protection, the Prepetition ABL Agent shall receive from the Debtors, for the benefit of the Prepetition ABL Lenders, current cash payments of all reasonable and documented prepetition and postpetition fees and expenses payable to the Prepetition ABL Secured Parties under the Prepetition ABL Loan Documents, including, but not limited to, the reasonable and documented prepetition and postpetition fees and

disbursements of legal counsel, financial advisors, and other consultants (the “ABL Adequate Protection Fees and Expenses”). Payment of all such professional fees and expenses shall not be subject to allowance by the Court but shall be subject to the following process. At the same time such invoices are delivered to the Debtors, the professionals for the Prepetition ABL Secured Parties shall deliver a copy of their respective invoices to counsel for any official committee appointed in these cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”) and the office of the United States Trustee (the “U.S. Trustee”). The invoices for such fees and expenses shall not be required to comply with any U.S. Trustee guidelines related to the payment of fees and expenses of retained estate professionals, may be in summary form only, and shall not be subject to application or allowance by the Court. Any objections raised by the Debtors, the U.S. Trustee, or the Creditors’ Committee with respect to such invoices within ten (10) days of receipt thereof (the “Invoice Review Period”) will be resolved by the Court (absent prior consensual resolution thereof). Pending such resolution, the undisputed portion of any such invoice shall be paid by the Debtors within three (3) days of the expiration of the Invoice Review Period. Except as otherwise ordered by the Court in the event an objection is timely filed, such fees and expenses shall not be subject to any setoff, defense, claim, counterclaim, or diminution of any type, kind, or nature whatsoever.

- c. *Paydown of Prepetition ABL Obligations.* The Debtors shall pay to the Prepetition ABL Agent for the benefit of the Prepetition ABL Lenders an aggregate principal amount of \$3.5 million (together with the ABL Adequate Protection Interest Payments, the “ABL Adequate Protection Payments”) from the sale of the inventory constituting Prepetition ABL Collateral in connection with the sale of the Debtors’ cementing business (the “Cementing Sale”) no later than one business day following the Debtors’ receipt of such proceeds; provided that such amounts will reduce the principal amount outstanding under the Prepetition ABL Obligations; provided, further, however, that any payments made pursuant to this paragraph 11(c) may be subject to disgorgement if a challenge action is brought against the Prepetition ABL Secured Parties in accordance with paragraph 31 and if any such payments are disgorged, the principal amount outstanding under the Prepetition ABL Obligations will be adjusted upward accordingly.
- d. *Other Covenants.* The Debtors shall maintain their cash management system in a manner consistent with this Third Interim Order, and any order of this Court approving the maintenance of the Debtors’ cash management system. The Debtors shall not use, sell, or lease any material assets outside the ordinary course of business, or seek authority to this Court to do any of the foregoing, without prior consultation with the Prepetition ABL Agent at least seven (7) days prior to the date on which the Debtors seek authority of this Court for such use, sale, or lease. The Debtors shall comply with the

covenants contained in section 6.07 of the Prepetition ABL Credit Agreement regarding the maintenance and insurance of the Prepetition ABL Collateral and the Adequate Protection Collateral.

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

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

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

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

- (i) CLMG Adequate Protection Liens Junior to Certain Existing Liens and Junior to ABL Adequate Protection Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully-perfected non-voidable junior priority liens on, and junior security interests in, all tangible and intangible assets, including without limitation, all prepetition and postpetition property of the Debtors’ estates, and all products and proceeds thereof, whether now existing or hereafter acquired, that is subject to (a) valid, perfected, and unavoidable liens in existence as of the Petition Date, including, without limitation (i) the assets subject to the ABL Adequate Protection Liens (other than with respect the CLMG Collateral) and (ii) the GACP Collateral (which such liens on the GACP Collateral shall be junior to the ABL Adequate Protection Liens) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of CLMG (the foregoing liens being collectively referred to as the “Junior CLMG Adequate Protection Liens”).
  - (ii) Adequate Protection Liens Senior to Prepetition CLMG Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the CLMG Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.
- b. *Status of the CLMG Adequate Protection Liens.* The CLMG Adequate Protection Liens shall be *pari passu* with the GACP Adequate Protection Liens and junior to the ABL Adequate Protections Liens in all respects and shall not otherwise be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(ii) of this paragraph 13, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and



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

- c. *Enforceability.* The CLMG Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code. The CLMG Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors' Chapter 11 Cases or any Successor Case.

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

15. *GACP Adequate Protection Claims and Liens.* GACP, in its capacity as administrative agent (the "GACP Agent"), and the lenders party thereto (the "GACP Lenders," and together with the GACP Agent, the "GACP Secured Parties," and together with the Prepetition ABL Secured Parties and CLMG Secured Parties, the "Prepetition Secured Parties") are hereby granted the following (collectively, the "GACP Adequate Protection Obligations" and together with the ABL Adequate Protection Obligations, the "Adequate Protection Obligations"), solely to the extent of any GACP Diminution in Value; provided that the collateral set forth in this paragraph 15 shall not include assets or property (other than GACP Collateral) upon which, and solely to the extent that, the grant of an Adequate Protection Lien as contemplated in this Third Interim Order, would constitute a default or event of default under any of the Debtors' contracts or leases (and

such default would not be excused or rendered ineffective by operation of the Bankruptcy Code or applicable nonbankruptcy law), but shall include the proceeds thereof:

- a. *GACP Adequate Protection Liens.* Pursuant to sections 361 and 363(e) of the Bankruptcy Code, as adequate protection against any actual GACP Diminution in Value (if any) of the GACP Collateral effective as of the Petition Date and perfected without the need for execution by the Debtors or the recordation or other filing by GACP of security agreements, control agreements, pledge agreements, mortgages or other Collateral Documents (as defined in the GACP Term Loan Credit Agreement) or financing statements or other similar documents, or the possession or control by GACP of any Adequate Protection Collateral, GACP is hereby granted, as security for the payment of the GACP Adequate Protection Obligations, the following security interests and liens (all such liens and security interests, the “GACP Adequate Protection Liens,” and together with the ABL Adequate Protection Liens and CLMG Adequate Protection Liens, the “Adequate Protection Liens”):
  - (i) GACP Adequate Protection Liens Junior to Certain Existing Liens and Junior to ABL Adequate Protection Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully-perfected non-voidable junior priority liens on, and junior security interests in, all tangible and intangible assets, including without limitation, all prepetition and postpetition property of the Debtors’ estates, and all products and proceeds thereof, whether now existing or hereafter acquired, that is subject to (a) valid, perfected, and unavoidable liens in existence as of the Petition Date, including, without limitation (i) the assets subject to the ABL Adequate Protection Liens (other than with respect the GACP Collateral) and (ii) the GACP Collateral (which such liens on the GACP Collateral shall be junior to the ABL Adequate Protection Liens) or (b) valid and unavoidable liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, which valid, perfected and unavoidable liens are senior in priority to the security interests and liens in favor of GACP (the foregoing liens being collectively referred to as the “Junior GACP Adequate Protection Liens”).
  - (ii) Adequate Protection Liens Senior to Prepetition GACP Liens. Pursuant to sections 361(2) and 363(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected non-voidable priming lien on, and security interest in, all tangible and intangible assets comprising the GACP Collateral, and all products and proceeds thereof, whether now existing or hereafter acquired.



- b. *Status of the GACP Adequate Protection Liens.* The GACP Adequate Protection Liens shall be *pari passu* with the CLMG Adequate Protection Liens and junior to the ABL Adequate Protections Liens in all respects and shall not otherwise be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (B) any lien or security interest arising after the Petition Date, or (ii) except as otherwise set forth in clauses (a)(i)-(ii) of this paragraph 15, subordinated to or made *pari passu* with any other lien or security interest, now or hereafter existing and whether authorized under sections 363 or 364 of the Bankruptcy Code or otherwise.
- c. *Enforceability.* The GACP Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code. The GACP Adequate Protection Liens shall be enforceable against and binding upon the Debtors, their estates and any successors thereto, including, without limitation, any trustee or other estate representative appointed in the Debtors' Chapter 11 Cases or any Successor Case.

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

- a. on or before 5:00 p.m. (Central Time) on every fourth Thursday (or, if such Thursday is not a business day, then the immediately succeeding business day), starting on the fourth Thursday following the entry of this Third Interim Order or such time period as otherwise agreed, until earlier of (i) confirmation of a chapter 11 plan by the Debtors or (ii) the repayment of the Prepetition ABL Obligations indefeasibly in full in cash, an updated Budget with respect to the Debtors for the current calendar week then ended and the immediately following consecutive 12 weeks (collectively,

13 weeks), set forth on a weekly basis. Each proposed Budget provided to the Prepetition ABL Agent shall be of no force and effect unless and until it is approved by the Prepetition ABL Agent, which approval has been supported or unopposed by the Required Lenders (as defined in the Prepetition ABL Credit Agreement), and, until such approval is given, the prior Budget shall remain in effect. Any such proposed Budget, upon the approval of the Prepetition ABL Agent shall become, as of the date of such approval or such determination (and the Prepetition ABL Agent shall be deemed to have approved the Budget upon the passage of five (5) days with no objection) and for the period of time covered thereby, the Budget, and shall prospectively replace any prior Budget. If the Debtors and the Prepetition ABL Agent are unable to agree on a proposed Budget's terms, the Debtors reserve the right to seek an expedited hearing with the Court to resolve such disagreement. In that event, the Prepetition ABL Agent shall not oppose the request for expedited consideration provided that any such hearing is held on not less than 48 hours' notice to the Prepetition ABL Agent. In the event of any dispute regarding the terms of a Budget, the Debtors and the Prepetition ABL Agent reserve any and all rights under the Bankruptcy Code or applicable law;

- b. on or before 5:00 p.m. (prevailing Central Time) on every Thursday (or, if such Thursday is not a business day, then the immediately succeeding business day), starting on the first Thursday following the entry of this Third Interim Order, the Debtors shall deliver to the Prepetition ABL Agent and GACP, on a line-by-line basis, a reconciliation report showing the variances comparing actual cash receipts and disbursements of the Debtors during the immediately-preceding calendar week with corresponding forecasted amounts for such week in the Budget, including written descriptions in reasonable detail explaining any material positive or negative variances;
- c. on or before 9:00 a.m. (prevailing Central Time) every business day, starting the first business day after entry of this Third Interim Order, the Debtors shall deliver to the Prepetition ABL Agent a report showing the Debtors' cash balance as of the end of the preceding day;
- d. on or before 5:00 p.m. (prevailing Central Time) starting on September 4, 2020 (with respect to month ending July 31, 2020), and continuing thereafter the date that is 35 days from the prior month's end (or if such day is not a business day, then the immediately succeeding business day), the Debtors shall provide to the Prepetition ABL Agent the information constituting the Borrowing Base (as defined in the Prepetition ABL Credit Agreement) report; provided that notwithstanding anything to the contrary in this Third Interim Order or the Prepetition ABL Loan Documents, the Debtors shall not be required to deliver any Borrowing Base Certificates (as defined in the Prepetition ABL Credit Agreement) to the Prepetition ABL Agent;

- e. no less than three times a week, upon reasonable request the Debtors shall provide the Prepetition ABL Agent an update on the vendor settlement process, including, without limitation, updated “Trade Settlement Update” and “Lien Tracker” files;
- f. all financial reports, forecasts and all other financial documentation, pleadings and other filings that are reasonably requested by the Prepetition ABL Agent, GACP, the Creditors’ Committee, or their representatives and agents, including, but not limited to any appraisals conducted by Hilco, GACP, or any other party, and any other materials that may value the Debtors’ intellectual property or real estate assets;
- g. in addition to, and without limiting, whatever rights to access the Prepetition ABL Agent has under the Prepetition ABL Loan Documents, upon reasonable notice, at reasonable times during normal business hours, the Debtors shall (i) permit representatives of the Prepetition ABL Agent to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors’ business premises and other properties, and (ii) cause their representatives and agents to make themselves reasonably available to discuss the Debtors’ affairs, financial condition, properties, business, operations and accounts with the representatives and agents of the Prepetition ABL Agent.

17. *Carve Out.*

- a. *Carve Out.* As used in this Third Interim Order, the “Carve Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the Prepetition ABL Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$1 million incurred after the first business day following delivery by the Prepetition ABL Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or

otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”). For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the Prepetition ABL Agent to the Debtors, the Debtors’ lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, which notice may be delivered following the occurrence and during the continuation of a Termination Event (as defined below) and upon termination of the Debtors’ right to use Cash Collateral by the Prepetition ABL Secured Parties, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

- b. *Fee Estimates.* Not later than 7:00 p.m. New York time on the Wednesday of each week starting with the first full calendar week following the Petition Date, each Professional Person shall deliver to the Debtors a statement setting forth a good-faith estimate of the amount of fees and expenses incurred during the preceding week by such Professional Person (through Saturday of such week, the “Calculation Date”) (collectively, “Estimated Fees and Expenses”), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a “Weekly Statement”); provided that within one business day of the occurrence of the Termination Declaration Date (as defined below), each Professional Person shall deliver one additional statement (the “Final Statement”) setting forth a good-faith estimate of the amount of fees and expenses incurred during the period commencing on the calendar day after the most recent Calculation Date for which a Weekly Statement has been delivered and concluding on the Termination Declaration Date (and the Debtors shall cause such Weekly Statement and Final Statement to be delivered on the same day received to the Prepetition ABL Agent). If any Professional Person fails to deliver a Weekly Statement within three calendar days after such Weekly Statement is due, such Professional Person’s entitlement (if any) to any funds in the Carve Out Reserves (as defined below) with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Budget for such period for such Professional Person.

- c. *Carve Out Reserves.*

- (i) Commencing with the week ended July 31, 2020, and on or before the Thursday of each week thereafter, the Debtors shall utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the greater of (x) (i) for the week ending July 31, 2020, the aggregate amount of all Estimated Fees and Expenses reflected in all Weekly Statements

delivered to the Debtors and the Prepetition ABL Agent between the Petition Date and the immediately prior Wednesday and (ii) for all weeks after the week ending July 31, 2020, the aggregate amount of all Estimated Fees and Expenses reflected in the Weekly Statement delivered on the immediately prior Wednesday to the Debtors and the Prepetition ABL Agent, and (y) (i) for the week ending July 31, 2020, the aggregate amount of Allowed Professional Fees contemplated to be incurred in the Budget during all prior weeks of the case and (ii) for all weeks after the week ending July 31, 2020, the aggregate amount of Allowed Professional Fees contemplated to be incurred in the Budget during such week. The Debtors shall deposit and hold such amounts in a segregated account in trust to pay such Allowed Professional Fees (the “Pre-Carve Out Trigger Notice Reserve”) prior to any and all other claims, and all payments of Allowed Professional fees incurred prior to the Termination Declaration Date shall be paid first from such Pre-Carve Out Trigger Notice Reserve Account. Upon the foregoing funding, the Prepetition ABL Agent and Prepetition ABL Secured Parties shall have no further obligation to fund the Pre-Carve Out Trigger Notice Reserve or subordinate their liens and claims on account of any Allowed Professional Fees incurred through the Calculation Date for the most recent Weekly Statement delivered in accordance with Paragraph 18(b) above.

