

EXHIBIT I

Further Cash Collateral Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
NEWBURY COMMON)	Case No. 15-12507 (LSS)
ASSOCIATES, LLC, <u>et al.</u> ,)	Jointly Administered
Debtors. ¹)	Re: Dkt. Nos. 176, 240, 348, 455, 540, 563, _____

FINAL ORDER FOR SEABOARD HOTEL LTS ASSOCIATES, LLC (I) APPROVING ENTRY INTO LETTER AGREEMENT; (II) AUTHORIZING THE CONTINUED USE OF CASH COLLATERAL; AND (III) GRANTING OTHER RELIEF

Upon consideration of the motion (the “**Motion**”)² of Seaboard Hotel LTS Associates, LLC (“**LTS**”) for the entry of an order (i) approving LTS’ entry into the Letter Agreement; (ii) authorizing the continued use of Cash Collateral,³ and (iii) granting other relief; and this Court having entered the *Corrected Final Order for Seaboard Hotel LTS Associates,*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number, are: Newbury Common Associates, LLC (3783); Seaboard Realty, LLC (6291); 600 Summer Street Stamford Associates, LLC (6739); Seaboard Hotel Member Associates, LLC (8984); Seaboard Hotel LTS Member Associates, LLC (6005); Park Square West Member Associates, LLC (9223); Seaboard Residential, LLC (2990); One Atlantic Member Associates, LLC (4120); 88 Hamilton Avenue Member Associates, LLC (5539); 316 Courtland Avenue Associates, LLC (0290); 300 Main Management, Inc. (6365); 300 Main Street Member Associates, LLC (2334); PSWMA I, LLC (6291); PSWMA II, LLC (6291); Tag Forest, LLC (8974); Newbury Common Member Associates, LLC (3909); Century Plaza Investor Associates, LLC (1480); Seaboard Hotel Associates, LLC (2281); Seaboard Hotel LTS Associates, LLC (8811); Park Square West Associates, LLC (9781); Clocktower Close Associates, LLC (3154); One Atlantic Investor Associates, LLC (7075); 88 Hamilton Avenue Associates, LLC (5749); 220 Elm Street I, LLC (7540); 300 Main Street Associates, LLC (8501); and 220 Elm Street II, LLC (7625). The Debtors’ corporate headquarters is located at, and the mailing address for each Debtor is, 1 Atlantic Street, Stamford, CT 06901.

² Each capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Motion.

³ The term “Cash Collateral” as used in this Order does not include the funds in the following bank accounts at Israel Discount Bank of New York (“**IDB**”): (1) account number **-*146-2 in the name Park Square West Associates LLC, (2) account number **-*095-3 in the name Park Square West Member Associates LLC and (3) account number **-*151-8 in the name Israel Discount Bank FBO Park Square West Member Associates LLC (collectively, the “**IDB Excluded Accounts**”).

LLC Regarding Motion (I) Authorizing the Use of Cash Collateral; (II) Granting Adequate Protection to Israel Discount Bank of New York; and (III) Granting Other Relief [Docket No. 563] (the “**Prior Cash Collateral Order**”); and it appearing that due and appropriate notice of the Motion, the relief requested therein, and the hearing thereon has been given by LTS in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014 and all applicable Local Rules; and all objections, if any, to the relief requested in the Motion having been withdrawn, resolved, or overruled by the Court; and it appearing to the Court that granting the relief requested in the Motion is fair and reasonable, in the best interests of LTS, its estate, creditors, and equity holders; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and it appearing that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:⁴

A. Petition. On December 13, 2015, the Original Debtors with the exception of Tag Forest, LLC (“**Tag**”) each commenced a voluntary case under chapter 11 of the Bankruptcy Code. On December 14, 2015, Tag commenced its voluntary case under chapter 11 of the Bankruptcy Code. On February 3, 2016 (the “**LTS Petition Date**”), each of the Additional Debtors with the exception of 88 Hamilton Avenue Associates, LLC (“**88 Hamilton**”) and 220 Elm Street II, LLC (“**220 Elm II**”) commenced a voluntary case under

⁴ Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, as appropriate, pursuant to Bankruptcy Rule 7052.

chapter 11 of the Bankruptcy Code. On February 4, 2016, 88 Hamilton commenced its voluntary case under chapter 11 of the Bankruptcy Code. On March 17, 2016, 220 Elm II commenced a voluntary case under chapter 11 of the Bankruptcy Code. Each of the Debtors is authorized to, and continues to, operate its business(es) and manage its property(ies) as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. Jurisdiction and Venue. The Court has jurisdiction of this proceeding and the property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. The Motion is a “core” proceeding as defined in 28 U.S.C. §§ 157(b) (2) (A), (D) and (M). Pursuant to Local Rule 9013-1(f), LTS consents to the entry of a final judgment or order with respect to the Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Official Committee. As of the date hereof, the United States Trustee for the District of Delaware (the “U.S. Trustee”) has not yet appointed any official committees in the Debtors’ chapter 11 cases pursuant to section 1102 of the Bankruptcy Code.

D. Notice. Notice of the Motion and the relief requested therein was served on (a) the Office of the United States Trustee for Region 3, serving the District of Delaware; (b) the Prepetition Secured Parties and their counsel; (c) the other prepetition lenders and their counsel; (d) the United States Attorney’s Office for the District of Delaware; (e) the United States Attorney General; (f) the Internal Revenue Service; (g) the parties included on the Debtors’ list of largest unsecured creditors; and (h) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002 in the Debtors’

bankruptcy cases. Notice has been given of the Motion and the relief requested therein pursuant to Bankruptcy Rules 2002, 4001(b) and (d) and the Local Rules.

E. Need to Use Cash Collateral. LTS has an immediate need for cash to, among other things, preserve and maintain LTS' assets, absent which immediate and irreparable harm will result to LTS and its estate. The preservation and maintenance of LTS' assets is necessary to maximize value. Absent LTS' ability to obtain cash, LTS would not have sufficient available sources of working capital or financing and would be unable to pay its operating expenses or maintain its assets, to the severe detriment of its estate. Accordingly, the relief granted herein is (i) critical to LTS' ability to maximize the value of its chapter 11 estate, (ii) in the best interests of LTS and its estate, and (iii) necessary, essential, and appropriate to avoid immediate and irreparable harm to LTS and its assets.

F. Good Cause. Good cause has been shown for entry of this Order, and the entry of this Order is in the best interests of LTS and its estate. The terms of this Order are fair and reasonable under the circumstances, and reflect LTS' exercise of prudent business judgment consistent with its fiduciary duties.

G. The \$6 Million Loan. On or about December 28, 2012, IDB agreed to make a loan to LTS in the principal amount of \$6,000,000 (the "**\$6MM Loan**"). For the purpose of evidencing the indebtedness due to IDB in connection with the \$6MM Loan, LTS made, executed and delivered to IDB that certain Open End Mortgage Note dated December 28, 2012 in the principal sum of \$6,000,000, with interest thereon (as modified by that certain Open End Mortgage Note Extension Agreement dated December 30, 2013, that certain Open End Mortgage Note Second Extension Agreement dated March 30, 2014 and that certain Open End Mortgage Note Third Extension Agreement dated June 30, 2014, collectively, the "**\$6MM Note**"). LTS'

obligations under the \$6MM Note are secured by (a) that certain Open End Mortgage Deed dated December 28, 2012, between LTS and IDB (the “**Open End Mortgage Deed**”), pursuant to which LTS mortgaged its interests in and to the real property located at 23-25, 35 and 37 Atlantic St., Stamford, Connecticut 06901 (the “**Real Property**”) and granted a security interest in and to that certain personal property more particularly described under Section 13.26 of the Open End Mortgage Deed (the “**Personal Property**” and together with the Real Property, each as more particularly described in the Open End Mortgage Deed, collectively, the “**Pre-Petition Collateral**”), each in favor of IDB and (b) that certain Assignment of Rents and Leases dated December 28, 2012 (the “**ALR**”).

H. The \$11 Million Loan. On or about July 18, 2014, IDB agreed to lend an additional \$5,000,000 to LTS for a total principal indebtedness of \$11,000,000 (the “**\$11MM Loan**”). LTS’ increased indebtedness under the \$11MM Loan is evidenced in part by that certain Amended and Restated Open End Mortgage Note dated July 18, 2014 in the principal sum of \$11,000,000 (as amended by that certain Second Amended and Restated Open End Mortgage Note dated December 31, 2014, that certain Third Amended and Restated Open End Mortgage Note dated April 30, 2015 and that certain Fourth Amended and Restated Open End Mortgage Note dated August 31, 2015, collectively, the “**\$11MM Note**”). In connection with LTS’ increased indebtedness under the \$11MM Loan, LTS and IDB further agreed to modify the Open End Mortgage Deed in accordance with that certain Open-End Mortgage Deed Modification Agreement dated July 18, 2014 (the “**Mortgage Deed Modification Agreement**” and together with the \$6MM Note, the \$11MM Note, the Open End Mortgage Deed, the ALR, and any and all other instruments and documents evidencing, securing and/or governing the amounts due in connection with the \$11MM Loan, all as at any time amended, restated,

modified, substituted, extended or renewed from time to time, collectively, the “**\$11MM Loan Documents**”).

I. The \$7 Million Loan. On or about April 15, 2015, IDB agreed to lend an additional \$7,000,000 to LTS (the “**\$7MM Loan**”). For the purpose of evidencing the indebtedness due to IDB in connection with the \$7MM Loan, LTS made, executed and delivered to IDB that certain Subordinate Open End Mortgage Note dated April 15, 2015 in the principal sum of \$7,000,000, with interest thereon (as modified by that certain First Amended and Restated Subordinate Open End Mortgage Deed Note, dated April 30, 2015 and that certain Second Amended and Restated Subordinate Open End Mortgage Deed Note dated August 31, 2015, collectively, the “**\$7MM Note**”). LTS’ obligations under the \$7MM Note are secured by that certain Subordinate Open End Mortgage Deed dated April 15, 2015, between LTS and IDB (as at any time amended, restated, supplemented or otherwise modified, the “**Subordinate Open End Mortgage Deed**” and together with the \$7MM Note, and any and all other instruments and documents evidencing, securing and/or governing the amounts due in connection with the \$7MM Loan, all as at any time amended, restated, modified, substituted, extended or renewed from time to time, collectively the “**\$7MM Loan Documents**” and together with the \$11MM Loan Documents, collectively, the “**Loan Documents**”), pursuant to which LTS mortgaged its interests in and to the Real Property and granted a security interest in and to the Personal Property, each in favor of IDB.

J. The \$11MM Loan evidenced by the \$11MM Loan Documents is secured by valid, enforceable, unavoidable and properly perfected first priority liens against the Pre-Petition Collateral. The \$7MM Loan evidenced by the \$7MM Loan Documents is secured by

valid, enforceable, unavoidable and properly perfected second priority liens against the Pre-Petition Collateral, junior only to the liens in favor of IDB securing the \$11MM Loan.

K. Holder of Notes. IDB is currently the holder of the \$11MM Note and \$7MM Note, and is entitled to payment in full.

L. Stipulations. Without prejudice to the rights of any other party, but in each case subject to the limitations set forth in this Order, LTS represents, admits, stipulates and agrees (collectively, the “**LTS’ Stipulations**”) as follows:

a. Cash Collateral. Any and all of LTS’ cash, including cash and other amounts on deposit or maintained in any account or accounts by or for LTS (including but not limited to escrows and reserves) and any amounts generated by the disposition of any Pre-Petition Collateral, and the proceeds of any of the foregoing is IDB’s cash collateral within the meaning of section 363(a) of the Bankruptcy Code (the “**Cash Collateral**”).

b. Prepetition Financing Documents. LTS is a current party to the Loan Documents and is obligated thereunder.

c. \$11MM Loan Prepetition Obligations Amount. LTS acknowledges and agrees that as of September 16, 2016, there was due and owing to IDB from LTS on the \$11MM Note the principal balance of \$12,007,548.64, plus interest, late charges, attorney’s fees, costs and other amounts⁵ under the \$11MM Loan Documents (the “**\$11MM Loan Amount**”).

d. \$7MM Loan Prepetition Obligations Amount. LTS acknowledges and agrees that as of September 16, 2016, there was due and owing to IDB from LTS on the \$7MM Note the principal balance of \$7,000,000.00, plus interest, late charges, attorney’s fees, costs

⁵ Any obligations incurred post-petition are subject to the limitations of section 506(b) of the Bankruptcy Code.

and other amounts⁶ under the \$7MM Loan Documents (the “**\$7MM Loan Amount**” and together with the \$11MM Loan Amount, collectively, the “**Secured Obligations**”). The Secured Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of LTS and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law. LTS reaffirms (1) all of the Secured Obligations and the Pre-Petition Liens (as that term is defined below) and (2) all of LTS’ obligations under the Loan Documents. LTS (i) does not possess, and shall not assert, any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Secured Obligations or any of the Pre-Petition Liens and (ii) irrevocably waives any claim or right to contest the validity, enforceability, priority, and non-avoidability of the Secured Obligations and the Pre-Petition Liens, whether under Bankruptcy Code Section 541, 544, 547, 548, 550 or otherwise (which waiver shall be binding and enforceable upon the Debtors and any successors-in-interest, including any trustee appointed in these or any converted cases).

e. Prepetition Liens and Collateral. As of the LTS Petition Date, repayment of the \$11MM Loan Amount was secured pursuant to the \$11MM Loan Documents and applicable law by valid, perfected, enforceable and non-avoidable first priority security interests and liens (the “**First Liens**”) granted by LTS to IDB against the Pre-Petition Collateral. As of the LTS Petition Date, repayment of the \$7MM Loan Amount was secured pursuant to the \$7MM Loan Documents and applicable law by valid, perfected, enforceable and non-avoidable second priority security interests and liens granted by LTS to IDB against the Pre-Petition Collateral, junior only to the First Liens (the “**Second Liens**” and together with the First Liens, collectively, the “**Pre-Petition**

⁶ Any obligations incurred post-petition are subject to the limitations of section 506(b) of the Bankruptcy Code

Liens”). The Pre-Petition Liens (i) are valid, binding, perfected, enforceable and non-avoidable first and second priority⁷ liens and security interests against the Pre-Petition Collateral, (ii) are not subject to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense or “claim” (as that term is defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or other applicable law, and (iii) constitute legal, valid, unavoidable and binding obligations of LTS, enforceable in accordance with the terms of the Loan Documents.

f. No Claims. LTS, on behalf of itself, its estate, all of LTS’ past, present and future predecessors, successors, subsidiaries, affiliates and assigns, and the other Debtors (collectively, the “**Releasers**”) represent, warrant, covenant and agree that they hold no valid or enforceable “claim” (as that term is defined in the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights of any kind against IDB and its predecessors, successors and assigns or their respective current and former officers, directors, shareholders, subsidiaries, affiliates, employees, members, managers, partners, advisors, attorneys, professionals, accountants, consultants, agents and other representatives with respect to the Loan Documents, the Pre-Petition Liens and the Secured Obligations. The Releasers hereby forever waive and release any and all “claims” (as that term is defined in the Bankruptcy Code), counterclaims, causes of action, defenses, or setoff rights with respect to the Loan Documents, the Pre-Petition Liens and the Secured Obligations that the Releasers have, have had or may have against IDB and its predecessors, successors and assigns and their respective current and former officers, directors, shareholders, subsidiaries, affiliates, employees, members, managers, partners, advisors, attorneys, professionals, accountants, consultants, agents and other representatives, whether at law or in equity, including any recharacterization, subordination, avoidance or other claims or causes of

⁷ As described in the previous sentence.

action arising under or pursuant to Section 105 or Chapter 5 of the Bankruptcy Code and under any other similar provisions of applicable state or federal law.

g. Section 552(b) and Section 506(c). IDB is entitled to a waiver of (i) any “equities of the case” exception under Section 552(b) of the Bankruptcy Code and (ii) the provisions of Section 506(c) of the Bankruptcy Code.

M. Consent. IDB has consented to the relief set forth in this Order.

N. Excluded Accounts. For the avoidance of doubt, the funds in the IDB Excluded Accounts are not “Cash Collateral” for purposes of this Order. The Debtors and IDB expressly reserve all claims, rights and remedies related to the IDB Excluded Accounts and nothing in this Order shall be an admission or waiver with respect to such claims, rights and remedies with respect thereto.

O. Good Faith. LTS’ use of Cash Collateral has been negotiated in good faith and at arms’ length between LTS and IDB, and IDB’s consent to LTS’ use of Cash Collateral shall be deemed to have been made in “good faith.”

P. Relief Essential; Best Interest. The relief requested by LTS provided pursuant to this Order is necessary, essential, and appropriate for the management and preservation of LTS’ assets and the property of its estate during the Cash Collateral Period. LTS has demonstrated good and sufficient cause for the relief granted herein.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Motion is granted as set forth herein.
2. All objections to the relief sought in the Motion, to the extent not withdrawn or resolved, are hereby overruled on the merits.

3. Authorization to Use Advances. Pursuant to the terms and conditions of this Order, LTS is authorized to use any cash provided by IDB in the form of an Advance (as defined below) as set forth in the budget annexed hereto as Exhibit A (the “**Budget**”) relating to the Real Property, and in accordance with the terms set forth herein, through and including the earlier of (a) January 15, 2017 and (b) the occurrence of a Termination Event (the “**Cash Collateral Period**”). For the avoidance of doubt, (a) LTS shall not withdraw any funds from or take any other action with respect to the IDB Excluded Accounts, (b) the IDB Excluded Accounts shall remain frozen pending further order of this Court and (c) all claims, rights and remedies of IDB with respect to the IDB Excluded Accounts are preserved and nothing in this Order shall be an admission or waiver with respect to such claims, rights and remedies.

4. Approval of Letter Agreement. The Letter Agreement, a true and correct copy of which is attached hereto as Exhibit B and incorporated herein by reference, and each of its terms are approved, including but not limited to IDB’s payment of \$475,000 for purposes of funding restructuring costs in accordance with paragraph 4 thereof. LTS is authorized to take any and all actions and to execute any and all documents and instruments necessary and/or proper to effectuate the transactions set forth in the Letter Agreement.

5. Segregated Account to be Maintained. During the Cash Collateral Period, LTS shall continue to maintain a separate, segregated account (the “**Segregated Account**”) for the Real Property. Except as set forth in the next sentence, all Advances shall be deposited in the Segregated Account and, except to the extent otherwise set forth herein, all expenses relating to the Real Property set forth in the Budget shall be paid out of the Segregated Account pending further order of this Court. Notwithstanding the foregoing, IDB may make Advances in the form, of direct payments to vendors of LTS.

6. Actual Expenses. During the Cash Collateral Period, LTS is authorized to use Advances received for actual expenses for the Real Property not to exceed the amounts set forth in the Budget. To the extent not used for actual expenses, all Advances for the Real Property shall remain in the Segregated Account subject to the Post-Petition Lien (as that term is defined below), pending further Order of this Court.

7. Protective Advances. IDB shall only be obligated to make advances of funds to LTS so that the expenditures can be paid as set forth in the Budget, and may, but shall not be obligated to make, further advances for amounts in addition to those set forth in the Budget (each an “Advance” and collectively, the “Advances”). Each Advance shall be deemed a protective advance under the \$11MM Loan Documents and shall have the same security and priority as the First Liens. For the avoidance of doubt, (1) nothing in this Order shall obligate IDB to make any Advance or pay any other amount not set forth in the Budget, and (2) IDB shall not be obligated to make any Advances (whether in the Budget or otherwise) after a Termination Event. .

8. IDB Reporting. LTS shall deliver to IDB, the U.S. Trustee and counsel to any official committee appointed in LTS’ chapter 11 case, a monthly report showing, in reasonable detail, a comparison of actual receipts and disbursements against the receipts and disbursements projected in the Budget (the “Variance Report”). The Variance Report shall be delivered within 14 days following the month subject to the Variance Report.

9. Lien. (a) To secure the repayment by LTS to IDB of the amount of any Advances made by IDB, IDB is hereby granted the following liens (collectively the “**Post-Petition Lien**”) :

(1) a valid and perfected first priority lien in and to all funds currently on deposit or hereafter deposited into the Segregated Account; and

(2) a valid and perfected lien on all property of LTS, whether now owned or hereafter acquired or existing and wherever located (the “**Replacement Collateral**”), subject to all valid, enforceable and non-avoidable liens and security interests that were perfected prior to the LTS’ Petition Date (or perfected thereafter to the extent permitted under Section 546(c) of the Bankruptcy Code), which are not subject to avoidance, disallowance or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law and which are senior to the First Liens, as of the LTS Petition Date; provided however, that the Post-Petition Lien in and to the Replacement Collateral shall not attach to causes of action arising under Chapter 5 of the Bankruptcy Code or the proceeds thereof. The Post-Petition Lien in and to the Replacement Collateral shall have the same scope, priority, validity and enforceability that the First Liens have with respect to the Pre-Petition Collateral and the Cash Collateral.

(b) No additional filing or recordation of any statements or documents shall be required to perfect the Post-Petition Lien.

(c) The Post-Petition Lien shall be enforceable against and binding upon LTS, its creditors, the other Debtors, any third parties, LTS’ estate, and any successors of any thereof.

(d) LTS hereby grants to IDB, an allowed super-priority administrative expense claim under section 507(b) of the Bankruptcy Code equal to the amount of any Advances made by IDB to LTS.

10. Lien and Claim Priorities.

- a. Except as provided herein, the Post-Petition Lien shall not be made subject to or *pari passu* with any lien or security interest by any court order heretofore or hereafter entered in LTS' or any of the other Debtors' chapter 11 cases or in any Successor Cases (defined below). The Post-Petition Lien shall not be subject to sections 506(c), 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be made *pari passu* with or senior to the Post-Petition Lien.
- b. LTS shall not grant any liens that are senior or equal in priority to the Post-Petition Lien.
- c. LTS shall not grant any superpriority administrative expense claim that is senior or equal in priority to the superpriority administrative expense claim that is granted to IDB pursuant to section 9 (d) of this Order.

11. Preservation of Rights. If any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect the validity, perfection, priority, allowability, or enforceability of any claim, lien, security interest or priority authorized or created by this Order in favor of IDB prior to the

effective date of such reversal, modification, vacatur or stay, and IDB shall be entitled to all of the rights, remedies, protections and benefits granted under this Order.

12. Events of Default. Any material non-compliance with this Order by LTS shall be an Event of Default. Any party in interest (other than IDB) that asserts that an Event of Default has occurred shall file and serve on LTS, IDB, all parties filing notices of appearance, and the U.S. Trustee an affidavit of default that describes in detail the alleged Event of Default. LTS shall have five (5) days from receipt of the affidavit of default to cure the Event of Default. If any party in interest asserts that LTS has not cured the Event of Default, that party shall file and serve a motion, on shortened (but not less than seven (7) days') notice to LTS, IDB, all parties filing notices of appearance, and the U.S. Trustee, requesting a hearing and an Order from the Court terminating LTS' authority to use Cash Collateral or other relief.

13. Rights and Remedies Upon Termination Event.

- a. With respect to LTS' authorization to use Cash Collateral, each of the following shall constitute a "**Termination Event**" enforceable only by IDB in accordance with the terms of this Order: (i) the date of LTS' execution and delivery (and IDB's acceptance) of (1) the Deed in Lieu (as that term is defined in the Letter Agreement) as provided in paragraph 2 of the Letter Agreement or (2) a document in the same form as the Deed in Lieu as provided in paragraph 3(g) of the Letter Agreement; (ii) the closing of the sale of the Real Property as contemplated in paragraphs 3 (c)-(f) of the Letter Agreement, (iii) the effective date of a plan of reorganization for LTS; (iv) the entry of any order appointing a trustee or examiner with expanded powers in LTS'

chapter 11 case; (v) the entry of an order converting or dismissing LTS' chapter 11 case; (vi) the filing of a motion by LTS, without the prior written consent of IDB, seeking authorization to obtain postpetition financing that is senior to or *pari passu* with the Secured Obligations, the Pre-Petition Liens or the Post-Petition Lien; (vii) a filing by LTS of or LTS' support for any motion or application or adversary proceeding challenging the extent, validity, enforceability, perfection or priority of the Pre-Petition Liens or any other cause of action against IDB and/or with respect to the Secured Obligations or the Pre-Petition Liens (including but not limited to the priming of such liens); (viii) the failure by LTS to perform, in any material respect, any of the terms, provisions, conditions, covenants or obligations under this Order; (ix) LTS shall create, incur or suffer any other claim which is *pari passu* with or senior to the superpriority administrative expense claim granted IDB hereunder; (x) the reversal, vacatur or material modification of this Order (other than a modification acceptable to IDB in accordance with this Order or a modification with the express prior written consent of IDB); (xi) any portion of the Pre-Petition Liens shall cease to be, or shall be asserted by LTS not to be, a valid and perfected lien against the Pre-Petition Collateral, with the priority required by the Loan Documents; and (xii) LTS shall propose or support a plan of reorganization that (1) seeks to treat the claims of IDB in a manner that is not consented to by IDB or is inconsistent with

the terms of this Order, or (2) seeks to restructure or modify the Loan Documents without IDB's consent.

- b. Upon the occurrence of a Termination Event, the automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified solely for IDB to the extent necessary to effectuate the terms and provisions of this Order, including, without limitation, to permit IDB to exercise all rights and remedies provided for under this Order, and to take any or all of the following actions upon written notice to counsel to LTS, counsel to any Official Committee of Unsecured Creditors in LTS' bankruptcy case and counsel to the U.S. Trustee as set forth below, but without further order of or application to this Court: (a) immediately terminate LTS' use of Cash Collateral; and (b) take any other actions or exercise any other rights or remedies permitted under this Order, the Loan Documents or applicable law; *provided, however*, that with respect to a Termination Event arising under paragraphs 13(a)(viii), or 13(a)(xi), IDB shall provide five (5) business days written notice (the "**Termination Notice**") to counsel to LTS, counsel to any Official Committee of Unsecured Creditors in LTS' bankruptcy case and counsel to the U.S. Trustee prior to taking actions under (a) or (b) (the "**Remedies Notice Period**"). The rights and remedies of IDB specified herein are cumulative and not exclusive of any rights or remedies that IDB may have under the Loan Documents, under any prior orders of the Court or otherwise. During

the Remedies Notice Period, LTS and/or any Official Committee of Unsecured Creditors in LTS' bankruptcy case shall be entitled to seek an emergency hearing with the Court seeking a determination as to whether a Termination Event under paragraphs 13(a)(viii) or 13(a)(xi) has occurred, to seek the continued use of Cash Collateral or other appropriate relief.

- c. Notwithstanding the occurrence of any Termination Event, LTS may continue to use Cash Collateral for the payment of any unpaid postpetition administrative expense that LTS is otherwise authorized to pay pursuant to this Order so long as such expense was actually incurred prior to the date of the Termination Event.

14. No Priming. LTS shall not obtain or attempt to obtain debtor in possession financing and shall not, at any time, prime or attempt to prime the Pre-Petition Liens or the Post-Petition Lien or grant or attempt to grant any debtor in possession lender, in connection with any subsequent financing or plan of reorganization, a super-priority administrative expense claim senior or equal in priority to the super-priority administrative expense claim granted IDB pursuant to this Order.

15. No Surcharge.

- a. No costs or expenses of administration which have been or may be incurred at any time during the Debtors' chapter 11 cases or any Successor Cases, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from (1) IDB, (2) any of IDB's claims, (3) the Pre-Petition

Collateral, (4) the Cash Collateral, (5) the Segregated Account or (6) the Replacement Collateral, pursuant to sections 105, 506(c) and/or 552 of the Bankruptcy Code or otherwise.

- b. IDB shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code and, the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to IDB with respect to proceeds, products, offspring, profits or rents of any of (1) the Pre-Petition Collateral, (2) the Cash Collateral, (3) the Segregated Account or (4) the Replacement Collateral.

16. Effect of Stipulations; Challenge. Each of the findings, admissions and stipulations contained in this Order, including, without limitation, the LTS’ Stipulations set forth above, shall be binding on, and shall inure to the benefit of, LTS, the other Debtors, IDB, IDB’s successors and assigns, all other creditors of any of the Debtors, all equity holders in any of the Debtors, any committee appointed in any of the Debtors’ chapter 11 cases, and all other parties in interest and their respective successors and assigns, including any trustee or fiduciary hereafter appointed in any of the Debtors’ chapter 11 cases, or in any cases under chapter 7 of the Bankruptcy Code upon the conversion of any of the Debtors’ chapter 11 cases or in any other proceedings superseding any of the foregoing (collectively, “**Successor Cases**”), or upon dismissal of any of the Debtors’ chapter 11 cases or any Successor Cases, and solely to the extent that, (a) any committee appointed in LTS’ chapter 11 case, any creditor of LTS or any other party in interest with standing and requisite authority, has timely filed an adversary proceeding (subject to the limitations set forth below) challenging the amount, validity, or enforceability of

the Secured Obligations, or the perfection or priority of the Pre-Petition Liens in and to the Pre-Petition Collateral, or otherwise asserting any claims or causes of action on behalf of LTS' estate against IDB, no later than the earlier of (x) forty-five (45) days from the date of entry of this Order and (y) the confirmation of a plan of reorganization or liquidation in LTS' chapter 11 case, and (b) a final order or judgment of a court of competent jurisdiction is entered in favor of the plaintiff in any such timely and properly filed adversary proceeding. If no such adversary proceeding is timely commenced as of such date, then, without further order of the Court, (i) all claims, liens and security interests of IDB in relation to the Loan Documents shall be deemed to be finally allowed for all purposes in the Debtors' chapter 11 cases and any Successor Cases and shall not be subject to challenge by any committee appointed in LTS' chapter 11 case, any creditor of LTS, or any other party in interest as to validity, priority, extent, amount or otherwise, and (ii) the Debtors and their estates shall be deemed to have fully and finally released any and all claims or causes of action, if any, against IDB relating to the Pre-Petition Liens, the Loan Documents or any related transactions. Notwithstanding anything to the contrary herein, if any such adversary proceeding is timely commenced, the stipulations contained in Paragraph L of the Recitals shall nonetheless remain binding on all parties in interest and be preclusive except to the extent that such stipulations are expressly challenged and favorably determined by an order of a court of competent jurisdiction in such timely filed adversary proceeding.

17. Post-Petition Lien Perfection. This Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Post-Petition Lien without the necessity of filing or recording any financing statement, deed of trust, mortgage, security agreement, notice of lien, or other instrument or document that may otherwise be required under the law of any jurisdiction or the taking of any other action (including, for the avoidance of

doubt, entering into any deposit account control agreement) to validate or perfect the Post-Petition Lien or entitle the Post-Petition Lien to the priorities granted herein.

18. Post-Conversion Carve Out. The Post-Petition Lien and the super-priority administrative expense claim granted to IDB in this Order shall, in the event LTS' chapter 11 case is converted to chapter 7, be subject to the reasonable fees and expenses of a chapter 7 trustee, not to exceed \$10,000.00, in the aggregate, that may be allowable under section 724(b) of the Bankruptcy Code.

19. Limitation on Usage. No portion of (1) the Pre-Petition Collateral, (2) the Cash Collateral, (3) the Segregated Account or (4) the Replacement Collateral and no disbursements set forth in the Budget, shall be used: (a) for the payment of professional fees, disbursements, costs or expenses incurred in connection with or to finance in any way any action, suit, arbitration, proceeding, application, motion or other litigation of any type (or the preparation of any such action, suit, arbitration, proceeding, application, motion or other litigation): (i) against IDB or seeking relief that would impair IDB's rights and remedies with respect to the Pre-Petition Liens, the Post-Petition Lien, under the Loan Documents or under this Order including, without limitation, (A) to assert, commence or prosecute any claims or causes of action whatsoever, including, without limitation, any actions under chapter 5 of the Bankruptcy Code, against IDB; (B) to prepare or prosecute an objection to, contest in any manner or raise any defenses to the validity, extent, amount, perfection, priority or enforceability of any of the rights, liens and remedies of IDB or seeking affirmative relief against IDB; or (C) for the payment of any services rendered by the professionals retained by the Debtors or any Official Committee of Unsecured Creditors in connection with the assertion of, or joinder in, any claim, counterclaim, action, proceeding, application, motion, objection, defense or other

contested matter, the purpose of which is to seek, or the result of which would be to obtain, any Order, judgment, determination, declaration or similar relief that would impair the ability of IDB to recover on the Secured Obligations; (ii) invalidating, setting aside, avoiding or subordinating, in whole or in part, the Loan Documents, the Pre-Petition Liens or the Post-Petition Lien; (iii) for monetary, injunctive or other affirmative relief against IDB, the Pre-Petition Collateral, the Post-Petition Collateral the Cash Collateral or the Segregated Account that would impair the ability of IDB to recover on the Secured Obligations or seeking affirmative relief against IDB; or (iv) preventing, hindering or otherwise delaying the exercise by IDB of any rights and/or remedies under this Order, the Loan Documents or applicable law; or (b) to object to or challenge in any way the claims, liens or interests held by IDB.

20. Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified solely to the extent necessary to permit (a) LTS and IDB to implement the terms of this Order and the Letter Agreement and (b) LTS to grant the Post-Petition Lien under this Order.

21. No Third Party Rights. Except for (a) any subsequent owner of the \$11MM Loan and the \$11MM Loan Documents and (b) any subsequent owner of the \$7MM Loan and the \$7MM Loan Documents, and except as otherwise explicitly provided for herein, this Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

22. Survival. This Order and any actions taken pursuant hereto shall survive entry of any order that may be entered: (i) confirming any plan of reorganization in LTS' chapter 11 case; (ii) converting LTS' chapter 11 case to a case under chapter 7 of the Bankruptcy Code;

(iii) to the extent authorized by applicable law, dismissing LTS' chapter 11 case; or (iv) withdrawing the reference of LTS' chapter 11 case from this Court.

23. The terms and provisions of this Order shall continue in full force and effect until all of the prepetition and post-petition obligations of LTS to IDB have been irrevocably paid in full and discharged.

24. Successors and Assigns. The provisions of this Order shall be binding upon and inure to the benefit of LTS and its estate, IDB, and their respective successors and assigns, including, without limitation, any trustee, committee, or other fiduciary hereafter appointed as a legal representative of LTS or its estate in this chapter 11 case or in any subsequent chapter 7 case.

25. Enforceability. This Order shall take effect and be fully enforceable immediately upon entry.

26. Waiver of Any Applicable Stay. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Order.

27. IDB's consent hereto to this Order shall not be construed as a waiver of any defaults, rights or remedies under the Loan Documents, or of any rights or remedies related thereto as against any guarantors or any third parties. Except as explicitly provided for herein, this Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect or incidental beneficiary.

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

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

Dated: _____, 2016
Wilmington, Delaware

HON. LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE