

EXHIBIT 1-A

Revised Interim DIP Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Alpha Latam Management, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 21-11109 (JKS)

(Jointly Administered)

Re: Docket Nos. 14 & 15

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION
FINANCING AND GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE
CLAIMS, (II) SCHEDULING A FINAL HEARING AND
(III) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”) of Alpha Latam Management, LLC and its affiliated debtors (the “**Debtors**”) for entry of an order pursuant to sections 105, 362, 363 and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the “**Bankruptcy Code**”) and Rules 2002-1, 4001-2, 9006-1 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedures for the District of Delaware (the “**Local Rules**”) (i) authorizing the Debtors to obtain secured postpetition financing on a superpriority basis and granting liens and superpriority administrative claims, (ii) scheduling a final hearing, and (iii) granting related relief, the Debtors sought, among other things the following relief:

(i) the Court’s authorization, pursuant to section 364 of the Bankruptcy Code, for Alpha Capital, S.A.S. (“**Alpha Capital**”) and AlphaDebit, S.A. de C.V. (“**AlphaDebit**” and,

¹ The Debtors in these cases, along with the last four digits of each Debtor’s tax identification number in their applicable jurisdiction of incorporation, are as follows: Alpha Latam Management, LLC (4610); Acsa Atento S.A.S. (766-6); Alpha Capital S.A.S. (717-5); AlphaCredit Latam S.A.S. (326-5); AlphaCredit Sudamérica, S. de R.L. (72 87); AlphaDebit, S.A. de C.V. (3FI4); and Vive Créditos Kusida S.A.S. (013-4). Alpha Latam Management, LLC’s registered address is 1209 N Orange Street, Wilmington, DE 19801. The main address of the other Debtors is Carrera 14 No. 94 – 81, Bogotá, Colombia.

together with Alpha Capital, the “**DIP Borrowers**”) to obtain a debtor-in-possession financing facility (the “**DIP Facility**”), and for each of the other Debtors other than the DIP Borrowers (the “**DIP Guarantors**” and, together with the DIP Borrowers, the “**DIP Obligor**s”) to enter into guarantees (the “**DIP Guarantees**”), pursuant to which the DIP Guarantors shall unconditionally, on a joint and several basis, guarantee, the DIP Facility, consisting of a term loan credit facility pursuant to the Senior Secured Super-priority Debtor-in-Possession Note Purchase Agreement attached hereto as **Exhibit A** (as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with its terms, and including the exhibits and schedules, the “**DIP Note Purchase Agreement**”² and, collectively with this order (the “**Interim Order**”), the Final Order (as defined below), the DIP Budget (as defined below), a definitive New York law governed security agreement, a Colombian law security agreement, the Commitment Letter (as defined in the Motion), the Fee Letter and all other agreements, documents and instruments delivered or executed in connection therewith, in each case as amended, restated, supplemented or otherwise modified from time to time and which will be in form and substance acceptable to the Majority DIP Note Purchasers (defined below), acting reasonably (the “**DIP Loan Documents**”), provided by UMB Bank, as administrative agent (in such capacity, the “**DIP Agent**”), and the purchasers thereunder (in such capacity, together with any successors and assigns permitted under the DIP Note Purchase Agreement, the “**DIP Note Purchasers**” and, together with the DIP Agent, the “**DIP Secured Parties**”), which shall be available, subject to the terms and conditions set forth in this Interim Order and the other DIP Loan Documents, (1) during the period (the “**Interim Period**”) from the date hereof through and

² The DIP Note Purchase Agreement attached hereto as Exhibit A does not include the exhibits or schedules thereto. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the DIP Note Purchase Agreement.

including the earlier to occur of (x) the date of entry of the Final Order by this Court and (y) the Termination Date (as defined below), in a single draw in principal amount not to exceed \$17,500,000 (the “**Initial DIP Term Loan**”) and (2) upon entry of the Final Order, in an aggregate principal amount not to exceed \$45,000,000, inclusive of the principal amount of the Initial DIP Term Loan (together with all other financial accommodations and extensions of credit under the DIP Facility, the “**DIP Extensions of Credit**”);

(ii) the Court’s authorization for the Debtors to execute the DIP Note Purchase Agreement and the other DIP Loan Documents to which they are party and to perform such other and further acts as may be necessary or appropriate in connection therewith;

(iii) the Court’s authorization for the Debtors to use DIP Extensions of Credit (A) in accordance with the rolling cash forecast in form, scope and substance acceptable to the Majority DIP Note Purchasers, for a period of thirteen (13) weeks beginning on the Petition Date (as defined below) attached hereto as **Exhibit B** (as updated every four (4) weeks after the Petition Date in accordance with the terms of the DIP Loan Documents, including the requirement that the Majority DIP Note Purchasers consent to any modifications to the DIP Budget and any updated version of the DIP Budget, the “**DIP Budget**”), including any variances permitted under the DIP Note Purchase Agreement (the “**Permitted Variances**”) and (B) in accordance with all other DIP Loan Documents;

(iv) the Court’s authorization to grant to the DIP Agent, for the benefit of the DIP Note Purchasers, in respect of the DIP Obligations (as defined below), (A) a superpriority administrative claim pursuant to section 364(c)(1) of the Bankruptcy Code over any and all administrative expenses of any kind or nature subject and subordinate only to the payment of the Carve-Out (as defined below) and (B) liens on and security interests in all assets and property of

the Debtors (now owned or hereafter acquired), pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code, in each case as, and to the extent, set forth below;

(v) the modification or waiver by the Court of the automatic stay imposed by section 362 of the Bankruptcy Code and any other applicable stay (including under Bankruptcy Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”)) to the extent necessary to implement and effectuate the terms and provisions of the DIP Facility, this Interim Order and the other DIP Loan Documents and to provide for the immediate effectiveness of this Interim Order;

(vi) the scheduling by the Court of an interim hearing (the “**Interim Hearing**”) to consider entry of this Interim Order;

(vii) the scheduling by the Court of a final hearing (the “**Final Hearing**”) to consider entry of an order (the “**Final Order**” and the Interim Order and the Final Order, as applicable, the “**DIP Orders**”) granting the relief requested in the Motion on a final basis and approving the form of notice with respect to the Final Hearing and the transactions contemplated by the Motion; and

(viii) approval of this Interim Order and the Final Order.

The Court having found that it has jurisdiction to consider the Motion and the relief requested therein in accordance with 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 February 29, 2012 (Sleet, C.J.); and consideration of the Motion and the Interim Hearing and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due, sufficient, and proper notice of the Motion and the Interim Hearing having been provided under the circumstances and

in accordance with the Bankruptcy Rules and the Local Rules; and it appearing that no other or further notice need be provided; and the Interim Hearing having been held to consider the relief requested in the Motion; and upon consideration of the First Day Declaration, the *Declaration of Marcelo Messer in Support of the Debtors' Motion (i) Authorizing the Debtors to Obtain Postpetition Financing and Granting Liens and Superpriority Administrative Claims, (ii) Scheduling a Final Hearing, and (iii) Granting Related Relief*, and the record of the Interim Hearing; and the Court having found and determined that (A) the relief sought in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, their creditors, their stakeholders, and all other parties-in-interest, and essential for the continued operation of the Debtors' businesses and the preservation of the value of the Debtors' assets and (B) that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; 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:

A. **Petition Date.** On August 1, 2021 (the "**Petition Date**"), the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code (the "**Cases**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**"). The Debtors have continued in the management and operation of their businesses and properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Cases.

B. **Jurisdiction and Venue.** The Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding under

28 U.S.C. § 157(b)(2). Venue for the Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice.** The Debtors have represented that notice of the Interim Hearing and the relief requested in the Motion has been provided by the Debtors, to: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Ad Hoc Group; (iii) each of the Debtors' 30 largest unsecured creditors (on a consolidated basis); (iv) Internal Revenue Service; (v) the United States Attorney's Office for the District of Delaware; (vi) any such other party entitled to notice pursuant to Local Rule 9013-1(m); and (vii) any such other party entitled to receive notice pursuant to Bankruptcy Rule 2002. Under the circumstances, such notice of the Interim Hearing and the relief requested in the Motion constitutes due, sufficient and appropriate notice and complies with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b) and (c) and the Local Rules and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required.

D. **Immediate Need for Postpetition Financing.** The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2). Good cause has been shown for entry of this Interim Order. An immediate need exists for the Debtors to obtain the DIP Financing in order to continue operations, to satisfy in full the costs and expenses of administering these Cases and to preserve the value of their estates. The ability of the Debtors to finance their operations, to preserve and maintain the value of the Debtors' assets and to maximize the return for all creditors requires the availability of the DIP Facility. In the absence of the availability of such funds and liquidity in accordance with the terms hereof, the continued operation of the Debtors' businesses would not be possible and serious and irreparable harm to the Debtors and their estates and creditors would occur. Thus, the ability of

the Debtors to preserve and maintain the value of the assets and maximize the return for creditors requires the availability of working capital from the DIP Facility.

E. **No Credit Available on More Favorable Terms.** The DIP Note Purchasers have agreed to extend credit solely on the terms set forth in this Interim Order and the other DIP Loan Documents. The Debtors have been unable to obtain unsecured credit allowable as an administrative expense under section 503 of the Bankruptcy Code, or other sufficient financing under sections 364(c) of the Bankruptcy Code, on more favorable terms than those set forth in this Interim Order. A loan facility in the amount provided by the DIP Loan Documents is not available to the Debtors without granting the DIP Agent, for the benefit of the DIP Note Purchasers, superpriority claims, liens, and security interests, pursuant to sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code, as provided in this Interim Order and the DIP Loan Documents.

F. **Debtors' Acknowledgments and Stipulations.** Without prejudice to the rights of any other party in interest, the Debtors admit, stipulate and agree that:

(i) *Necessary Approvals.* No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body, except for the Court, is required for the due execution, delivery and performance by any Debtor of the DIP Note Documents.

(ii) *DIP Liens and Obligations.* Until such time as all DIP Obligations are indefeasibly paid in full in cash, the Debtors shall not in any way prime or seek to prime (or otherwise cause to be subordinated in any way) the DIP Liens (as defined below) by offering a subsequent lender or any party-in-interest a superior or *pari passu* lien or claim pursuant to section 364(d) of the Bankruptcy Code or otherwise, except with respect to (a) prior payment of

the Carve-Out and (b) the Permitted Prior Liens (as defined below). Until such time as all DIP Obligations are indefeasibly paid in full in cash, the Debtors shall not in any way or at any time permit to exist an administrative expense claim against the Debtors of any kind or nature whatsoever, including, without limitation, claims for any administrative expenses of the kind specified in, or arising or; ordered under sections 105, 326, 328, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1113 and 1114 of the Bankruptcy Code, that is superior to or *pari passu* with the DIP Superpriority Claim (as defined below) provided herein, except with respect to prior payment of the Carve-Out.

(iii) *Cash Collateral.* For purposes of this Interim Order, the term “**Cash Collateral**” shall mean all cash and cash equivalents of the Debtors constituting DIP Collateral (as defined below), whenever or wherever acquired, and the proceeds of all DIP Collateral whether existing on the Petition Date, arising pursuant to this Interim Order or otherwise and shall include, without limitation:

- a. all cash proceeds arising from the collection, sale, lease or other disposition, use or conversion of any DIP Collateral, whether such property existed as of the commencement of these Cases or arose or was generated thereafter;
- b. all of the respective deposits, refund claims and rights in retainers of the Debtors constituting DIP Collateral; and
- c. the proceeds of any sale of DIP Collateral.

The Debtors’ use of Cash Collateral shall be subject to the terms of this Interim Order.

G. **Use of Proceeds of the DIP Facility and DIP Collateral.** The Debtors require the proceeds of the DIP Facility (i) for working capital and general corporate purposes, including

for AlphaDebit and Alpha Capital to on-lend to certain non-Debtor Mexican affiliates of the Debtors (the “**Mexican Affiliates**”), pursuant to an intercompany working capital facility effectuated prepetition (the “**Intercompany Facility**”), which is secured by the Mexican Affiliates’ unencumbered loan portfolio and other assets, (ii) to pay fees and expenses incurred by the DIP Note Purchasers in connection with the DIP Loan Documents as provided therein, (iii) to pay restructuring costs and Professional Fees (as defined below) of the Debtors relating solely to the Debtors, and (iv) for other purposes as provided in and subject to the terms of the DIP Note Purchase Agreement and subject to compliance with the DIP Budget and the Permitted Variances. All loan proceeds of the DIP Facility and the DIP Collateral (net of any amounts used to pay fees, costs and expenses payable under this Interim Order) shall be used and/or applied by the Debtors in accordance with the terms and conditions of this Interim Order, the DIP Budget (subject to the Permitted Variances) and the other DIP Loan Documents.

H. **Extension of Financing.** The DIP Secured Parties have indicated a willingness to provide financing to the Debtors in accordance with the DIP Note Purchase Agreement and the other DIP Loan Documents (including the conditions precedent set forth therein) and subject to: (i) the entry of this Interim Order, with respect to the Initial DIP Term Loan, and the Final Order; (ii) the applicable Debtors being authorized to perform under the Intercompany Facility; (iii) satisfaction of the closing conditions set forth in the DIP Loan Documents; and (iv) findings by this Court that such financing is essential to the Debtors’ estates, that the DIP Secured Parties are extending credit to the Debtors pursuant to the DIP Loan Documents and this Interim Order in good faith, and that the DIP Agent’s and DIP Note Purchasers’ claims, superpriority claims, security interests and liens and other protections granted pursuant to this Interim Order and the

DIP Loan Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

J. **Fair Consideration and Reasonably Equivalent Value.** Each of the Debtors has received and will receive fair and reasonable consideration in exchange for access to the DIP Facility and all other financial accommodations provided under the DIP Loan Documents and this Interim Order. The terms of the DIP Loan Documents are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

I. **Business Judgment and Good Faith Pursuant to Section 364(e).**

(i) The terms and conditions of the DIP Facility, including, without limitation, the interest rates and fees owed thereunder are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and consideration;

(ii) the DIP Facility was negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties; and

(iii) the use of the proceeds to be extended under the DIP Facility will be so extended in good faith and for valid business purposes and uses, as a consequence of which the DIP Secured Parties is entitled to the protection and benefits of section 364(e) of the Bankruptcy Code and the DIP Agents and the DIP Note Purchasers (and the successors and assigns thereof) shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

J. **Relief Essential; Best Interest.** The relief requested in the Motion (and provided in this Interim Order) is necessary, essential and appropriate for the continued operation of the Debtors' businesses and the management and preservation of the Debtors' assets and property. It is in the best interest of the Debtors' estates that the Debtors be allowed to enter into the DIP Facility and incur the DIP Obligations as contemplated herein.

K. **Permitted Priority Liens.** Nothing herein shall constitute a finding or ruling by this Court that any alleged Permitted Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing herein shall prejudice the rights of any party-in-interest, including, but not limited to, the Debtors, the DIP Agent, the DIP Note Purchasers, or a Committee (if any and as defined below) to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Prior Lien. The right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code is not a Permitted Prior Lien and is expressly subject to the DIP Liens (as defined herein).

NOW, THEREFORE, on the Motion of the Debtors and the record before this Court with respect to the Motion, including the record made during the Interim Hearing, and good and sufficient cause appearing therefor,

IT IS ORDERED that:

1. **Motion Granted.** The Motion is granted on an interim basis in accordance with the terms and conditions set forth in this Interim Order. Any objections to the Motion with respect to entry of this Interim Order, to the extent not withdrawn, waived or otherwise resolved, and all reservation of rights included therein, are hereby denied and overruled on the merits. This Interim Order shall become effective immediately upon its entry.

2. **DIP Facility.**

(a) **DIP Obligations.** The Debtors are expressly and immediately authorized and empowered to enter into the DIP Facility and to incur and to perform the DIP Obligations in accordance with and subject to this Interim Order, the DIP Budget (subject to the Permitted Variances) and the other DIP Loan Documents, to execute and/or deliver all DIP Loan Documents and all other related instruments, certificates, agreements and documents, and to take all actions which may be reasonably required or otherwise necessary for the performance by the Debtors under the DIP Facility, including the creation and perfection of the DIP Liens described and provided for herein. The Debtors are hereby authorized to pay all principal, interest, fees and expenses, indemnities and other amounts described herein and in the other DIP Loan Documents as such shall accrue and become due hereunder or thereunder, including, without limitation, the reasonable and documented fees and expenses of the attorneys and financial and other advisors and consultants of the DIP Secured Parties as, and to the extent, provided for herein, the DIP Budget (subject to the Permitted Variances) and in the other DIP Loan Documents (collectively, all loans, advances, extensions of credit, financial accommodations, fees, expenses and other liabilities and obligations (including indemnities and similar obligations) in respect of DIP Extensions of Credit, the DIP Facility and the DIP Loan Documents, the “**DIP Obligations**”); provided that the payment of any invoices of the DIP Secured Parties’ professionals for fees and expenses incurred after entry of this Interim Order shall be subject to the notice and objection provisions of paragraph 14(b) hereof. The DIP Loan Documents and all DIP Obligations shall represent, constitute and evidence, as the case may be, valid and binding obligations of the Debtors, enforceable against the Debtors, their estates and any successors thereto in accordance with their terms. No obligation, payment, transfer or grant of security under the DIP Loan Documents as approved under this Interim Order shall be stayed,

restrained, voided, voidable or recoverable under the Bankruptcy Code or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim.

(b) **Authorization to Borrow.** In order to continue to operate their business and preserve the value of their assets, subject to the terms and conditions of this Interim Order and the other DIP Loan Documents (including the DIP Budget), the DIP Borrowers are hereby authorized to borrow under the DIP Facility during the Interim Period in a single draw of \$17,500,000.

(c) **DIP Budget.**

(1) The Debtors have delivered the DIP Budget to the DIP Secured Parties. The DIP Budget shall at all times be in form, scope and substance reasonably satisfactory to the Majority DIP Note Purchasers. The Debtors shall provide updates to the DIP Budget at least once every four (4) weeks, in accordance with the terms of the DIP Loan Documents; provided that any change in any updated DIP Budget from the prior DIP Budget shall be in form and substance satisfactory to the Majority DIP Note Purchasers in their sole discretion. The Debtors shall also provide (i) a report to the DIP Agent certified by the chief financial officer of the Borrowers or the Colombian Chief Restructuring Officer (the “**Colombian CRO**”) showing actual cash receipts and disbursements for the immediately two (2) preceding weeks, noting all variances on a line item basis from amounts set forth in the DIP Budget for such period, and explanations for all material variances (the “**DIP Budget Variance Report**”) and (ii) additional reporting as set forth in the DIP Note Purchase Agreement. Funds borrowed under the DIP Credit Agreement and Cash Collateral used as permitted under this Interim Order, as well as other cash held by the Debtors, shall be used by the Debtors in accordance with the DIP Budget (subject to the Permitted Variances), the DIP Loan Documents

and this Interim Order. The consent of the Majority DIP Note Purchasers to any DIP Budget shall not be construed as a commitment to provide DIP Extensions of Credit or to permit the use of Cash Collateral (subject to the Carve-Out) after the occurrence of the Termination Date, regardless of whether the aggregate funds shown on the DIP Budget have been expended.

(II) Any amendments, supplements or modifications to the DIP Budget must be consented to in writing (which may be provided by an e-mail from counsel) by the Majority DIP Note Purchasers, in their sole discretion in accordance with the DIP Note Purchase Agreement, prior to the implementation thereof and shall not require further notice, hearing, or Court order; provided, however, that the Debtors will provide written notice of any such amendment, supplement or modification to the Committee (if any).

(III) The DIP Secured Parties (i) may assume the Debtors will comply with the DIP Budget (subject to the Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the DIP Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any DIP Budget. All advances and extensions of credit shall be based upon the terms and conditions of the DIP Loan Documents, as the same may be amended or modified from time to time. The DIP Agent and the DIP Note Purchasers are relying, in part, upon the Debtors' agreement to comply with the DIP Budget (subject to the Permitted Variances) as provided in the DIP Credit Agreement, the other DIP Loan Documents, and this Interim Order in determining to enter into the postpetition financing arrangements provided for in this Interim Order.

(d) **DIP Collateral**. As used herein, "**DIP Collateral**" shall mean with respect to any DIP Obligor, all real and personal property of such DIP Obligor, including, without limitation: (a) all cash, money, cash equivalents, deposit accounts, securities accounts,

accounts, other receivables, chattel paper, contract rights, goods and inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, intellectual property, general intangibles of any kind, rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments, supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action and all substitutions, books and records related to the foregoing, and accessions, loan assets and shares of the Debtors, rights under the Intercompany Facility, unencumbered performing and non-performing and written-off loan assets and government receivables in Colombia, and the equity interests owned by the Debtors, and proceeds (as defined in the Uniform Commercial Code (“UCC”)) of the foregoing, wherever located, including insurance or other proceeds); (b) all owned real property, all leased real property, all rents and leases from any real property interests, and all other proceeds of real property; (c) subject to the entry of a Final Order, the proceeds of any avoidance actions brought pursuant to sections 502(d), 544, 545, 547, 548, 549 (except as set forth in clause (d) below), 551, 553(b), 732(2) or 742(2) of the Bankruptcy Code; (d) subject to entry of a Final Order, the proceeds of any avoidance actions brought pursuant to section 549 of the Bankruptcy Code to recover any post-petition transfer of the DIP Collateral or post-petition transfer of proceeds of the DIP Notes and (e) subject to the entry of a Final Order, the Debtors’ rights under section 506(c) of the Bankruptcy Code and the proceeds thereof; provided that DIP Collateral shall not include (i) property that cannot be subject to liens pursuant to applicable law, rule, contract or regulation or restrictions of contract existing on the Closing Date or the time of entry of such contract (other than to the extent such

restriction is ineffective under the UCC or other applicable law); (ii) avoidance actions brought pursuant to claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 551, 553(b), 732(2) or 742(2) of the Bankruptcy Code; (iii) any funds held in escrow as a deposit in connection with a bid under the Bid Procedures Order until such deposit is applied in connection with consummating a sale; and (iv) other excluded property as set forth in the DIP Loan Documents. For the avoidance of doubt, the DIP Collateral shall include all the foregoing rights, property, claims, and interests, without regard as to whether such rights, property, claims, and interests came into the Debtors' estates, or otherwise arose, after the Petition Date.

(e) **Valid and Binding Obligations.** All DIP Obligations shall constitute valid, binding, and nonavoidable obligations of each of the Debtors, enforceable against each of them and each of their successors and assigns, in accordance with their terms and the terms of this Interim Order, and no obligation, payment, transfer, or grant of a lien or security interest under the DIP Loan Documents or this Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under section 502(d) of the Bankruptcy Code) or subject to any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, or any other challenges under the Bankruptcy Code or any applicable law or regulation by any person or entity.

(f) **DIP Liens.** Effective immediately upon the entry of this Interim Order, and subject and subordinate to the Carve-Out, as set forth more fully in this Interim Order, the DIP Agent for the ratable benefit of the DIP Secured Parties is hereby granted the following security interests and liens, which shall immediately be valid, binding, perfected, continuing, enforceable and non-avoidable (all liens and security interests granted to the DIP Agent for the

benefit of the DIP Secured Parties pursuant to this Interim Order, any Final Order and the other DIP Loan Documents, the “**DIP Liens**”):

(I) pursuant to section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully perfected first priority senior security interests in and liens upon all DIP Collateral, whether existing on the Petition Date or thereafter acquired, that is not otherwise subject to valid, perfected and non-avoidable liens that were in existence immediately prior to the Petition Date or that are perfected as permitted by Section 546(b) of the Bankruptcy Code (the “**Permitted Prior Liens**”), subject and junior to the Carve-Out; and

(II) pursuant to section 364(c)(3) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully perfected security interests and liens upon DIP Collateral that is subject to Permitted Prior Liens, which security interests and liens shall be subject and junior to the Prior Permitted Liens and the Carve-Out.

(g) **Effectiveness of DIP Liens.** The DIP Liens shall be effective immediately upon the entry of this Interim Order and shall not at any time be made subject or subordinated to, or made *pari passu* with, any other lien, security interest or claim existing as of the Petition Date, or created under sections 363 or 364 of the Bankruptcy Code or otherwise, other than (i) the Permitted Prior Liens and (ii) prior payment of the Carve-Out.

(h) **Superpriority Administrative Claim Status.** The DIP Obligations shall, pursuant to section 364(c)(1) of the Bankruptcy Code, at all times constitute (without the need to file a proof of claim or to take any further action or file any further document or pleading with the Court or another court or governmental office) an allowed superpriority administrative

expense claim (the “**DIP Superpriority Claim**”) of the DIP Agent for the benefit of the DIP Secured Parties against each of the Debtors’ estates with priority over any and all other obligations, liabilities, and indebtedness of the Debtors, whether now existing or hereafter arising or incurred, of any kind whatsoever, including any and all administrative expenses or other claims of the Debtors of the kind specified in or arising under sections 105, 326, 328, 330, 331, 503(b), 507, 546(c), 726, 1114, but shall in any event be subject and subordinate to the Carve-Out. The DIP Superpriority Claim granted in this paragraph shall be subject and subordinate in priority of payment only to prior payment of the Carve-Out. Except as referenced in this Interim Order, no other superpriority claims shall be granted or allowed in these Cases or in any Successor Case(s) (as defined below). The DIP Superpriority Claim shall be senior in all respects to any other superpriority claims granted in these Cases.

(i) **DIP Proceeds Account.** Any and all DIP Extensions of Credit shall be deposited into one or more accounts of the Debtors designated for the purpose of holding loan proceeds of the DIP Facility (collectively, the “**DIP Proceeds Account**”). The DIP Agent, for the ratable benefit of the DIP Secured Parties, shall hereby be granted a valid, enforceable, fully perfected and non-avoidable lien on the DIP Proceeds Account. Disbursements from the DIP Proceeds Account shall be made solely in accordance with this Interim Order and the other DIP Loan Documents.

3. **Authorization to Use Proceeds of DIP Facility.** Subject to the terms and conditions of this Interim Order and the other DIP Loan Documents, the Debtors are authorized during the Interim Period to use proceeds of the DIP Facility in the amounts and for the line item expenditures set forth in the DIP Budget, including for on-lending and performing their other obligations under the Intercompany Facility; provided that any amounts recovered by

AlphaDebit under the Intercompany Facility shall be transferred (after payment of tax and other claims of AlphaDebit, subject to the DIP Budget (including the Permitted Variances), this DIP Loan Documents, and the DIP Orders) as soon as commercially practicable to Alpha Capital. The DIP Budget may only be amended, supplemented, modified, restated, replaced, or extended in accordance with the DIP Loan Documents, and in such case without further order of the Court, and in all cases, subject to the prior written consent (which may be provided by e-mail from counsel) of the Majority DIP Note Purchasers, in their sole discretion in accordance with the DIP Note Purchase Agreement. Notwithstanding anything herein to the contrary, subject only to the Debtors' rights under paragraph 12 hereof and the Carve-Out, the Debtors' right to request DIP Extensions of Credit or use proceeds of the DIP Facility shall terminate on the Termination Date.

4. **Authority to Execute and Deliver Necessary Documents.**

(a) Each of the Debtors is authorized to negotiate, prepare, enter into, and deliver the DIP Loan Documents, in each case including any amendments thereto. Each of the Debtors is further authorized to negotiate, prepare, enter into and deliver any UCC financing statements, pledge and security agreements, deposit account control agreements, mortgages or deeds of trust, or similar documents or agreements encumbering all of the DIP Collateral and securing all of the Debtors' DIP Obligations under the DIP Loan Documents, each as may be provided for under the DIP Note Purchase Agreement or as otherwise reasonably requested by the DIP Secured Parties.

(b) Each of the Debtors is further authorized to (i) perform all of its obligations under the DIP Loan Documents, and such other agreements as may be required by the DIP Loan Documents to give effect to the terms of the financing provided for therein and in

this Interim Order, and (ii) perform all acts required under the DIP Loan Documents and this Interim Order.

5. **DIP Liens Perfection.** This Interim Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the DIP Liens without the necessity of filing or recording any financing statement, deed of trust, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction or the taking of any other action to validate or perfect the DIP Liens or to entitle the DIP Liens to the priorities granted herein. Notwithstanding the foregoing, the automatic stay imposed under Section 362(a) of the Bankruptcy Code is hereby modified as necessary to permit the DIP Agent to make any filings, deliver any notices, make recordations, perform any searches, enter into control agreements, or take any other acts as may be necessary under state law or other applicable law or otherwise desirable in order to protect, preserve and/or enforce (subject to paragraph 12 hereof) the security, perfection, or priority of the DIP Liens. The Debtors shall execute and deliver to the DIP Agent all such financing statements, mortgages, security agreements, notices and other documents as the DIP Agent may reasonably request to evidence, confirm, validate or perfect, or to insure the contemplated priority of the DIP Liens.

6. **Bar of Challenges and Claims.** No portion of the Carve-Out, no loan proceeds of the DIP Facility, the DIP Collateral or DIP Extensions of Credit may be used, absent the consent of the Majority DIP Note Purchasers, for the payment of the fees and expenses of any person incurred (i) in investigating, challenging, or in relation to the challenge of, any of the DIP Liens or DIP Obligations, or the initiation or prosecution of any claim or action against any of the DIP Secured Parties (in such capacity), including, without limitation, any claim under

Chapter 5 of the Bankruptcy Code, or any state, local or foreign law, in respect of the DIP Facility or (ii) in challenging any DIP Obligations or DIP Liens.

7. **Carve-Out.**

(a) As used in this Interim Order, the “**Carve-Out**” means the sum of: (a) all fees required to be paid to the Clerk of the Court and to the Office of the U.S. Trustee under section 1930(a)(6) of Title 28 of the United States Code; (b) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code; (c) to the extent allowed at any time (including after the Carve-Out Trigger Date (as defined below)), whether by interim order, compensation or procedural order, or otherwise, all unpaid fees and expenses (the “**Allowed Professional Fees**”) incurred or accrued by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “**Debtor Professionals**”) and any statutory committee (a “**Committee**”) appointed in the Cases pursuant to section 328 or 1103 of the Bankruptcy Code (the “**Committee Professionals**” and, together with the Debtor Professionals the “**Professionals**”) that are incurred on or prior to the Carve-Out Trigger Date; and (d) (x) Allowed Professional Fees of Debtor Professionals in an aggregate amount not to exceed \$5,000,000 and (y) if a Committee is appointed, the Allowed Professional Fees of any Committee Professionals in an aggregate amount not to exceed \$500,000, in each case, incurred on and after the first business day following Carve Out Trigger Date to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (d) being the “**Post-Carve Out Trigger Notice Cap**” and collectively with the fees and expenses described in clause (c), the “**Professional Fees**”); provided that nothing herein shall be construed to impair the ability of any party to object to the Professional Fees. The term “**Carve-Out Trigger Date**” shall mean the date on which the DIP Agent provides written notice to the

Debtors and lead counsel to the Debtors, with a copy of such notice to lead counsel for the Committee (if any) and the U.S. Trustee (the “**Carve-Out Trigger Notice**”), that the Carve-Out is invoked, which Carve-Out Trigger Notice shall only be delivered following the occurrence and during the continuation of an Event of Default under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked.

(b) After the Carve-Out Trigger Date, the DIP Secured Parties shall permit the Debtors to use proceeds of the DIP Facility and Cash Collateral to fund the full amount of the Carve-Out, including the Post-Carve Out Trigger Notice Cap, into a segregated account (the “**Carve-Out Reserve Account**”) held by the Debtors, to be applied to the Allowed Professional Fees and the U.S. Trustee and Clerk fees when due and payable (the “**Carve-Out Segregated Funds**”); *provided* that with respect to Cash Collateral no more than \$1 million in the aggregate, and \$500,000 in any one month, shall be used to fund the Carve-Out Reserve Account prior to the Carve-Out Trigger Date. The Carve-Out Reserve Account shall be maintained, and the funds therein shall be held in trust, for the benefit of Professionals and shall be used to pay Allowed Professional Fees and other amounts constituting the Carve-Out prior to any and all other claims. Any and all amounts in the Carve-Out Reserve Account shall not be subject to any cash sweep and/or foreclosure provisions in the DIP Loan Documents and the DIP Agents shall not be entitled to sweep or foreclose on such amounts notwithstanding any provision to the contrary in the DIP Loan Documents.

(c) Further, notwithstanding anything to the contrary in this Interim Order, (i) the failure of the Carve-Out Segregated Funds to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out, and (ii) in no way shall the DIP Budget, Carve-Out, Post-Carve-Out Trigger Notice Cap, Carve-Out Segregated Funds, 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; provided that, for the avoidance of doubt, Professional Fees shall be a specified line item in the DIP Budget, which DIP Budget shall be subject to Majority DIP Note Purchaser approval as set forth herein. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order or the DIP Loan Documents, the Carve-Out, as provided for and capped by this Interim Order, shall be senior to all liens and claims securing the DIP Obligations. Notwithstanding the foregoing, the DIP Note Purchasers reserve all of their rights to challenge or otherwise object to any of the fees or expenses sought to be approved by any of the Professionals.

(d) Without in any way limiting the Debtors' ability to use the Carve-Out Segregated Funds in the Carve-Out Reserve Account to pay Allowed Professional Fees and the U.S. Trustee and Clerk fees, the residual Carve-Out Segregated Funds shall remain encumbered by and subject to the DIP Liens. To the extent the Carve-Out Segregated Funds in the Carve-Out Reserve Account exceed the Allowed Professional Fees and the U.S. Trustee and Clerk fees, any such remaining amounts shall be promptly returned to the DIP Agent for the benefit of the DIP Secured Parties. Any payment of Allowed Professional Fees incurred after the delivery of a Carve-Out Trigger Notice shall permanently reduce the Post-Carve Out Trigger Notice Cap on a dollar-for-dollar basis.

8. **Payment of Compensation.** None of the DIP Agent or the DIP Note Purchasers shall be responsible for the payment or reimbursement of any fees or disbursements of any Debtor Professionals incurred in connection with the Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent or the DIP Note Purchasers in any way, to pay compensation to, or to

reimburse expenses of, any Debtor Professional or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement. Nothing herein shall be construed as a consent to the allowance of any professional fees or expenses of any of the Debtors or the Committee (if any) or shall limit or otherwise affect the right of the DIP Secured Parties or any other party in interest to object to the allowance and payment of any such fees and expenses. No Professional's fees shall be paid absent a Court order allowing such payment, pursuant to a fee application on notice, or other procedure permitted by any Court order allowing interim compensation or the payment of fees of ordinary course professionals. So long as no Event of Default exists that has not been waived in writing, the Debtors shall be permitted to pay compensation and reimbursement of expenses allowed by the Court and payable under sections 330 and 331 of the Bankruptcy Code or compensation procedures approved by the Court, and the same shall not reduce the Post Carve-Out Trigger Notice Cap.

9. **Section 506(c) Claims.** Subject to the entry of the Final Order, as a further condition of the DIP Facility, any obligation of the DIP Secured Parties to make DIP Extensions of Credit, the Debtors (and any successors thereto or any representatives thereof, including any trustees appointed in the Cases or any Successor Case) shall be deemed to have waived any rights, benefits or causes of action under 506(c) of the Bankruptcy Code as they may relate to or be asserted against the DIP Secured Parties, the DIP Liens, or the DIP Collateral. Save and except for the Carve-Out, nothing contained in this Interim Order, in the Final Order or in the other DIP Loan Documents shall be deemed a consent by the DIP Secured Parties to any charge, lien, assessment or claim against, or in respect of, the DIP Collateral under 506(c) of the Bankruptcy Code or otherwise.

10. **Disposition of DIP Collateral.** The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as permitted by the DIP Loan Documents or as approved by the Court.

11. **Survival of Certain Provisions.** In the event of the entry of any order converting any of these Cases into a case under Chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (such cases or proceedings, “**Successor Cases**”), the DIP Liens, the DIP Superpriority Claim, and the Carve-Out shall continue in these proceedings and in any Successor Case, and such DIP Liens, DIP Superpriority Claim, and the Carve-Out shall maintain their respective priorities as provided by this Interim Order. Notwithstanding anything to the contrary herein, the proviso in the first sentence of paragraph 3 of this Interim Order shall survive repayment or termination of the DIP Facility and will control in any Successor Case.

12. **Events of Default; Rights and Remedies Upon Event of Default.**

(a) The term “**Termination Date**” shall mean: the earliest to occur of (i) forty (40) days after entry of this Interim Order (or such later date if agreed to by the DIP Secured Parties in its sole discretion) if the Final Order has not been entered by such date, (ii) the delivery of a Carve-Out Trigger Notice, (iii) the Maturity Date (as defined in the DIP Note Purchase Agreement) and (iv) this Interim Order ceasing to be in full force and effect for any reason.

(b) Any automatic stay otherwise applicable to the DIP Secured Parties is hereby modified so that, upon and after the occurrence of the Termination Date, the DIP Agent shall, subject to subparagraph (c) of this paragraph 12, be immediately entitled to exercise all of its rights and remedies in respect of the DIP Collateral in accordance with this Interim Order

and the other DIP Loan Documents. Immediately following the giving of notice by the DIP Agent to the Debtors, counsel to the Debtors, the Committee (if any) and the U.S. Trustee of the occurrence of an Event of Default: (i) all Commitments of the DIP Note Purchasers to provide any DIP Extensions of Credit shall immediately be suspended; and (ii) the Debtors shall have no right to use any loan proceeds of the DIP Facility (whether or not held in the DIP Proceeds Account), other than towards the satisfaction of the DIP Obligations and the Carve-Out, as provided in the applicable DIP Loan Documents and this Interim Order; provided that, during the Default Notice Period (defined below), the Debtors shall be prohibited from requesting any further draws under the DIP Facility but shall be permitted to continue to use proceeds of the DIP Facility (to the extent drawn prior to the occurrence of an Event of Default) solely (x) in the ordinary course of business and in accordance with the DIP Budget and the other DIP Loan Documents and (y) to satisfy the Carve-Out.

(c) The Debtors shall be entitled to an emergency hearing before this Court (the “**Remedies Hearing**”) within five (5) Business Days after the giving of written notice by the DIP Agent of the occurrence of an Event of Default (such five (5) Business Day period, the “**Default Notice Period**”). Upon the effectiveness of any relief from the automatic stay granted or deemed to have been granted pursuant to this paragraph, the DIP Agent may, in its discretion, enforce the DIP Liens, and, as applicable, take all other actions and exercise all other rights and remedies under the DIP Loan Documents, this Interim Order and applicable law that may be necessary or deemed appropriate to collect any of its DIP Obligations, proceed against or realize upon all or any portion of the DIP Collateral as if these Cases or any Successor Cases were not pending, and otherwise enforce any of the provisions of this Interim Order. The DIP Agent’s delay or failure to exercise rights and remedies under any DIP Loan

Documents, this Interim Order or applicable law shall not constitute a waiver of any of its rights and remedies hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed by the DIP Agent. If the Debtors or any other party in interest do not contest the occurrence of the Event of Default within the Default Notice Period, or if the Debtors timely contest the occurrence of an Event of Default and the Court after notice and a hearing declines to stay the enforcement thereof, the Termination Date shall be deemed to have occurred for all purposes and the DIP Agent will have automatic and immediate relief from the automatic stay with respect to the DIP Collateral. Subject to entry of a Final Order, at any Remedies Hearing, each Debtor hereby waives, and shall not be entitled to assert (including, without limitation, under section 105 of the Bankruptcy Code), the right to challenge or dispute the effectiveness of any provision of the DIP Orders, to the extent such relief would impair or restrict the rights and remedies of the DIP Agent or any DIP Note Purchaser as set forth in the DIP Orders or in any of the DIP Loan Documents.

13. **Use of Cash Collateral.** Prior to the Termination Date, the Debtors are authorized to use Cash Collateral subject to and in accordance with the terms, conditions, and limitations set forth in this Interim Order, the DIP Budget (subject to the Permitted Variances) and the DIP Loan Documents, without further approval by the Court.

14. **Other Rights and Obligations.**

(a) **Good Faith Under section 364(e) of the Bankruptcy Code; No Modification or Stay of this Interim Order.** Based on the findings set forth in this Interim Order and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the DIP Facility as approved by this Interim Order, in the event any or all of the provisions of this Interim Order are hereafter modified, amended or vacated by a subsequent order of this Court or

any other court, the DIP Secured Parties are entitled to the protections provided in Section 364(e) of the Bankruptcy Code, and no such appeal, modification, amendment or vacation shall affect the validity and enforceability of any advances made hereunder or the liens or priority authorized or created hereby. Notwithstanding any such modification, amendment or vacation, any claim granted to the DIP Secured Parties hereunder arising prior to the effective date of such modification, amendment or vacation of any DIP Liens or of the DIP Superpriority Claim granted to or for the benefit of the DIP Secured Parties shall be governed in all respects by the original provisions of this Interim Order, and the DIP Secured Parties shall be entitled to all of the rights, remedies, privileges and benefits, including the DIP Liens and the DIP Superpriority Claim granted herein, with respect to any such claim. Because the DIP Extensions of Credit are made in reliance on this Interim Order, the DIP Obligations incurred by the Debtors or owed to the DIP Secured Parties prior to the effective date of any stay, modification or vacation of this Interim Order shall not, as a result of any subsequent order in the Cases or in any Successor Case, be disallowed or subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to the DIP Note Purchasers under this Interim Order.

(b) **Authorization for Payment of DIP Financing Fees and Expenses.** All fees payable and all costs and/or expenses reimbursed or reimbursable (including, costs and expenses referred to in the DIP Loan Documents and the DIP Agent's and DIP Note Purchasers' and each of their respective affiliates' attorneys' and advisors' fees and expenses) under the DIP Loan Documents, by the Debtors to the DIP Secured Parties are hereby approved and shall not be subject to disgorgement by any party for any reason. Subject to the notice provision below, the Debtors are hereby authorized to pay all such fees, costs and expenses in accordance with the

terms of the DIP Loan Documents and this Interim Order, without any requirement that the Debtors, the DIP Agent, the DIP Note Purchasers or any of their respective counsel file any further application or other pleading, notice, or document with the Court for approval or payment of such fees, costs, or expenses. To the fullest extent provided in the DIP Loan Documents and this Interim Order, the Debtors will pay all such fees and expenses incurred by the DIP Secured Parties (including the reasonable and documented fees and disbursements of one legal counsel in each relevant jurisdiction that they shall retain and any internal or third-party appraisers, consultants, financial, restructuring or other advisors and auditors advising any such counsel as previously identified to the Debtors in writing) in connection with (i) the preparation, execution, delivery, funding and administration of the DIP Loan Documents, including, without limitation, all due diligence fees and expenses incurred or sustained in connection with the DIP Loan Documents, (ii) the Cases or any Successor Case, (iii) the ongoing administration of the DIP Loan Documents (including the preparation, negotiation and execution of any amendments, consents, waivers, assignments, restatements or supplements thereto), (iv) enforcement of any rights or remedies under the DIP Loan Documents, including without limitation, creating, perfecting, recording, maintaining, and preserving the DIP Liens, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees and title insurance premiums and the custody or preservation of any of the DIP Collateral, and (v) after the occurrence of a Default or an Event of Default, enforcing or preparing for enforcement of any DIP Obligations of or in collecting or preparing to collect any payments due from any Borrower under the DIP Note Purchase Agreement or under the other DIP Loan Documents by reason of such Default or Event of Default (including in connection with any actual or prospective sale of, collection from, or other realization upon any of the DIP Collateral), in each case whether or not the transactions

contemplated hereby are fully consummated; provided that such expenses shall not be taken into account in connection with measuring compliance with the Budget or the Permitted Variances. Any such fees and expenses incurred prior to entry of this Interim Order shall be deemed fully earned, non-refundable and irrevocable as of the date of this Interim Order and shall be paid by the Debtors on, or promptly after, and in any event within five (5) Business Days from, the date of entry of this Interim Order. Thereafter, the DIP Secured Parties, and their advisors and professionals, shall not be required to comply with the U.S. Trustee fee guidelines, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with this Court, but the DIP Secured Parties, and their advisors and professionals shall provide summary invoices (redacted if necessary for privileged, confidential or otherwise sensitive information, as to those invoices provided to any party other than the U.S. Trustee) for fees incurred after entry of this Interim Order to the Office of the U.S. Trustee, counsel for the Committee (if any) and the Debtors. Within ten (10) Business Days of presentment of such statements, if no written objections to the reasonableness of the fees and expenses charged in any such invoice (or portion thereof) is made (the “**Professional Fee Review Period**”), the Debtors shall pay in cash all such fees and expenses of the DIP Secured Parties, and their advisors and professionals promptly, and in any event within five (5) calendar days after the expiration of the Professional Fee Review Period, without the need for further application to or order of the Court. Any objection to the payment of such fees or expenses shall be made only on the basis of “reasonableness,” and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid and in any event within three (3) Business Days following the end of the Professional Review Period, without the need for further

application to or order of the Court. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the objecting party and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice. This Court shall resolve any dispute as to the reasonableness of any fees and expenses.

(c) **Binding Effect.** The provisions of this Interim Order shall be binding upon and inure to the benefit of the DIP Secured Parties, the Debtors, and their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in the Cases, in any Successor Case, or upon dismissal of any such Chapter 11 or Chapter 7 case.

(d) **No Waiver.** The failure of the DIP Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the other DIP Loan Documents or otherwise, as applicable, shall not constitute a waiver of any of the DIP Secured Parties' rights hereunder, thereunder or otherwise.

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

(f) **No Marshaling.** Subject to the entry of the Final Order, the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

(g) **Amendments.** The Debtors and the DIP Agent (with the consent of the requisite DIP Secured Parties as provided in and consistent with their respective rights under the

DIP Loan Documents) may amend, modify, supplement or waive any provision of the DIP Loan Documents without further notice to or approval of the Court, unless such amendment, modification, supplement or waiver (w) increases the interest rate (other than as a result of the imposition of the default rate) or fees charged in connection with the DIP Facility, (x) increases the commitments of the DIP Note Purchasers to make DIP Extensions of Credit under the DIP Loan Documents, (y) changes the Maturity Date or (z) otherwise is materially adverse to the interests of the Debtors or their estates. Except as otherwise provided herein, no waiver, modification or amendment of any of the provisions hereof shall be effective unless (i) set forth in writing, signed by, or on behalf of, the Debtors, the DIP Agent (after having obtained the approval of the requisite DIP Secured Parties as provided in the DIP Loan Documents) and (ii) approved by the Court after notice to parties in interest; provided that updates and supplements to the DIP Budget as required under this Interim Order and the other DIP Note Documents shall not require Court approval but shall be acceptable to the Majority DIP Note Purchasers.

(h) **Priority of Terms.** To the extent of any conflict between or among (a) the express terms or provisions of any of the DIP Loan Documents, the Motion, or any other agreements, on the one hand, and (b) the terms and provisions of this Interim Order, on the other hand, unless such term or provision herein is phrased in terms of “defined in” or “as set forth in” the DIP Note Purchase Agreement, the terms and provisions of this Interim Order shall govern.

(i) **Survival of Interim Order.** The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) converting any of the Cases to a case under Chapter 7 of the Bankruptcy Code, (ii) to the extent authorized by applicable law, dismissing any of the Cases, (iii) withdrawing of the reference of any of the Cases from this Court or (iv) providing for abstention from handling or

retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of this Interim Order and the DIP Loan Documents, including the DIP Liens and the DIP Superpriority Claim granted pursuant to this Interim Order and the DIP Loan Documents and any priorities and protections granted to or for the benefit of the DIP Secured Parties hereunder and thereunder, shall continue in full force and effect to the fullest extent provided by section 364(e) of the Bankruptcy Code.

(j) **Enforceability.** This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof.

(k) **No Waivers or Modification of Interim Order.** The Debtors irrevocably waive any right to seek any modification or extension of this Interim Order without the prior written consent of the DIP Secured Parties (which consent shall not be unreasonably withheld), and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Secured Parties. The Debtors may not seek to modify or to alter relative lien priority of the DIP Liens set forth in this Interim Order.

(l) **Waiver of any Applicable Stay.** Any applicable stay (including, without limitation, under Bankruptcy Rules 4001(a)(3) and 6004(h)) is hereby waived and shall not apply to this Interim Order.

15. **Lender Liability.** In determining to make any loan (whether under the DIP Note Purchase Agreement or otherwise) or to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Documents, the DIP Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the

operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any similar federal, state or local statute or regulation) or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates. So long as the DIP Secured Parties comply with their obligations under the DIP Documents and their obligations, if any, under applicable law (including the Bankruptcy Code) all risk of loss, damage or destruction of the DIP Collateral shall be borne by the Debtors.

16. **Final Hearing.**

(a) The Final Hearing to consider entry of the Final Order and final approval of the DIP Facility is scheduled for September 2, 2021 at 11:00 a.m. (EST) at the United States Bankruptcy Court for the District of Delaware.

(b) On or before two business days after entry of this Interim Order, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the “**Final Hearing Notice**”), together with copies of this Interim Order and the Motion, on the Notice Parties and to any other party that has filed a request for notices with this Court prior thereto. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than August 26, 2021 at 4:00 p.m. (EST), which objections shall be served so that the same are received on or before such date by: (i) the U.S. Trustee; (ii) counsel to the Ad Hoc Group; (iii) each of the Debtors’ 30 largest unsecured creditors (on a consolidated basis); (iv) the Internal Revenue Service; (v) the United States Attorney’s Office for the District of Delaware; and (vi) any such other party entitled to receive notice pursuant to Bankruptcy Rule 2002.

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

EXHIBIT A

DIP NOTE PURCHASE AGREEMENT

EXHIBIT B

DIP BUDGET