- (ii) On the day on which a Carve Out Trigger Notice is given by the Prepetition ABL Agent to the Debtors with a copy to counsel to any Creditors’ Committee (the “Termination Declaration Date”), the Carve Out Trigger Notice shall constitute a demand to the Debtors to and the Debtors shall utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund (A) the Pre-Carve Out Trigger Notice Reserve Account in an amount equal to the aggregate amount of all Estimated Fees and Expenses reflected in the Final Reports delivered to Debtors and the Prepetition ABL Agent plus the amounts set forth in (a)(i) and (a)(ii) of this paragraph above, and (B) after funding the Pre-Carve Out Trigger Notice Reserve Account, a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap (the “Post-Carve Out Trigger Notice Reserve” and, together with the Pre-Carve Out Trigger Notice Reserve, the “Carve Out Reserves”) prior to any and all other claims. All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above (the “Pre-Carve Out Amounts”), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the Prepetition ABL Agent for the benefit of the Prepetition ABL Secured Parties, unless the Prepetition ABL Obligations have

been indefeasibly paid in full, in cash, in which case any such excess shall be paid to the Debtors' creditors in accordance with their rights and priorities as of the Petition Date. Upon the foregoing funding, the Prepetition ABL Agent and Prepetition ABL Secured Parties shall have no further obligation to fund the Pre-Carve Out Trigger Notice Reserve or Post-Carve Out Trigger Notice Reserve or subordinate their liens and claims on account of any Allowed Professional Fees.

- d. *Application to Carve Out Reserves.* All funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in paragraph 17(a)(iv) of the definition of Carve Out set forth above (the "Post-Carve Out Amounts"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the Prepetition ABL Secured Parties in accordance with their rights and priorities under applicable law, unless the Prepetition ABL Obligations have been indefeasibly paid in full, in cash, in which case any such excess shall be paid to the Debtors' creditors in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the Prepetition ABL Loan Documents, or this Third Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in paragraph 17(b), then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in paragraph 17(a), prior to making any payments to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Lenders, or any of the Debtors' creditors, as applicable. Notwithstanding anything to the contrary in the Prepetition ABL Loan Documents or this Third Interim Order, following delivery of a Carve Out Trigger Notice, the Prepetition ABL Secured Parties shall not, and shall not direct any entity to, sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the Prepetition ABL Agent, for the benefit of the Prepetition ABL Lenders, for application in accordance with the Prepetition ABL Loan Documents. Further, notwithstanding anything to the contrary in this Third Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute Loans (as defined in the Prepetition ABL Loan Documents) or increase or reduce the Prepetition ABL Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Third Interim Order or in any Prepetition ABL Loan



Documents, the Carve Out shall be senior to all liens and claims securing the Prepetition ABL Collateral, the ABL Adequate Protection Liens, and the 507(b) Claim, and any and all other forms of adequate protection, liens, or claims securing the Prepetition ABL Obligations.

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

18. *Termination.* The Debtors' right to use Cash Collateral shall terminate (the date of any such termination, the "Termination Date"), without prior order of this Court or any further action by the Prepetition ABL Secured Parties (i) at 11:59 p.m. (prevailing Eastern Time) on September 2, 2020, or (ii) five (5) business days following the delivery of a written notice (a "Default Notice") by the Prepetition ABL Agent to Kirkland & Ellis LLP (any such five (5) business-day period of time, the "Default Notice Period") of the occurrence of any of the events set forth in clauses (a) through (k) below (unless cured by the Debtors or waived by the Prepetition ABL Administrative Agent, with the consent of the Required Lenders, in writing (with email being sufficient) prior to expiration of the Default Notice Period); provided that, if a hearing to consider any appropriate relief in connection with delivery of the Default Notice or continued use of Cash Collateral (as may be held on an expedited basis) is requested to be heard within such five (5)

business day period but is scheduled for a later date by the Court, the Default Notice Period shall be automatically extended to the date of such hearing (the events set forth in clauses (a) through (k) below are collectively referred to herein as the “Termination Events”):

- a. the failure to obtain entry of a further interim order or Final Order acceptable to the Prepetition ABL Agent on or before seven (7) days after entry of this Third Interim Order (unless such period is extended by mutual agreement between the Prepetition ABL Agent and the Debtors, which extension may be document by email);
- b. any Debtor’s failure to comply with any of the material terms or conditions of this Third Interim Order, including, but not limited to, (i) the use of Cash Collateral for any purpose other than as permitted in this Third Interim Order, (ii) failure to comply with the Budget (including any distributions in excess of the Permitted Variance that have not been resolved and approved, in writing, by the Prepetition ABL Agent), or (iii) failure to comply with the reporting requirements set forth in this Third Interim Order; provided that notwithstanding anything to the contrary in this Third Interim Order or the Prepetition ABL Loan Documents, the Debtors shall not be required to deliver any Borrowing Base Certificates (as defined in the Prepetition ABL Credit Agreement) to the Prepetition ABL Agent;
- c. the failure of the Debtors to make any payment under this Third Interim Order to the Prepetition ABL Agent within three (3) business days after such payment becomes due, other than payments required pursuant to paragraph 10(b) of this Third Interim Order, which payments shall be made as required therein;
- d. the failure of the Debtors to close on the Cementing Sale and the Fracturing Sale by 11:59 p.m. (prevailing Eastern Time) on August 28, 2020 (subject to further extension with the consent of the Prepetition ABL Agent);
- e. this Third Interim Order ceases, for any reason (other than by reason of the express written agreement by the Prepetition ABL Agent, which agreement has been supported or unopposed by the Required Lenders, or the supersession of this Third Interim Order by the Third Interim Order), to be in full force and effect in any material respect, or any Debtor so asserts in writing, or the Adequate Protection Liens or Adequate Protection Superpriority Claims created by this Third Interim Order cease in any material respect to be enforceable and of the same effect and priority purported to be created hereby or any Debtor so asserts in writing;
- f. the Court shall have entered an order reversing, amending, supplementing, staying, vacating, or otherwise modifying this Third Interim Order in a manner materially adverse to the Prepetition ABL Secured Parties without



the prior written consent of the of the Prepetition ABL Agent, which consent may be provided by electronic mail;

- g. the date an application, motion, or other pleading is filed by the Debtors for the approval of, or the date the Court shall have entered an order recognizing or granting, any superpriority claim or any lien in these Chapter 11 Cases that is *pari passu* with or senior to the ABL Adequate Protection Superpriority Claims or the ABL Adequate Protection Liens without the prior written consent of the Prepetition ABL Secured Parties (other than the Carve Out);
- h. the date any of the Debtors files any pleading or commences any action against the Prepetition ABL Secured Parties challenging the validity or enforceability of the Prepetition ABL Obligations or the Prepetition ABL Liens or seeking to avoid, disallow, subordinate, or recharacterize any claim, lien, or interest held by any of the Prepetition ABL Secured Parties arising under or related to the Prepetition ABL Obligations (or if the Debtor supports any such motion, pleading, application or adversary proceeding commenced by any third party); provided that if the Debtors provide any response to any discovery request, or make a witness available for deposition, such action shall not be a violation of this subparagraph 18(h);
- i. the date any of the Debtors file or otherwise support any motion, pleading, or other document, including a chapter 11 plan, that (i) seeks to amend, modify, or supplement this Third Interim Order, or (ii) otherwise materially, negatively affects the Prepetition ABL Secured Parties, without the prior written consent of the Prepetition ABL Agent; provided, that the consent of the Prepetition ABL Agent shall not be required if, pursuant to a chapter 11 plan, the Prepetition ABL Obligations and Adequate Protection Obligations are indefeasibly paid in full in cash on the effective date of such plan.
- j. the date any of the Debtors file a motion seeking an order, or the date any court of competent jurisdiction enters an order, dismissing the Chapter 11 Cases, converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, appointing a trustee, responsible officer, or examiner with expanded powers relating to the operation of the organization in the Chapter 11 Cases, or terminating the Debtors' exclusivity under Bankruptcy Code section 1121, unless consented to in writing by the Prepetition ABL Agent, which consent has been approved or unopposed by the Required Lenders;
- k. the filing of any pleading by any Debtor in support of (in any such case by way of any motion or other pleading filed with the Court or any other writing to another party in interest executed by or on behalf of any such Debtor) any other person's opposition to any motion filed in the Court by the Prepetition ABL Agent or the Prepetition ABL Lenders seeking confirmation of the amount of its claims or the validity or enforceability of

the Prepetition ABL Liens or the Adequate Protection Liens, except with regard to good faith disputes over the payment of expenses and fees, provided that if the Debtors provided any response to any discovery request, or make a witness available for deposition, such action shall not be a violation of this subparagraph 18(k); or

1. the Court shall have entered an order granting relief from the automatic stay (without the consent of the Prepetition ABL Lenders) to the holder or holders of any security interest to permit foreclosure (or the granting of a deed *in lieu* of foreclosure or the like) on any of the Prepetition ABL Collateral or Adequate Protection Collateral on which the Prepetition ABL Lenders have a first-priority security interest, which has an aggregate value in excess of \$50,000; provided however, that to the extent such lien can be satisfied by amounts contemplated to pay prepetition liens in the Budget, any relief granted on account of such liens shall not trigger a Termination Event.

19. *Rights and Remedies upon Termination Event.* Except as otherwise ordered by the Court, following the expiration of the Default Notice Period, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Third Interim Order, any Adequate Protection Obligations determined by the Court to be due and owing as of the delivery of the Default Notice, if any, shall become due and payable and/or the Prepetition ABL Secured Parties shall be entitled to exercise their rights and remedies. Prior to exercising the remedies set forth in this sentence below, the Prepetition ABL Secured Parties shall be required to file a motion with the Court seeking emergency relief (the “Stay Relief Motion”) on no less than five (5) business days’ written notice, which notice period may be concurrent with the Default Notice Period, to (i) the Court, (ii) counsel for the Debtors, (iii) counsel for the Creditors’ Committee (if any), and (iv) the U.S. Trustee for a further order of the Court modifying the automatic stay in the Chapter 11 Cases to permit the Prepetition ABL Secured Parties to exercise their rights and remedies against the Prepetition ABL Collateral or Adequate Protection Collateral to the extent available in accordance with the applicable Prepetition ABL Loan Documents, this Third Interim Order, or

applicable law, including (x) setting-off amounts in any account of the Debtors maintained with the Prepetition ABL Agent or Prepetition ABL Lenders with respect to which the Prepetition ABL Agent controls pursuant to a deposit account control agreement to the extent necessary for payment of the Adequate Protection Obligations determined by the Court to be due and payable as of the delivery of the Default Notice and (y) foreclosing upon and selling all or a portion of the Prepetition ABL Collateral or Adequate Protection Collateral in order to collect the Adequate Protection Obligations. Upon the Court's ruling on the Stay Relief Motion, the Court may fashion an appropriate remedy upon a determination that a Termination Event occurred, including that the Prepetition ABL Agent shall be entitled to exercise all rights and remedies with respect to the Collateral provided for in this Third Interim Order, including the right to foreclose on or otherwise exercise its rights with respect to all or any portion of the Collateral, as permitted by the Court. Upon the occurrence of the delivery of a Default Notice, the Debtors, the Prepetition ABL Agent, and each Prepetition ABL Secured Party consent to a hearing on an expedited basis to consider whether (a) a Termination Event has occurred and (b) any other appropriate relief (including, without limitation, the Debtors' non-consensual use of Cash Collateral). During the Default Notice Period, the Debtors shall be entitled to continue to use the Cash Collateral in accordance with the terms of the Budget and this Third Interim Order. Notwithstanding anything to the contrary herein, upon a Termination Event, the delivery of a Default Notice, the expiration of the Default Notice Period, or the occurrence of the Termination Date, all of the rights, remedies, benefits, and protections provided to the Prepetition ABL Secured Parties under this Third Interim Order shall survive. Except as otherwise provided herein or ordered by the Court, neither section 105 of the Bankruptcy Code nor any other provision of the Bankruptcy Code or applicable law shall be

utilized to prohibit the exercise, enjoyment and enforcement of any rights, benefits, privileges and remedies of the Prepetition ABL Secured Parties set forth in this paragraph.

20. *Modification of Automatic Stay.* Except as provided in paragraph 18 herein, the automatic stay under section 362(a) of the Bankruptcy Code is hereby modified to the extent necessary to effectuate all of the terms and provisions of this Third Interim Order, including, without limitation, to: (a) permit the Debtors to grant the Adequate Protection Liens and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the Prepetition ABL Secured Parties may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Prepetition ABL Secured Parties under this Third Interim Order; (d) authorize the Debtors to pay, and the Prepetition ABL Secured Parties to retain and apply, any payments made in accordance with the terms of this Third Interim Order; and (e) permit the Prepetition ABL Secured Parties, subject to the terms of this Third Interim Order, to exercise all rights and remedies provided for hereunder; provided that during the Default Notice Period, unless otherwise ordered by the Court, the automatic stay under section 362 of the Bankruptcy Code shall remain in effect.

21. *Limitation on Charging Expenses Against Collateral.* Subject only to and effective upon entry of the Final Order, except to the extent of the Carve Out, no costs or expenses of administration which have been or may be incurred in these Chapter 11 Cases or any Successor Case at any time shall be surcharged against, and no person may seek to surcharge any costs or expenses of administration against the Prepetition ABL Secured Parties, or any of the Prepetition ABL Obligations, the Carve Out, or the Prepetition ABL Collateral, pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the Prepetition ABL Agent, which consent is approved or unopposed by the Required Lenders. Subject to the

Carve Out, nothing contained in this Third Interim Order shall be deemed a consent by the Prepetition ABL Agent to any charge, lien, assessment, or claim against the Prepetition ABL Collateral, or the Adequate Protection Liens, or otherwise, and no action, inaction or acquiescence by the Prepetition ABL Agent shall be deemed to be or shall be considered evidence of any alleged consent to a surcharge against the Prepetition ABL Secured Parties, the Prepetition ABL Obligations, or the Prepetition ABL Collateral. Notwithstanding the foregoing and for the avoidance of doubt, the Debtors and the Prepetition ABL Secured Parties reserve all rights to seek to surcharge costs and expenses of administration against GACP, the GACP Collateral, CLMG and the CLMG Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code or otherwise. Subject to the Committee's investigation rights under paragraph 32 of this Third Interim Order, if the Debtors recover any costs and expenses from a secured party pursuant to sections 105 and/or 506(c) of the Bankruptcy Code (such recovery, "Surcharge Proceeds"), and the outlays on account of such recovered costs and expenses were paid using the Prepetition ABL Lenders' Cash Collateral, the Surcharge Proceeds shall replenish and be deemed to replenish the Prepetition ABL Lenders' Cash Collateral in the amount equal to the recovered costs and expenses paid out of such Cash Collateral; provided, however, that any such replenishment of the Cash Collateral from the Surcharge Proceeds shall not exceed the amount required to satisfy the Diminution in Value (if any) of the Prepetition ABL Collateral.

22. *Section 552(b) of the Bankruptcy Code.* Subject only to and effective upon entry of the Final Order, the Prepetition ABL Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and no person may assert an "equities of the case" claim under section 552(b) of the Bankruptcy Code against the Prepetition ABL Secured

Parties with respect to proceeds, product, offspring, or profits of any of the Prepetition ABL Collateral in the Chapter 11 Cases or any Successor Case.

23. *Payments Free and Clear.* Subject and subordinate to the Carve Out, any and all proceeds remitted to the Prepetition ABL Agent pursuant to the terms of this Third Interim Order or any subsequent order of this Court shall be irrevocable (subject to paragraphs 31 and 32 of this Third Interim Order), received free and clear of any claim, charge, assessment, or other liability, including, without limitation, but subject to entry of the Final Order, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) of the Bankruptcy Code or the “equities of the case” exception of section 552(b) of the Bankruptcy Code.

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

25. *Debtors’ Reservation of Rights.* Notwithstanding anything to the contrary in this Third Interim Order, the entry of this Third Interim Order and the grant of adequate protection to the Prepetition ABL Secured Parties and the Prepetition ABL Agent pursuant to the terms hereof shall be without prejudice to the rights of the Debtors to, following the occurrence of the

Termination Date, seek authority (at any time) to use Cash Collateral and the Prepetition ABL Collateral without the consent of the Prepetition ABL Secured Parties, and the Prepetition ABL Secured Parties reserve all of their respective rights with respect to contesting any such motion or request by the Debtors or any other person.

26. *No Marshaling.* Subject only to and effective upon entry of the Final Order, the Prepetition ABL Secured Parties shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the Prepetition ABL Collateral, and proceeds of the Prepetition ABL Collateral shall be received and applied pursuant to this Third Interim Order and the Prepetition ABL Loan Documents notwithstanding any other agreement or provision to the contrary. Subject to the Carve Out, without limiting the generality of the immediately preceding sentence, no party shall be entitled, directly or indirectly, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of the Prepetition ABL Collateral after a Termination Event in the Chapter 11 Cases or any Successor Case.

27. *Continuation of Prepetition ABL Liens.* Subject to the rights set forth in paragraph 32, until the Prepetition ABL Secured Parties are Paid in Full, all liens and security interests of the Prepetition ABL Secured Parties (including, without limitation, the Adequate Protection Liens) shall remain valid and enforceable with the same continuing priority as described herein in the Chapter 11 Cases or any Successor Case. The term “Paid in Full” or “Payment in Full” means except as otherwise agreed to by, the Prepetition ABL Secured Parties (including through entry of an order confirming a chapter 11 plan reasonably acceptable to the Prepetition ABL Secured Parties), all of the Prepetition ABL Obligations and Adequate Protection Obligations have been indefeasibly paid in full in cash and completely satisfied (including the cash

collateralization of any letters of credit) and all Commitments (as defined in the Prepetition ABL Credit Agreement) have been terminated.

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

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

30. *Perfection of ABL Adequate Protection Liens.*

- a. The Prepetition ABL Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments in any jurisdiction, or take possession of or control over cash or securities, or take any other action in order to validate and perfect the ABL Adequate Protection Liens; provided, however, that the Prepetition ABL Secured Parties may not take any aforementioned action to file or record such instruments against the CLMG Collateral or GACP Collateral. Whether or not the Prepetition ABL Secured Parties shall, each, in its sole discretion, choose to file such financing statements, trademark filings, copyright filings, patent filings, mortgages, deeds of trust, notices of lien or similar instruments, or take possession of or control over any cash, securities or any other property of the Debtors, or take any action that otherwise may be required under federal, state or local law in any jurisdiction to validate and perfect a security interest or lien, in any such case, the ABL Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination (subject to the priorities set forth in this Third Interim Order), at the time and on the date of entry of this Third Interim Order or thereafter. Upon the reasonable request of any of the Prepetition ABL Secured Parties, the Prepetition ABL Secured Parties and the Debtors, without any further consent of any party, are authorized to take, execute, deliver and file such instruments (in each case, without representation or warranty of any kind) to enable the Prepetition ABL Secured Parties to



further validate, perfect, preserve and enforce the ABL Adequate Protection Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

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

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

Parties or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors in connection with any matter related to the Prepetition ABL Obligations, the Prepetition ABL Collateral, the Prepetition CLMG Obligations, or the CLMG Collateral (as applicable) by no later than the date that is the earlier of (i) the date that is seventy-five (75) days after the date of entry of the Second Interim Order (i.e., October 17, 2020) (the “Challenge Deadline”), (ii) the effective date of a confirmed chapter 11 plan, or (iii) any such later date as has been ordered by the Court for cause upon a motion filed and served prior to the expiration of the deadline to commence a challenge (such time period, the “Challenge Period”), and (b) an order is entered by a court of competent jurisdiction and becomes final and non-appealable in favor of the plaintiff sustaining any such challenge or claim in any such duly filed adversary proceeding or contested matter; provided that, as to the Debtors, all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date. If no such adversary proceeding or contested matter is timely filed prior to the expiration of the Challenge Period, without further order of this Court: (x) the Prepetition ABL Obligations, Prepetition CLMG Obligations, and the Prepetition GACP Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in the Chapter 11 Cases and any Successor Case; (y) the Prepetition ABL Agent’s liens on the Prepetition ABL Collateral, CLMG’s liens on the CLMG Collateral, and GACP’s liens on the GACP Collateral shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected and of the priority specified in paragraph 4(d), not subject to defense, counterclaim, recharacterization, subordination or avoidance in the Chapter 11 Cases or any Successor Case; and (z) the Prepetition ABL Obligations, the Prepetition ABL Agent’s liens on the Prepetition ABL Collateral, the other Prepetition ABL Secured Parties; the Prepetition CLMG Obligations, CLMG’s liens on the CLMG

Collateral, and the other CLMG Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors); and the Prepetition GACP Obligations, GACP's liens on the GACP Collateral, and the other GACP Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors), shall not be subject to any other or further challenge by any party in interest, and any such party in interest shall be enjoined from seeking to exercise the rights of the Debtors' estates, including without limitation, any successor thereto (including, without limitation, any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Challenge Period). If any such adversary proceeding or contested matter is timely filed prior to the expiration of the Challenge Period, the stipulations and admissions contained in this Third Interim Order, including without limitation, in paragraph 4 of this Third Interim Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any person, including any Trustee, except as to any such findings and admissions that were expressly and successfully challenged in such adversary proceeding or contested matter. Nothing in this Third Interim Order vests or confers on any person, including a Trustee, standing or authority to pursue any cause of action belonging to the Debtors or their estates. In the event that there is a timely successful challenge brought pursuant to this paragraph 31, the Court shall retain jurisdiction to fashion an appropriate remedy.

32. *Limitation on Use of Collateral.* Subject to the Carve Out, notwithstanding anything herein or in any other order by this Court to the contrary, no Cash Collateral, Prepetition ABL Collateral, proceeds, products, or offspring of any of the foregoing or any portion of the Carve Out may be used to (except to the extent otherwise expressly agreed in writing by the Prepetition ABL Agent in response to a written request from the Debtors specifying the proposed

use) pay any claims for services rendered by any of the professionals retained by the Debtors, any creditor or party in interest, any committee (including any Creditors' Committee), any Trustee, or any other person, party, or entity (or to pay any professional fees and disbursements in connection therewith) to: (a) apply to the Court for authority to approve superpriority claims or grant liens or security interests in the Prepetition ABL Collateral and Cash Collateral, or any portion thereof that are senior to, or on parity with, the Prepetition ABL Liens, unless the Prepetition ABL Obligations, and claims granted to the Prepetition ABL Secured Parties under this Third Interim Order, as applicable, have been Paid in Full or otherwise agreed to in writing by the Prepetition ABL Secured Parties; (b) prevent, hinder or otherwise delay the Prepetition ABL Secured Parties' assertion, enforcement or realization on the Prepetition ABL Collateral, including Cash Collateral, and liens, claims and rights granted to the Prepetition ABL Secured Parties under this Third Interim Order, in accordance with the Prepetition ABL Loan Documents or this Third Interim Order; (c) seek to modify any of the rights and remedies granted to the Prepetition ABL Secured Parties under this Third Interim Order or the Prepetition ABL Loan Documents; (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are provided for in the Budget and approved by an order of this Court that is in form and substance reasonably satisfactory to the Prepetition ABL Agent; (f) subject to paragraph 32, investigate, assert, join, commence, support or prosecute any action or claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against the Prepetition ABL Secured Parties or their respective officers, directors, employees, agents, attorneys, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, or action, including, without limitation, (i) any avoidance actions or other actions arising under chapter 5 of the Bankruptcy Code, (ii) any action relating to any act, omission, or aspect of

the relationship between the Prepetition ABL Secured Parties, on the one hand, and the Debtors or any of their affiliates, on the other, (iii) any action with respect to the validity and extent of the Prepetition ABL Obligations, or the validity, extent, and priority of the Prepetition ABL Liens or the Adequate Protection Liens, (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the Prepetition ABL Liens or the Adequate Protection Liens granted under this Order, (v) except to contest the occurrence of a Termination Event as permitted in paragraph 19, any action that has the effect of preventing, hindering or delaying (whether directly or indirectly) the Prepetition ABL Secured Parties in respect of their liens and security interests in the Cash Collateral or the Prepetition ABL Collateral, (vi) pay any fees or similar amounts to any person to purchase the Prepetition ABL Secured Parties' interests in any of the Debtors' assets without the prior written consent of the Prepetition ABL Secured Parties, unless such person consummates or otherwise closes the purchase of the Prepetition ABL Secured Parties' interests in any of the Debtors' assets, or (vii) use or seek to use Cash Collateral unless otherwise permitted hereby, without the prior written consent of the Prepetition ABL Secured Parties; or (g) for objecting to, contesting, delaying, preventing, hindering or otherwise interfering in any way with the exercise of rights or remedies by the Prepetition ABL Secured Parties with respect to any Prepetition ABL Collateral, including Cash Collateral, after the occurrence of an Termination Event, except as otherwise permitted hereby; provided that, notwithstanding anything to the contrary in this paragraph, the Creditors' Committee may use Cash Collateral, including the Prepetition ABL Collateral, solely to investigate, but not to prepare, initiate, litigate, prosecute, object to, or otherwise challenge (i) the claims and liens of the Prepetition Secured Parties and (ii) potential claims, counterclaims, causes of action, or defenses, including the Claims and Defenses, against the Prepetition Secured Parties; provided further that no more than an aggregate

of \$75,000 of the Cash Collateral constituting Prepetition ABL Collateral, and the proceeds thereof, may be used by the Creditors' Committee with respect to the investigation of the Prepetition ABL Liens as set forth in the preceding proviso (the "Investigation Budget").

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

Liens. Nothing in this Third Interim Order shall release any claims against a Prepetition Releasee that a court of competent jurisdiction determines, pursuant to a final, non-appealable order, results primarily from the actual fraud, gross negligence, or willful misconduct of such Prepetition Releasee.

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



Adequate Protection Obligations or (ii) the Prepetition ABL Agent provides prior written consent, which consent is approved or unopposed by the Required Lenders, for financing that does not provide for Payment in Full of the Prepetition ABL Obligations and Adequate Protection Obligations.

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

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

37. *Binding Effect of Third Interim Order.* Subject to paragraph 31, immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), regardless of whether specifically articulated in each term and provision of this Third Interim Order, the terms and provisions of this Third Interim Order, including all findings herein, shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the Debtors, the Prepetition ABL Secured Parties, all other creditors of the Debtors, any Creditors' Committee, and each of their respective successors and assigns (including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed in a case for any Debtor under any chapter of the Bankruptcy Code) and shall inure to the benefit of the Debtors, the GACP Secured Parties, CLMG Secured Parties, the Prepetition ABL Secured Parties, and their respective successors and assigns.

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

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

(c) be deemed to be acting as a “Responsible Person” or “Owner” or “Operator” with respect to the operation or management of the Debtors or any of their affiliates (as such terms or similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601, *et seq.*, as amended, or any similar federal or state statute). Furthermore, nothing in this Third Interim Order or the Prepetition ABL Loan Documents or any other documents related thereto shall in any way be construed or interpreted to impose or allow the imposition upon the Prepetition ABL Secured Parties, or any successor of any of the foregoing, of any liability for any claims arising from the prepetition or postpetition activities of the Debtors or any of their subsidiaries affiliates in the operation of their businesses or in connection with their restructuring efforts.

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

41. *Effectiveness.* This Third Interim Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable, *nunc pro tunc* to the Petition Date, immediately upon entry hereof. Notwithstanding any Bankruptcy Rule, any Bankruptcy Local Rule, any Federal Rule of Civil Procedure, or other applicable law, this Third Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Third Interim Order.

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

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

43. *No Third Party Rights.* Except as explicitly provided for herein, this Third Interim Order does not create any rights for the benefit of any party, creditor, equity holder, other entity or any direct, indirect or incidental beneficiary other than (a) the Prepetition ABL Secured Parties and their respective Representatives, (b) the Debtors, (c) the CLMG Secured Parties and their Representatives, (d) the GACP Secured Parties and their Representatives, and (e) the respective successors and assigns of each of the foregoing.

44. *Headings.* Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Third Interim Order.

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

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

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

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

other applicable agreement, the Bankruptcy Code or applicable nonbankruptcy law. Furthermore, notwithstanding anything herein to the contrary, nothing contained in this Third Interim Order shall constitute nor be construed as the GACP Secured Parties' consent to, nor this Court's approval of, any surcharge of the GACP Collateral or the Debtors' sale of any of the GACP Collateral or the Debtors' use of the proceeds thereof.

48. *Creditors' Committee Rights Reserved.* Notwithstanding anything herein to the contrary, the entry of this Third Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly (a) the Creditors' Committee's rights to pursue any and all rights and remedies under the Bankruptcy Code or any other applicable law, or seek any other or supplemental relief in respect of the Debtors, as applicable, or the Debtors' or any other party in interest's rights to oppose such relief, or (b) any of the rights and remedies of the Debtors, the Creditors' Committee, or any other party in interest under the Bankruptcy Code or applicable nonbankruptcy law.

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

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

51. *Retention of Jurisdiction.* The Court shall retain jurisdiction to enforce the provisions of this Third Interim Order, and this Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this Third Interim Order, including following confirmation and consummation of any chapter 11 plan for any one or more of the Debtors.

52. *Interpretation.* To the extent of any inconsistency between the Motion, the terms of the First Interim Order, the terms of the First Supplemental Interim Order, and the terms of this Third Interim Order, the terms of this Third Interim Order shall control.

53. *Tax Liens.* Notwithstanding any other provisions included in the Third Interim Order, or any agreements approved hereby, any statutory liens (collectively, the “Tax Liens”), of the Taxing Authorities<sup>3</sup> shall not be primed by nor made subordinate to any liens granted to any party hereby to the extent such Tax Liens are valid, senior, perfected, and unavoidable, and all parties’ rights to object to the priority, validity, amount, and extent of the claims and liens asserted by the Taxing Authorities are fully preserved. Nothing herein shall alter the rights of the Taxing Authorities in regards to distribution of proceeds from the sale of the Debtors’ tangible personal property or modify the orders entered by the court at Docket No. 452, Docket No. 462, or any other order entered whereby a segregated account has been established as adequate protection for the Taxing Authorities’ claims.

54. *Work-in-Process.* Notwithstanding anything to the contrary contained in this Third Interim Order, amounts payable to employees, materialmen, suppliers, workers, and others for postpetition goods and services on works-in-process as of August 3, 2020, shall be paid out of the proceeds of postpetition earned receivables prior to the rights of any other party.

55. *Final Hearing.* The Final Hearing on the Motion shall be held on September 2, 2020, at 1:30 p.m., prevailing Central Time.

Signed: August 27, 2020

  
Marvin Isgur  
United States Bankruptcy Judge

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<sup>3</sup> “Taxing Authorities” means collectively, Bexar County, Dallas County, Ector CAD, Fort Bend County, Harris County, Hood CAD, Liberty County, Victoria County, Brazos County, Medina County, Erath County, Tomball Independent School District, the City of Tomball, and any other Texas taxing entities represented by Perdue, Brandon, Fielder, Collins & Mott, LLP.



**Exhibit 1**

**Budget**

**BJS - Cash Collateral Budget**

Prepared 8/26/2020

(\$ in millions)

	Monday Forecast	Tue Forecast	Wed Forecast	Thur Forecast	Friday Forecast	Forecast	Forecast	Monday Forecast	Tue Forecast	Wed Forecast
Week Ending:	24-Aug	25-Aug	26-Aug	27-Aug	28-Aug	29-Aug	30-Aug	31-Aug	1-Sep	2-Sep
<b>Opening Cash</b>	\$ 19.3									
<b>Receipts:</b>										
Gross A/R Collections		\$ 4.1			\$ 1.0					\$ 5.5
Discounts/Settlement Payments	(1.3)							-		
Net Collections	(1.3)	4.1	-	-	1.0	-	-	-	-	5.5
Proceeds from Sale of Inventory										
Proceeds from Sale of Equipment				3.5						
Proceeds from Sale of Cement - Equipment				29.3						
Proceeds from Sale of Cement - Inventory				3.5						
Proceeds from Sale of Cement - Real Estate/IP				0.5						
Proceeds from Sale of R/E										
Proceeds from Sale to CSL - Equipment					20.0					
Proceeds from Sale to CSL - Other					14.0					
Proceeds from WIP										
Other Proceeds										
<b>Total Receipts</b>	\$ (1.3)	\$ 4.1	\$ -	\$ 36.8	\$ 35.0	\$ -	\$ -	\$ -	\$ -	\$ 5.5
<b>Disbursements:</b>										
Employee & Executive Compensation (Including Payroll Tax)		\$ (3.5)								\$ (2.5)
Pre-Petition Employee Compensation, T&E, 401k Remittance				(1.8)						-
Pre Petition Payroll Tax and Payment Card Expense										
PTO										
Trailing Employee Health Claims		(0.5)							(0.5)	
Required Canadian Termination Benefits		(0.1)								
<b>Sub-Total - Employee Related</b>	\$ -	\$ (4.0)	\$ -	\$ (1.8)	\$ -	\$ -	\$ -	\$ -	\$ (0.5)	\$ (2.5)
Accounting/Tax/Other Professionals		\$ (0.1)								
Facilities										
Security								(0.4)		
Information Technology			(0.4)					(1.2)		
Insurance (Other Excl. Property Insurance)	-	(0.6)						-		
<b>Sub-Total - Expenses</b>	\$ (0.6)	\$ (0.1)	\$ (0.4)	\$ -	\$ -	\$ -	\$ -	\$ (1.6)	\$ -	\$ -
Eq. Demobilization/Removal of Hazardous Materials										
Cementing completion and mobilization										
Cost of Stacking Equipment										
<b>Sub-Total - Equipment</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fracturing - New Operations	(3.0)							(1.4)		
WIP - Fracturing	-							(0.5)		
<b>Sub-Total - WIP</b>	\$ (3.0)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (1.9)	\$ -	\$ -
ABL Paydown				\$ (3.5)						
Professionals	(1.0)		(1.0)							(2.6)
US Trustee Fees										
Interest Payments										
503(b)(9) - Claims										
Utility Deposit										
Sales and Use Tax/Other Taxes								(0.5)		
Wind Down Contingency	-							-		
<b>Sub-Total - Chapter 11</b>	\$ (1.0)	\$ -	\$ (1.0)	\$ (3.5)	\$ -	\$ -	\$ -	\$ (0.5)	\$ -	\$ (2.6)
Required Titan Payments					\$ 2.4					
<b>Total Disbursements</b>										
Cement Going Concern Net Cash Flow	(1.4)									
RE Escrow Funding	(1.9)									
<b>Net Cash Flow</b>	\$ (9.2)	\$ (0.0)	\$ (1.4)	\$ 31.5	\$ 37.4	\$ -	\$ -	\$ (4.0)	\$ (0.5)	\$ 0.4
Asset Sale Proceeds Transferred to Segregated Accounts				(32.8)	(34.0)					-
<b>Ending Cash <sup>1</sup></b>	\$ 10.1	\$ 10.1	\$ 8.7	\$ 7.5	\$ 10.9	\$ 10.9	\$ 10.9	\$ 6.8	\$ 6.3	\$ 6.7
<b>Sub-Total - Transition Services</b>										

<sup>1</sup> Excludes amounts in the professional fee and utility deposit segregated accounts

**SCHEDULE "B"**



ENTERED  
08/26/2020

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

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

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

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

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

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

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

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

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

transfers, and other debits; (e) pay the Bank Fees, including any prepetition amounts, and any ordinary course Bank Fees incurred in connection with the Bank Accounts; and (f) to otherwise perform their obligations under the documents governing the Bank Accounts.

3. To the extent any of the Debtors' Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee's requirements or guidelines, the Debtors shall have until September 17, 2020, without prejudice to seeking an additional extension, to come into compliance with section 345(b) of the Bankruptcy Code and any of the U.S. Trustee's requirements or guidelines; *provided* that nothing herein shall prevent the Debtors or the U.S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the 45-day period referenced above by written stipulation with the U.S. Trustee and filing such stipulation on the Court's docket without the need for further Court order.

4. Except as set forth herein, the Cash Management Banks are authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. The Debtors and the Cash Management Banks may, without further order of this Court, agree to and implement changes to the Cash Management System and procedures related thereto in the ordinary course of business, including the closing of Bank Accounts, the opening of new bank accounts, and entering into any ancillary agreements, related to the foregoing, to the extent such actions are reasonably acceptable to the administrative agent under the Debtors' asset-based revolving credit facility; *provided* the Debtors provide reasonable

advance notice to the U.S. Trustee and any statutory committee appointed in these chapter 11 cases of any material changes to the Cash Management System and procedures; *provided, however*, that (a) by submitting any payment request to the Cash Management Banks, the Debtors shall ensure that such payment request is consistent with this Order and other orders of the Court and, (b) as needed and to the extent reasonably possible, the Debtors and Cash Management Banks will cooperate to ensure that all payments honored by the Cash Management Banks are consistent with the Debtors' direction.

5. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank; provided that any such new account is with one of the Debtors' existing Cash Management Banks or with a bank that is: (a) insured by the FDIC or the Federal Savings and Loan Insurance Corporation; (b) designated as an authorized depository pursuant to the U.S. Trustee's Operating Guidelines; (c) designated a "Debtor in Possession" account by the relevant bank; and (d) with a bank that agrees to be bound by the terms of this Final Order.

6. Each of the Cash Management Banks is authorized to debit the Debtors' Bank Accounts in the ordinary course of business without the need for further order of this Court for: (a) all checks drawn on the Debtors' Bank Accounts that are cashed at such Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with such Cash Management Bank prior to the Petition Date that have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date; and (c) all undisputed prepetition amounts



outstanding as of the date hereof, if any, owed to any Cash Management Bank as service charges for the maintenance of the Cash Management System.

7. Those certain deposit agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements shall remain in full force and effect absent further order of the Court or, with respect to any such agreement with any Cash Management Bank (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement and that the Bank Accounts are held by the same Debtors), unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

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

9. Subject to the terms set forth herein, any bank, including a Cash Management Bank, may rely upon the representations of the Debtors with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored

pursuant to any order of this Court, and no bank that honors a prepetition check or other item drawn on any account that is the subject of this Final Order at the direction of the Debtors or in a good-faith belief that this Court has authorized such prepetition check or item to be honored shall be deemed to be, nor shall be liable to the Debtors or their estates on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Final Order.

10. Notwithstanding anything to the contrary in any other order of this Court, any banks, including the Cash Management Banks, are: (a) authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; (b) authorized to accept and honor all representations from the Debtors as to which checks, drafts, wires, or ACH transfers should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, wires, or ACH transfers are dated prior to, on, or subsequent to the Petition Date; and (c) have no duty to independently inquire as to whether such payments are authorized by an order of this Court; *provided* that the Cash Management Banks shall not have any liability to any party for relying on such representations.

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

procedures, shall be deemed to be liable to the Debtors or their estates otherwise in violation of this Final Order.

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

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

14. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases authorizing the use of cash collateral (as may be modified, amended, or supplemented, the "Cash Collateral Orders") (including, without limitation, the budget required in connection therewith) and the Prepetition

ABL Loan Documents (as defined in the Cash Collateral Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such Cash Collateral Orders or Prepetition ABL Loan Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such Cash Collateral Orders shall govern.

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

16. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests

when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved in this Final Order.

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

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

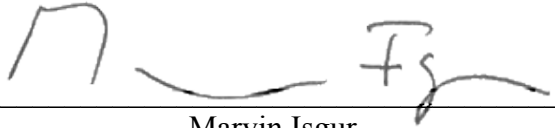
19. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

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

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

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

Signed: August 26, 2020



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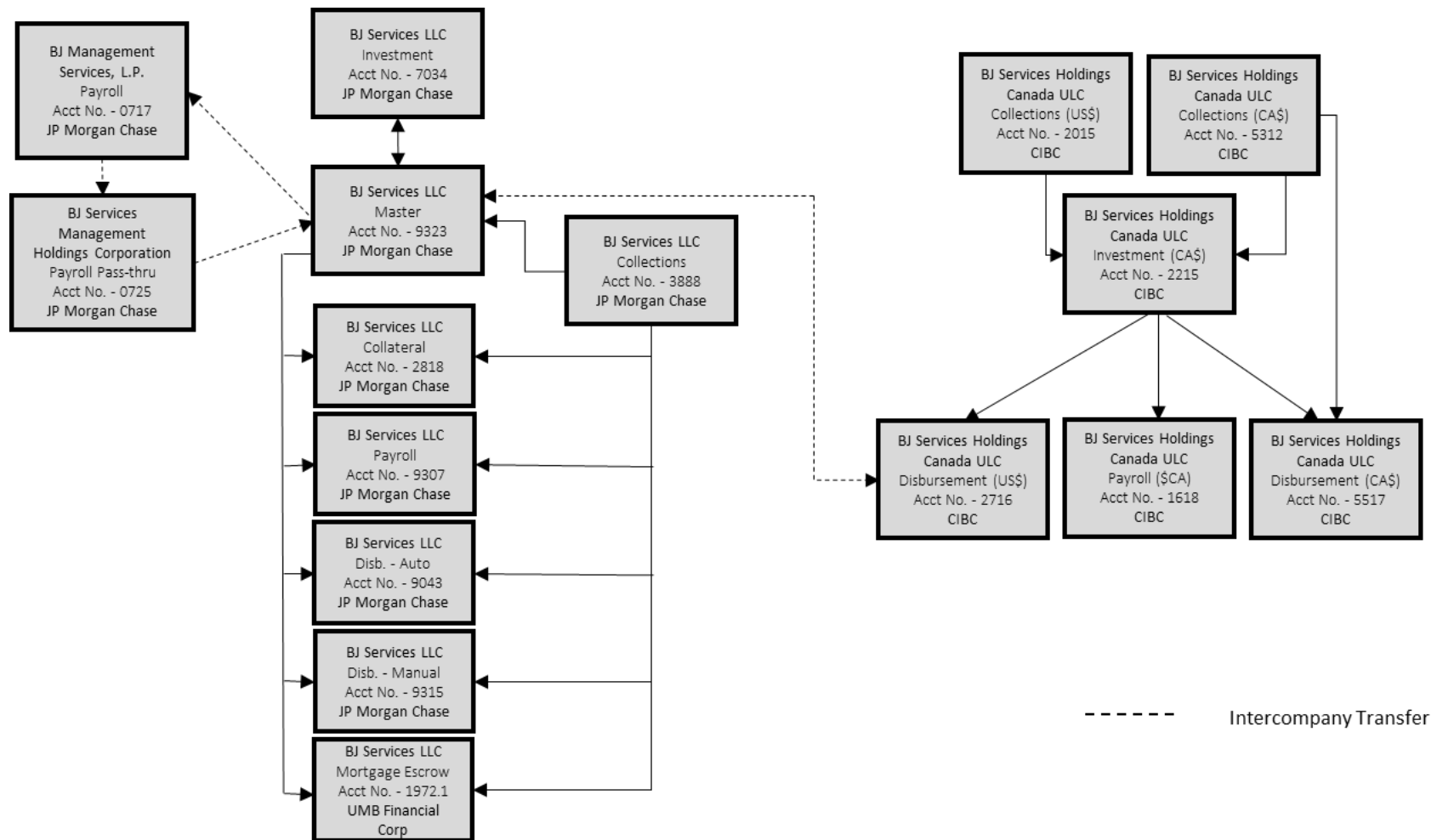
Marvin Isgur  
United States Bankruptcy Judge

**Exhibit A**

**Cash Management System Schematic**

# Exhibit A

## Cash Management System Schematic





**Exhibit B**

**Bank Accounts**

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

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

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

**SCHEDULE "C"**



ENTERED  
08/26/2020

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

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

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

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

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

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

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

1. The Debtors are authorized, but not directed, to honor, pay, or otherwise satisfy prepetition amounts on account of the Specified Trade Claims, in the estimated amounts and categories as described in the Motion, subject to the terms of the Cash Collateral Orders (as defined herein), including the Budget (as defined in the Cash Collateral Orders); *provided* that the Debtors shall only be authorized to make such payments to the extent that payment of any agreed amounts will result in greater collections of accounts receivables than the amount disbursed (based on an agreement with customers); *provided, further*, that in the event Debtors will exceed the aggregate amounts in any category as detailed in the Motion, Debtors shall file a notice with the Court describing the category and overage amount.

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

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

4. The Debtors must condition the completion of any Ongoing Project upon the execution of a Customer Agreement.

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

6. If any party accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with Customary Trade Terms, then: (a) any payment on account of a prepetition claim received by such party shall be deemed, in the Debtors’ discretion, an improper postpetition transfer and, therefore, immediately recoverable by the Debtors in cash upon written request by the Debtors; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding postpetition balance due from the Debtors to such party, the Debtors may elect to recharacterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding postpetition balance and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise. The Debtors shall provide a copy of this Final Order to the applicable party prior to such party’s acceptance of any payment hereunder.

7. The Debtors shall maintain a schedule/matrix of amounts paid pursuant to this Final Order including the following information: (a) the name of each Specified Trade Claimant paid on account of the Specified Trade Claims, (b) the amount and date paid to each Specified Trade Claimant, (c) the goods or services provided by such Specified Trade Claimant as characterized in

the motion, and (d) the Debtor or Debtors that made the payment. The Debtors shall provide a copy of such matrix/schedule to counsel to the administrative agent under the Debtors' asset-based revolving credit facility, the U.S. Trustee, and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Final Order.

8. Nothing herein shall impair or prejudice the rights of the U.S. Trustee and any statutory committee appointed in these chapter 11 cases, which are expressly reserved, to object to any payment made pursuant to this order to an insider (as such term is defined in section 101(31) of the Bankruptcy Code), or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment to an insider or an affiliate of an insider of the Debtors, subject to prior written approval of the administrative agent under the Debtors' asset-based revolving credit facility, the Debtors shall, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases; *provided* that if any party objects to the payment, the Debtors shall not make such payment without further order of the Court.

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

10. Any party that accepts payment from the Debtors on account of a Specified Trade Claim shall be deemed to have agreed to the terms and provisions of this Final Order. Notwithstanding anything to the contrary herein, prior to making any payment pursuant to this



Final Order to a holder of a Specified Trade Claim, the Debtors shall provide such holder with a copy of this Final Order (unless previously provided to such Specified Trade Claimant).

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

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

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

14. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion

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

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

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

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


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

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

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

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

Signed: August 26, 2020



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Marvin Isgur  
United States Bankruptcy Judge

**Exhibit A**

**Form of Trade Agreement**

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

## **TRADE AGREEMENT**

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

### **Recitals**

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

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

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

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

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

### **Agreement**

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

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

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

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

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

3. Agreement to Supply.

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

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

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

4. Other Matters.

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

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

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

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

5. Vendor Breach.

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

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

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

6. Notice.

If to Vendor:

[•]

and

[•]

If to Company:

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

and

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

and

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

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

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

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

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

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

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



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

9. Miscellaneous.

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

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

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

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

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

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

[Signature Page Follows]

AGREED AND ACCEPTED AS OF THE DATE SET FORTH ABOVE:

**[COMPANY]**

**[VENDOR]**

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By:  
Title:

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By:  
Title: