

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

**In re:**

**NORANDA ALUMINUM, INC., *et al.*,**

Debtors.<sup>1</sup>

**Chapter 11**

**Case No. 16-10083-399**

**(Jointly Administered)**

**Re: Docket Nos. 32**

**FINAL ORDER GRANTING DEBTORS' MOTION TO (I) AUTHORIZE  
DEBTORS IN POSSESSION TO OBTAIN POST-PETITION  
FINANCING PURSUANT TO 11 U.S.C. §§ 105, 362, 363, AND 364;  
(II) GRANT LIENS AND SUPERPRIORITY CLAIMS TO POST-PETITION  
LENDERS PURSUANT TO 11 U.S.C. §§ 364 AND 507;  
(III) PROVIDE ADEQUATE PROTECTION TO PRE-PETITION CREDIT  
PARTIES; (IV) MODIFY AUTOMATIC STAY PURSUANT TO  
11 U.S.C. §§ 361, 362, 363, 364, AND 507; AND (V) GRANT RELATED RELIEF**

This matter is before the Court on the Motion (the "Motion") of Noranda Aluminum Inc., a Delaware corporation, on behalf of itself and its affiliated debtors and debtors in possession (collectively, the "Debtors") in these Chapter 11 cases (the "Chapter 11 Cases"), pursuant to Sections 105, 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507(b) of Title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules"), and the local rules for the Eastern District of Missouri (the "Local Rules");

---

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number and state of incorporation, are: Noranda Aluminum, Inc. (Del; 5285), Gramercy Alumina Holdings Inc. (Del; 1941), Gramercy Alumina Holdings II, Inc. (Del.; 2806), NHB Capital, LLC (Del; 0777), Noranda Alumina LLC (Del; 4769), Noranda Aluminum Acquisition Corp. (Del; 8458), Noranda Aluminum Holding Corp. (Del; 8550), Noranda Bauxite Ltd. (Jamaica), Noranda Bauxite Holdings Ltd. (St. Lucia), Noranda Intermediate Holding Corp. (Del; 3238) and Norandal USA, Inc. (Del; 6477). The address of the Debtors' corporate headquarters is 801 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067.

(1) authorizing the Debtors to obtain post-petition financing, consisting of (x) a superpriority, secured, asset-based revolving credit facility in the principal amount of up to \$130,000,000 (the "ABL DIP Facility") from Bank of America, N.A. ("BofA"), in its separate capacities as administrative and collateral agent (in such capacities, together with its successors in such capacities, the "ABL DIP Agent") and as a lender, and certain other financial institutions (together with BofA and their respective successors and assigns, "ABL DIP Lenders"; and together with ABL DIP Agent, the "ABL DIP Credit Parties"), and (y) a superpriority, multiple-draw secured term loan facility in an aggregate principal amount of up to \$35,000,000, in the form of Initial Term Loans and Delayed Draw Term Loans, in each case as defined and specifically provided for in the Term DIP Loan Agreement (the "Term DIP Facility," and together with the ABL DIP Facility, the "DIP Financing") from Cortland Capital Market Services, LLC ("Cortland"), in its separate capacities as administrative and collateral agent (in such capacities, together with its successors in such capacities, the "Term DIP Agent"; and together with the ABL DIP Agent, the "DIP Agents"), and certain lenders (with their respective successors and assigns, the "Term DIP Lenders"; together with the Term DIP Agent, the "Term DIP Credit Parties"; and together with the ABL DIP Credit Parties, the "DIP Credit Parties");

(2) authorizing (x) the domestic Debtors to execute and enter into, and to perform all such other and further acts as may be required in connection with, the ABL DIP Financing Documents (as defined below) and (y) the Debtors (including Noranda Bauxite Ltd. but solely as a direct borrower of certain Term DIP Loans ("NBL" or the "Jamaican Borrower")) to execute and enter into, and to perform all such other and further acts as may be required in connection with, the Term DIP Financing Documents (as defined below), all in substantially the form annexed to the Motion (with such changes or amendments, if any, as were made prior to or as a result of the

Interim Hearing or the Final Hearing or are otherwise authorized to be made as amendments to either of the DIP Loan Agreements in accordance with this Final Order), and to execute and enter into, and to perform all instruments, security agreements, assignments, pledges, mortgages, deposit account control agreements, reaffirmations and other documents referred to therein or requested by DIP Credit Parties to give effect to the terms thereof (the DIP Loan Agreements, that certain Intercreditor Agreement and such other instruments, security agreements, assignments, pledges, deposit account control agreements, mortgages and other documents related to the DIP Loan Agreements or this Final Order, as at any time amended, being collectively called the "DIP Financing Documents") and to perform all such other and further acts as may be required in connection with the DIP Financing Documents<sup>2</sup>;

(3) authorizing the Debtors to use proceeds of the DIP Financing as permitted in the DIP Financing Documents and in accordance with the Interim Order (as defined below) and this Final Order (together the "Financing Orders");

(4) granting automatically perfected (i) priming security interests in and liens on all of the DIP Collateral (as defined below) and (ii) non-priming security interests in and liens on Unencumbered Property (as defined below) in which there is either pre-existing permitted senior liens or no pre-existing liens, to the DIP Agents for the respective benefit of the DIP Credit Parties to the extent provided herein, and granting superpriority administrative expense status to

---

<sup>2</sup> Wherever in this Final Order the term "Debtors" is used (i) with reference to their requesting or receiving ABL DIP Credit Extensions, using ABL Priority Collateral, being liable for or repaying ABL DIP Obligations, or granting DIP Liens or Superpriority Claims, such reference shall be understood to mean only the domestic Debtors; or (ii) with reference to the liability of Debtors for the Term DIP Obligations, such reference shall be understood to exclude Noranda Bauxite Holdings Ltd. and to limit the liability of NBL to amounts directly borrowed by NBL under the Term DIP Facility, and any reference to liens or Superpriority Claims conferred upon Term DIP Credit Parties by NBL shall be understood to mean liens or Superpriority Claims only to the extent of the Term DIP Loans made to NBL. Each of the capitalized terms used in this footnote shall have the meanings ascribed to them later in the text of this Final Order.

the DIP Obligations (as defined below), in each case subject to the Carve-Out (as defined below) and on the terms and subject to the relative priorities set forth in the DIP Financing Documents;

(5) providing adequate protection to the Pre-Petition Credit Parties (as defined below) to the extent of any diminution in value of their interests in the Pre-Petition Collateral (as defined below) and subject to the Carve-Out (as defined below);

(6) authorizing the Debtors to pay the principal, interest, fees, expenses, disbursements, and other amounts payable under the DIP Financing Documents as such amounts become due and payable;

(7) authorizing the Debtors to use Cash Collateral (as defined below) and all other Pre-Petition Collateral (as defined below), subject to the terms of the Financing Orders and the Intercreditor Agreement (as defined below);

(8) authorizing the use of Cash Collateral in the form of collections and proceeds of accounts receivable and other rights to payment (*less* the amount of \$10,000,000, which the Debtors were authorized by the Interim Order to retain to pay expenses of operation following commencement of the Chapter 11 Cases) to repay the Pre-Petition ABL Debt (as defined below) until Full Payment (as defined below) of the Pre-Petition ABL Debt;

(9) vacating and modifying the automatic stay pursuant to Section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Financing Orders and the other DIP Financing Documents;

(10) waiving the Debtors' ability to surcharge against any DIP Collateral (as defined below) pursuant to Section 506(c) of the Bankruptcy Code and any right of the Debtors under the "equities of the case" exception in section 552(b) of the Bankruptcy Code;

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

(12) granting the Debtors such other and further relief as is just and proper.

The Court held an interim hearing (the "Interim Hearing") on February 9, 2016, and entered an interim order (the "Interim Order") that, among other things, (a) authorized the Debtors to (i) enter into the DIP Loan Agreements (defined below) with the DIP Lenders and to obtain DIP Loans and other DIP Credit Extensions on a senior secured, superpriority claim basis (subject only to certain permitted liens and claims as set forth in the Interim Order) and (ii) authorized the ABL DIP Agent to apply proceeds of ABL Priority Collateral towards the payment of the Pre-Petition ABL Debt; (b) granted the adequate protection described in the Interim Order; and (c) scheduled the final hearing (the "Final Hearing") to consider entry of this Final Order authorizing the balance of the borrowings under the DIP Financing Documents and granting the other relief sought in the Motion on a final basis, as set forth in the Motion, the DIP Financing Documents, and this Final Order.

On February 19, 2016, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Committee") pursuant to section 1102(a)(1) of the Bankruptcy Code [Docket No. 183]. The Committee requested that the Final Hearing, originally scheduled for February 29, 2016, be continued until March 8, 2016. With the consent of the Debtors, the Court re-scheduled the Final Hearing for March 8, 2009, at 2:00 p.m. (Central Prevailing Time). By amended notice filed and served on February 26, 2016 [Docket No. 250], the Debtors notified parties in interest of this re-scheduling of the Final Hearing.

Due and appropriate notice of the Motion, the Final Hearing, and the Interim Order was served by the Debtors on (i) the Office of the United States Trustee (the "U.S. Trustee"), (ii)

counsel to the Pre-Petition ABL Agent; (iii) counsel to the Pre-Petition Term Agent; (iv) counsel to the ABL DIP Agent; (v) counsel to the Term DIP Agent; (vi) counsel to the Term DIP Credit Parties; (vii) the indenture trustee for the Debtors' senior unsecured notes; (viii) the Internal Revenue Service; (ix) the Securities and Exchange Commission; (x) the United States Department of Labor; (xi) the United States Attorney's Office for the Eastern District of Missouri; (xii) the holders of the 30 largest unsecured claims against the Debtors, on a consolidated basis, (xiii) the Missouri Department of Economic Development, and (xiv) New Madrid County, Missouri.

The Court has considered all objections or responses to the Motion, which were filed by (i) the Committee on March 2, 2016 [Docket No. 294], (ii) New Madrid County, Missouri ("New Madrid County"), on February 23, 2016, asserting a pre-petition lien on real property and improvements thereto of one or more Debtors for real and personal property taxes allegedly due to the county [Docket No. 210], (iii) Progressive Services, Inc. d/b/a Progressive Roofing ("Progressive") on February 24, 2016 [Docket No. 224], (iv) Artisan Contracting, LLC ("Artisan") on February 26, 2016 [Docket No. 257], and (v) DMI Contractors, Inc. ("DMI") on March 2, 2016 [Docket No. 293], with each of Progressive, Artisan, and DMI asserting that they hold mechanics lien rights under applicable state law against certain of the Debtors' real property and improvements thereto (collectively, the "Mechanics Liens") and potential claims as to insurance proceeds related to work performed pre-petition.

Upon the record made (i) by the Motion and the exhibits attached thereto, (ii) in the *Declaration of Dale W. Boyles in Support of Chapter 11 Petitions and First Day Motions* and the *Declaration of James H. Baird in Support of Debtors' Motion for Entry of Interim and Final Orders to (i) Authorize Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11*

*U.S.C. §§ 105, 362, 363, 364; (ii) Grant Liens and Superpriority Claims to Post-Petition Lenders Pursuant to 11 U.S.C. §§ 364 and 507, (iii) Provide Adequate Protection to Pre-Petition Credit Parties, (iv) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507, (v) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c), and Local Rule 4001-2, and (iv) Grant Related Relief; and (iii) at the Interim Hearing and the Final Hearing, and after due deliberation and consideration, and good and sufficient cause appearing therefor:*

**THE COURT HEREBY FINDS AND DETERMINES:<sup>3</sup>**

A. Petition Date. On February 8, 2016 (the “Petition Date”), each of the Debtors filed with the Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code, and each is continuing to manage its properties and to operate its business as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed for any Debtor.

B. Debtors’ Stipulations. Without prejudice to the rights of any other party (but subject to the limitations thereon contained in Paragraph 22 below), each Debtor admits, stipulates, acknowledges and agrees as follows:

(i) Pre-Petition ABL Loan Documents. Pursuant to that certain ABL Credit Agreement dated as of February 29, 2012 (as at any time amended or supplemented, the “Pre-Petition ABL Loan Agreement”), certain financial institutions in their capacity as lenders (collectively, “Pre-Petition ABL Lenders”) and BofA in its capacity as administrative and collateral agent for the Pre-Petition ABL Lenders (in such capacity, the “Pre-Petition ABL Agent,” and together with the Pre-Petition ABL Lenders, the “Pre-Petition ABL Credit Parties”) established a revolving credit facility and issued letters of credit for the domestic Debtors (other

---

<sup>3</sup> The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any findings of fact constitute conclusions of law, they are adopted as such, and vice versa.

than NHB Capital, LLC) (collectively, whether in the capacity as borrower or guarantor, the “Pre-Petition Obligors”), in an aggregate principal amount up to \$250,000,000. Pursuant to a Guarantee and Collateral Agreement dated February 29, 2012, the Debtors each unconditionally and absolutely guaranteed payment of all obligations owing by the borrowers under the Pre-Petition ABL Loan Agreement. The Pre-Petition ABL Loan Agreement, together with any other agreement, note, instrument, guaranty, mortgage, fixture filing, deed of trust, financing statement, pledge, assignment, and other document executed at any time in connection therewith, in each case as the same may be amended, modified, restated or supplemented from time to time, are hereinafter referred to collectively as the “Pre-Petition ABL Loan Documents.”

(ii) Pre-Petition ABL Collateral. Pursuant to certain Security Documents (as defined in the Pre-Petition ABL Loan Agreement) executed by the Pre-Petition Obligors in favor of the Pre-Petition ABL Agent, each Pre-Petition Obligor granted to the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Credit Parties and to secure such Pre-Petition Obligor’s obligations and indebtedness under the Pre-Petition ABL Loan Documents, (x) first priority liens on and security interests in the ABL Priority Collateral (as defined in that certain Intercreditor Agreement dated as of February 29, 2012, among the Pre-Petition Obligors, Pre-Petition ABL Agent, and Pre-Petition Term Agent (as at any time amended, the “Intercreditor Agreement”) of the Pre-Petition Obligors (the “ABL Priority Collateral”) and (y) second priority liens on and security interests in the Term Priority Collateral (as defined in the Intercreditor Agreement) of the Pre-Petition Obligors (the “Term Priority Collateral” and together with the ABL Priority Collateral, the “Pre-Petition Collateral,” and such pre-Petition Date liens and security interests in favor of Pre-Petition ABL Agent being collectively called the “ABL Security Interests”), in each case as provided in the Pre-Petition ABL Documents and the Intercreditor Agreement.



(iii) Pre-Petition Term Loan Documents. Pursuant to that certain Credit Agreement dated as of February 29, 2012 (as at any time heretofore amended, modified, restated or supplemented, the “Pre-Petition Term Loan Agreement”), certain financial institutions in their capacity as lenders under the Pre-Petition Term Loan Agreement (the “Pre-Petition Term Lenders”) and Cortland Capital Market Services LLC, in its separate capacities as administrative agent and collateral agent for the Pre-Petition Term Lenders (in such capacities, the “Pre-Petition Term Agent” together with the Pre-Petition ABL Agent, the “Pre-Petition Agents,” and the Pre-Petition Term Agent together with Pre-Petition Term Lenders, the “Pre-Petition Term Credit Parties”), made term loans to Noranda Aluminum Acquisition Corp., as borrower under the Pre-Petition Term Loan Agreement (the “Term Borrower”) in an original aggregate principal amount of up to approximately \$485,000,000.00. Pursuant to that certain Guarantee and Collateral Agreement dated as of February 29, 2012, the Pre-Petition Obligors each unconditionally and absolutely guaranteed payment of all obligations owing by the Term Borrower under the Pre-Petition Term Loan Agreement. The Pre-Petition Term Loan Agreement, together with any other agreement, note, instrument, guaranty, mortgage, fixture filing, deed of trust, financing statement, pledge, assignment, and other document executed at any time in connection therewith, in each case as the same may be amended, modified, restated or supplemented from time to time, are hereinafter referred to collectively as the “Pre-Petition Term Loan Documents” and collectively with the Prepetition ABL Loan Documents, the “Prepetition Documents.”

(iv) Pre-Petition Term Loan Collateral. Pursuant to certain Security Documents (as such term is defined in the Pre-Petition Term Loan Agreement) executed by the Pre-Petition Obligors in favor of the Pre-Petition Term Agent, each Pre-Petition Obligor granted to the Pre-Petition Term Agent, for itself and the Pre-Petition Term Lenders for which it serves

as agent, to secure the Pre-Petition Obligors' obligations under the Pre-Petition Term Loan Documents, (x) second priority security interests in and continuing liens upon the ABL Priority Collateral and (y) first priority security interests in and continuing liens upon the Term Priority Collateral (collectively, the "Term Loan Security Interests") and together with the ABL Security Interests, the "Pre-Petition Security Interests"), in each case as permitted in the Pre-Petition Term Loan Documents and the Intercreditor Agreement.

(v) Intercreditor Agreement. Pursuant to the Intercreditor Agreement, the parties thereto agreed, among other things, that (x) the security interests in and liens of the Pre-Petition ABL Agent upon the ABL Priority Collateral, whenever and however obtained, would be senior in all respects and prior to the security interests and liens of Pre-Petition Term Agent in such property and (y) the security interests and liens of Pre-Petition Term Agent upon the Term Priority Collateral, whenever and however obtained, would be senior in all respects and prior to the security interests and liens of Pre-Petition ABL Agent in such property.

(vi) Pre-Petition ABL Debt and Pre-Petition Term Debt. As of the Petition Date, the Pre-Petition Obligors were jointly and severally indebted and liable (x) under the Pre-Petition ABL Loan Documents to Pre-Petition ABL Credit Parties for revolving credit loans in the approximate principal amount of \$61,500,000 (the "Pre-Petition ABL Loans"), for fees, expenses, and other charges associated with depository accounts and other banking products and services, and on a contingent basis in the approximate amount of \$44,900,000 in face amount of standby letters of credit (the "Pre-Petition LCs"); together with the Pre-Petition ABL Loans, all other obligations of any Pre-Petition Obligor in respect of indemnities, guaranties and other payment assurances given by any Pre-Petition Obligor for the benefit of Pre-Petition ABL Credit Parties, and all interest, fees, costs, legal expenses and all other amounts heretofore or hereafter

accruing thereon or at any time chargeable to any Pre-Petition Obligor in connection therewith, collectively referred to as the “Pre-Petition ABL Debt”); and (y) under the Pre-Petition Term Loan Documents to the Pre-Petition Term Credit Parties for term loans in the approximate principal amount outstanding as of the Petition Date of \$468,098,674.21 (the “Pre-Petition Term Loans”; together with all other obligations of any Pre-Petition Obligor in respect of indemnities, guaranties and other payment assurances given by any Pre-Petition Obligor for the benefit of the Pre-Petition Term Credit Parties, and all interest, fees, costs, legal expenses and all other amounts heretofore or hereafter accruing thereon or at any time chargeable to any Pre-Petition Obligor in connection therewith, collectively referred to as the “Pre-Petition Term Debt”). Each Debtor acknowledges and stipulates that the Pre-Petition ABL Debt and the Pre-Petition Term Debt (collectively, the “Pre-Petition Debt”) are due and owing to the Pre-Petition ABL Credit Parties and Pre-Petition Term Credit Parties (collectively, the “Pre-Petition Credit Parties”), respectively, without any defense, offset, recoupment or counterclaim of any kind; the Pre-Petition Debt constitutes the legal, valid and binding obligations of each Pre-Petition Obligor, enforceable in accordance with their terms; and none of the Pre-Petition Debt or any payments made to any Pre-Petition Credit Party or applied to the obligations owing under any Pre-Petition ABL Loan Documents or Pre-Petition Term Loan Documents (collectively, the “Pre-Petition Loan Documents”) prior to the Petition Date is subject to avoidance, subordination, recharacterization, recovery, attack, offset, counterclaim, defense or Claim (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

(vii) Cash Collateral. Subject to the Intercreditor Agreement, all or substantially all cash, securities or other property of the Pre-Petition Obligors (and the proceeds

thereof) as of the Petition Date, including, without limitation, all amounts on deposit or maintained by any Pre-Petition Obligor in any account with any Pre-Petition ABL Credit Party is subject to valid and enforceable rights of setoff and valid, perfected, enforceable first-priority and second-priority liens, as the case may be, under the Pre-Petition Loan Documents and applicable law, and is included in the Pre-Petition Collateral, and therefore the Pre-Petition Obligors' cash, cash balances, and cash accounts are cash collateral of the Pre-Petition Credit Parties within the meaning of Section 363(a) of the Bankruptcy Code. All such cash (including, without limitation, all proceeds of the Pre-Petition Collateral) and all proceeds of property encumbered by Pre-Petition Security Interests and liens and security interests granted under the Financing Orders are referred to herein as "Cash Collateral."

C. Need for Financing. An immediate and ongoing need exists for the Debtors to obtain the DIP Financing in order to permit, among other things, the orderly continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to pay payroll obligations, to satisfy other working capital and operational needs so as to maximize the value of their respective businesses and assets as debtors in possession under Chapter 11 of the Bankruptcy Code. The Debtors do not have sufficient available resources of working capital to operate their businesses in the ordinary course without post-petition financing. The Debtors' ability to maintain business relationships with vendors and customers, to pay employees, and otherwise to fund operations is essential to the Debtors' viability and preservation of the going concern value of their businesses.

D. Proposed DIP Facilities. The Debtors have requested that the (i) the ABL DIP Lenders establish the ABL DIP Facility pursuant to which the Debtors may obtain loans from time to time (the "ABL DIP Loans," together with other extensions of credit pursuant to the ABL

DIP Loan Agreement (as defined below), the “ABL DIP Credit Extensions”) and letters of credit in an aggregate amount not to exceed at any time the lesser of (x) \$130,000,000 (the “ABL Commitment”) minus the outstanding amount of the Pre-Petition ABL Debt and such other amounts as may reduce the ABL Commitment from time to time in accordance with the ABL DIP Loan Agreement and (y) the Borrowing Base (as defined in the ABL DIP Loan Agreement), and (ii) the Term DIP Lenders (together with the ABL DIP Lenders, the “DIP Lenders”) establish the Term DIP Facility pursuant to which the Debtors may obtain loans (the “Term DIP Loans”; and together with the ABL DIP Loans, the “DIP Loans”; and the Term DIP Loans together with the other extensions of credit pursuant to the Term DIP Loan Agreement, the “Term DIP Credit Extensions”; together with the ABL DIP Credit Extensions, the “DIP Credit Extensions”) in an aggregate principal amount not to exceed \$35,000,000, with all DIP Loans and related obligations secured by all real and personal property of the Debtors, wherever located and whether created, acquired or arising prior to, on or after the Petition Date. The ABL DIP Lenders are willing to establish the ABL DIP Facility upon the terms and conditions set forth herein and in that certain Post-Petition Credit Agreement that has been entered into following entry of the Interim Order by the domestic Debtors and the ABL DIP Credit Parties, substantially in the form attached to the Motion (together with all schedules, exhibits and annexes thereto, and as at any time amended, the “ABL DIP Loan Agreement”). The Term DIP Lenders are willing to establish the Term DIP Facility upon the terms and conditions set forth herein and in that certain Debtor-In-Possession Term Loan Credit Agreement that has been entered into following entry of the Interim Order by the Debtors and the Term DIP Credit Parties, substantially in the form attached to the Motion (together with all schedules, exhibits and annexes thereto, and as at

any time amended, the “Term DIP Loan Agreement”; and together with the ABL DIP Loan Agreement, the “DIP Loan Agreements”).

E. No Credit Available on More Favorable Terms. Despite diligent efforts, the Debtors have been unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Loan Agreements and are unable to obtain adequate unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors also are unable to obtain secured credit allowable under Sections 364(c)(1), 364(c)(2) and (c)(3) of the Bankruptcy Code without granting priming liens under Section 364(d)(1) of the Bankruptcy Code and the Superpriority Claims (as defined in Paragraph 4(a) below) under the terms and conditions set forth in this Final Order and in the DIP Financing Documents (as defined below).

F. Budget. The Debtors have prepared a 13-week rolling budget in accordance with the DIP Loan Agreements (as at any time amended or supplemented with the prior written consent of each DIP Agent<sup>4</sup>, the “Budget”),<sup>5</sup> which sets forth, among other things, the projected cash receipts and disbursements for the periods covered thereby. The DIP Credit Parties are relying upon the Budget in entering into the DIP Loan Agreements, and the Pre-Petition Credit Parties are relying upon the Budget in consenting to the terms of this Final Order. The Debtors

---

<sup>4</sup> Whenever approval, consent or discretion of a DIP Agent or Pre-Petition Agent to take specific action is referred to in this Final Order, such approval, consent or discretion shall also include the prior written approval or consent of the required ABL DIP Lenders, Pre-Petition ABL Lenders, Term DIP Lenders, or Pre-Petition Term Lenders, as applicable, to take such actions or, in the case of the exercise of discretion, as such exercise may be directed by the required ABL DIP Lenders, Pre-Petition ABL Lenders, Term DIP Lenders, or Pre-Petition Term Lenders, as applicable.

<sup>5</sup> The Debtors have annexed to the Motion a consolidated summary of the Budget (the “Budget Summary”). For the avoidance of doubt, the Budget Summary has been annexed to the Motion for informational purposes only and is only a summary of the more detailed Budget described herein.

shall provide to the Term DIP Agent (or, following the Full Payment<sup>6</sup> and satisfaction of all Obligations under the Term DIP Facility, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) and the Committee an updated Budget each month covering the next 13-week period, which shall be subject (i) to the approval requirements set forth in the DIP Financing Documents and, (ii) (x) following the Full Payment of all Obligations under the Term DIP Facility, to the approval of the Pre-Petition Term Agent and (y) following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, to the approval of the Pre-Petition ABL Agent. In addition, on Wednesday of each week, the Debtors shall provide each of the DIP Agents, Pre-Petition Agents and the Committee with a variance report pursuant to the terms set forth in the DIP Financing Documents. All references restricting the use of DIP Loans to payment of amounts set forth in the Budget shall mean the most recent approved Budget, subject to the “Permitted Variances” as defined in the DIP Financing Documents.

G. Certain Conditions to DIP Facility. The ABL DIP Lenders’ willingness to make ABL DIP Credit Extensions and the Term DIP Lenders’ willingness to make Term DIP Credit Extensions are conditioned upon, among other things, (i) the Debtors obtaining Court approval to enter into the DIP Loan Agreements and all of the obligations of the Debtors and all rights and remedies of the DIP Credit Parties thereunder; (ii) the Debtors’ provision of the adequate protection provided for in the Financing Orders of the Pre-Petition Credit Parties’ interests in the Pre-Petition Collateral pursuant to Sections 361 and 363 of the Bankruptcy Code; and (iii) (x) the

---

<sup>6</sup> As used herein, the term “Full Payment,” as applied to DIP Obligations, Pre-Petition ABL Debt, or Pre-Petition Term Debt, shall mean full, final, indefeasible payment and satisfaction of such indebtedness in cash, the cash collateralization of any contingent obligations as and to the extent required by the applicable loan documents, expiration of the Challenge Deadline (as defined below) without a challenge having been timely asserted, and, in the case of the DIP Obligations, termination of the relevant DIP Facility.

ABL DIP Agent receiving, on behalf of the ABL DIP Credit Parties and as security for the prompt payment of all ABL DIP Loans made by the ABL DIP Credit Parties, perfected security interests in and liens upon, subject to the Intercreditor Agreement, each Debtor's pre-petition and post-petition real and personal property, including, without limitation, all of each Debtor's cash, accounts, inventory, equipment, fixtures, general intangibles, documents, instruments, chattel paper, deposit accounts, letter-of-credit rights, commercial tort claims, investment property, intellectual property, real property and leasehold interests, contract rights, business interruption insurance, and books and records relating to any assets of such Debtor and all proceeds (including, without limitation, insurance proceeds) of the foregoing, whether such assets were in existence on the Petition Date or were thereafter created, acquired or arising and wherever located (all such real and personal property, including, without limitation, all Pre-Petition Collateral and the proceeds thereof, being collectively hereinafter referred to as the "ABL DIP Collateral"), provided that the ABL DIP Collateral shall only include, in the case of pledged equity interests of the Jamaican Borrower, 65% of the equity interests in the Jamaican Borrower and shall not include the additional 35% of such equity interests (the "Additional NBL Equity Interests") that comprise a part of the Term DIP Collateral (as defined below); and (y) the Term DIP Agent receiving, on behalf of the Term DIP Credit Parties and as security for the prompt payment of all Term DIP Loans (except Term DIP Loans to the Jamaican Borrower) made by the Term DIP Credit Parties, perfected security interests in and liens upon, subject to the Intercreditor Agreement, all of Debtors' pre-petition and post-petition real and personal property, including, without limitation, all of each Debtors' cash, accounts, inventory, equipment, fixtures, general intangibles, documents, instruments, chattel paper, deposit accounts, letter-of-credit rights, commercial tort claims, investment property, intellectual property, real property and



leasehold interests, contract rights, business interruption insurance, and books and records relating to any assets of such Debtors and all proceeds (including, without limitation, insurance proceeds) of the foregoing, whether such assets were in existence on the Petition Date or were thereafter created, acquired or arising and wherever located (all such real and personal property, including, without limitation, all Pre-Petition Collateral and the proceeds thereof, being collectively hereinafter referred to as the “Term DIP Collateral” and collectively with the ABL DIP Collateral, the “DIP Collateral”), and that such perfected security interests and liens have the priorities hereinafter set forth. Notwithstanding the foregoing, the Term DIP Credit Extensions made available to the Jamaican Borrower shall be secured only by a perfected security interest in and lien upon the Jamaican Borrower’s pre-petition and post-petition real and personal property (other than equity interests that the Jamaican Borrower in Noranda Jamaica Bauxite Partners (a Jamaican partnership), which equity interests shall not be Term DIP Collateral (as defined below)). The DIP Collateral shall not include Avoidance Claims or proceeds thereof.

H. Adequate Protection. The Debtors acknowledge and agree that the Pre-Petition Credit Parties are entitled to adequate protection as set forth in the Financing Orders granting first priority and/or priming liens on the ABL Priority Collateral and on the Term Priority Collateral, for the benefit of the ABL DIP Credit Parties and the Term DIP Credit Parties, respectively, with the relative priorities set forth in the Intercreditor Agreement; the use, sale, lease or depreciation or other diminution in value of their respective interests in the Pre-Petition Collateral; the subordination to the Carve-Out (as defined below); and the imposition of the automatic stay under Section 362(a) of the Bankruptcy Code or otherwise pursuant to Sections 361(a), 363(c), 364(c), and 364(d)(1) of the Bankruptcy Code. The adequate protection and other treatment to be provided by the Debtors pursuant to the Financing Orders, including as provided

in Paragraph F of this Final Order with respect to Budget approval rights and Paragraph 18 of this Final Order with respect to Events of Default, are consistent with the Intercreditor Agreement and authorized by the Bankruptcy Code, will minimize disputes and litigation over use of the Pre-Petition Collateral, and will facilitate the Debtors' ability to continue their business operations through the use of the DIP Financing.

I. Service of Motion and Notice of Final Hearing. The Debtors have certified that copies of the Motion (together with the annexed copies of the proposed DIP Loan Agreements and Budget annexed thereto), and notice of the Interim Hearing and the Final Hearing have been served by electronic mail, telecopy transmission, hand delivery, overnight courier or first class United States mail upon (i) the U.S. Trustee, (ii) counsel to the Pre-Petition ABL Agent; (iii) counsel to the Pre-Petition Term Agent; (iv) counsel to the ABL DIP Agent; (v) counsel to the Term DIP Agent; (vi) counsel to the Term DIP Credit Parties; (vii) the indenture trustee for the Debtors' senior unsecured notes; (viii) the Internal Revenue Service; (ix) the Securities and Exchange Commission; (x) the United States Department of Labor; (xi) the United States Attorney's Office for the Eastern District of Missouri; (xii) the holders of the thirty (30) largest unsecured claims against the Debtors, on a consolidated basis, (xiii) the Missouri Department of Economic Development, and (xiv) New Madrid County, Missouri. The Court finds that the foregoing notice of the Motion, as it relates to the Financing Orders and the Interim Hearing and Final Hearing, is appropriate, due and sufficient for all purposes under the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, including, without limitation, Sections 102(1) and 364 of the Bankruptcy Code and Bankruptcy Rule 4001(b) and (c), and that no further notice of the relief sought at the Interim Hearing or Final Hearings is necessary or required.

J. Finding Cause. Good cause has been shown for the entry of this Final Order and authorization for (i) the DIP Lenders to provide the Debtors with the DIP Credit Extensions, (ii) the Debtors to accept and undertake the DIP Obligations (defined below) pursuant to the DIP Loan Agreements as hereinafter provided during the Interim Period, and (iii) the Debtors to provide the Pre-Petition Credit Parties with adequate protection as set forth herein. Each Debtor's need for financing of the type afforded by the DIP Loan Agreements is immediate and critical. Entry of this Final Order will preserve the assets of the Debtors' estates and their value and is in the best interests of the Debtors, their creditors and their estates. The terms of the DIP Financing are fair and reasonable, reflect each Debtor's exercise of its business judgment, and are supported by reasonably equivalent value and fair consideration.

K. Finding of Good Faith. The DIP Financing has been negotiated in good faith and at arm's length between the Debtors, on the one hand, and the DIP Credit Parties, on the other. All of the DIP Obligations (as defined below), including, without limitation, all the DIP Credit Extensions made pursuant to the DIP Loan Agreements and all other liabilities and obligations of any Debtors under the Financing Orders or in respect of credit card debt, overdrafts and related liabilities arising from treasury, depository, credit card and cash management services, or in connection with any automated clearing house transfers of funds, owing to the DIP Credit Parties shall be deemed to have been extended by the DIP Credit Parties in "good faith," as such term is used in Section 364(e) of the Bankruptcy Code, and in express reliance upon the protections offered by Section 364(e) of the Bankruptcy Code. The DIP Credit Parties shall be entitled to the full protection of Section 364(e) of the Bankruptcy Code in the event that the Interim Order or this Final Order or any provision thereof or hereof is vacated, reversed or modified, on appeal or otherwise.

L. Jurisdiction; Core Proceeding. This Court has jurisdiction over these Chapter 11 Cases, the Motion, the Financing Orders, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a “core” proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

M. Immediate Entry. The Debtors’ consummation of the DIP Financing in accordance with the terms of the Financing Orders and the DIP Financing Documents is in the best interests of each Debtor’s estate and is consistent with each Debtor’s exercise of its fiduciary duties. Under the circumstances, the notice given by the Debtors of the Motion, the Interim Hearing, and the Final Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 4001(b) and (c) and L.R. 9013-3. No further notice of the relief sought at the Interim Hearing and the Final Hearing is necessary or required.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, as follows:

1. Grant of Motion; Authorization of DIP Financing; Use of Proceeds.

(a) The Motion is hereby GRANTED on a FINAL basis as and to the extent provided herein, and the Court hereby authorizes and approves each Debtor’s execution and delivery of the applicable DIP Loan Agreements in substantially the form annexed to the Motion (with such changes, if any, as were made prior to or as a result of the Final Hearing or are otherwise authorized to be made as amendments to either of the DIP Loan Agreements in accordance with the Interim Order or this Final Order) and all instruments, security agreements, assignments, pledges, mortgages, reaffirmations and other documents referred to therein or requested by the DIP Credit Parties to give effect to the terms thereof (the DIP Loan Agreements and all such other instruments, and documents, including, without limitation, security

agreements, pledge agreements, mortgages, deeds of trust, deeds to secure debt, financing statements, amendments, waivers, consents, other modifications, and intellectual property filings, and other documents, as at any time amended, being collectively called the “DIP Financing Documents”).

(b) The Debtors are hereby authorized to borrow money pursuant to the DIP Financing Documents, on the terms and subject to the conditions, lending formulas and sub-limits set forth in any DIP Financing Document and this Final Order, up to an aggregate principal amount outstanding at any time equal to (i) \$130,000,000 (less the amount of Pre-Petition ABL Debt outstanding at such time), subject to further reduction as set forth in the ABL DIP Loan Agreement, and subject to a Borrowing Base (as defined in the ABL DIP Loan Agreement) in the case of the ABL DIP Credit Extensions and (ii) \$35,000,000 in the case of the Term DIP Credit Extensions (in the form of Initial Term Loans and Delayed Draw Term Loans, as those terms are defined and specifically provided for in the Term DIP Loan Agreement), in each case together with interest, fees and other charges payable in connection with such DIP Credit Extensions, and to incur any and all liabilities and obligations under the DIP Financing Documents and to pay all principal, interest, fees, expenses and other obligations provided for under the DIP Financing Documents (including any obligations, to the extent provided for in the DIP Financing Documents, to indemnify the DIP Agents or DIP Lenders); provided, however, that, subject to all of the terms and conditions in the DIP Loan Agreements, the Debtors may use the DIP Loans and other DIP Credit Extensions (a) in the case of ABL DIP Loans, to pay (or in the case of contingent obligations, to cash collateralize) amounts owed by any Debtor at any time to the ABL DIP Agent (on behalf of the ABL DIP Lenders) under any of the ABL DIP Financing Documents, including, without limitation, costs, fees and expenses at any time due thereunder,

and, in the case of Term DIP Loans, to pay amounts owed by any Debtor at any time to the Term DIP Agent (on behalf of the Term DIP Lenders) under any of the Term DIP Financing Documents, including, without limitation, costs, fees and expenses at any time due thereunder; (b) to make disbursements specified or authorized to be paid in the Budget and in amounts not to exceed the Permitted Variances provided in the DIP Loan Agreements (all of which shall be deemed to be made to prevent immediate and irreparable harm to the Debtors); (c) to make adequate protection and other payments to the Pre-Petition Credit Parties to the extent authorized or required herein; (d) for any other purposes provided for in the Budget, any "first day" or "second day" orders, or either Financing Order; (e) to pay other fees or expenses that are required or authorized to be paid under any of the DIP Financing Documents or either Financing Order; and (f) to fund the Carve-Out (as defined below). Except as otherwise provided in any Term DIP Financing Documents with respect to NBL, each Debtor shall be jointly and severally liable for the foregoing borrowings and extensions of credit and each other Debtor's obligations and liabilities under the DIP Financing Documents, including, without limitation, costs, fees, and other expenses and amounts provided for in the DIP Financing Documents, in accordance with the terms of the DIP Financing Documents; provided, however, that only Debtors shall be jointly and severally liable for the ABL DIP Obligations (as defined below).

(c) In addition to the DIP Credit Extensions described above, the Debtors are authorized to incur credit and debit card debt, overdrafts and related liabilities arising from treasury, depository, cash management services, including any automated clearing house fund transfers provided to or for the benefit of any Debtor by any ABL DIP Credit Party (or any of their respective affiliates), provided that nothing herein shall require any ABL DIP Credit Party to allow overdrafts to be incurred or to provide any such services or functions to any Debtor.

(d) No DIP Credit Party shall have any obligation or responsibility to monitor any Debtor's use of the DIP Loans or other DIP Credit Extensions, and each DIP Credit Party may rely upon each Debtor's representations that the amount of the DIP Credit Extensions requested at any time, and the use thereof, are in accordance with the requirements of the Financing Orders, the Budget, the DIP Financing Documents, and Bankruptcy Rule 4001(c)(2).

(e) As provided in the ABL DIP Loan Agreement and the Interim Order, the Pre-Petition LCs shall be treated as having been issued under the ABL DIP Loan Agreement, shall constitute part of the ABL DIP Credit Extensions, shall be entitled to all of the benefits and security of the ABL DIP Financing Documents, the DIP Collateral and this Final Order, and from and after entry of the Interim Order shall cease to be regarded as part of the Pre-Petition ABL Debt.<sup>7</sup>

(f) The Debtors may obtain and use the proceeds of ABL DIP Loans only for purposes specified in the ABL DIP Loan Agreement and the Debtors may obtain and use proceeds of the Term DIP Loans only for purposes specified in the Term DIP Loan Agreement. No proceeds of any DIP Loan shall be used to (i) make any payment in settlement or satisfaction of any pre-petition claim (excluding the Pre-Petition Debt) or administrative claim (excluding the DIP Obligations (defined below)), unless (x) in compliance with the Budget and permitted under the DIP Financing Documents, or (y) as separately approved by the Court upon notice to, and no objection from, the DIP Agents and subject to compliance with the Budget; (ii) except as

---

<sup>7</sup> Letter of Credit No. 68112969 issued by Bank of America, N.A. ("L/C Issuer") for the account of Noranda Aluminum Acquisition Corporation and for the benefit of the Government of Jamaica, Ministry of Finance and Planning (the "Beneficiary") in the face amount of \$5,059,587 (as amended, the "Bauxite LC") expired by its terms on January 29, 2016, without the Beneficiary having submitted a conforming draw request under the Bauxite LC. L/C Issuer reserves all of its rights, remedies and indemnities with respect to the Bauxite LC under the Pre-Petition ABL Loan Agreement, the ABL DIP Loan Agreement, the documents executed in connection with the Bauxite LC, and applicable law, including the right to be reimbursed by the Debtors for any claim made in respect of the Bauxite LC and to recover any fees, charges and expenses heretofore or hereafter incurred in connection with the Bauxite LC.

expressly provided or permitted hereunder or in the Budget or as otherwise approved by DIP Agents, to make any payment or distribution to any non-Debtor affiliate, equity holder, or insider of any Debtor, provided that in no event shall any management, advisory, consulting or similar fees be paid to or for the benefit of any affiliate that is not a Debtor, equity holder or insider, unless expressly permitted under the DIP Financing Documents; (iii) make any payment from ABL DIP Loans to any Pre-Petition Term Credit Party on account of the Pre-Petition Term Debt or any Term DIP Credit Party on account of any Term DIP Credit Extensions, or make any payment from Term DIP Loans to any Pre-Petition ABL Credit Party on account of the Pre-Petition ABL Debt or any ABL DIP Credit Party on account of any ABL DIP Credit Extensions, notwithstanding anything to the contrary in either Financing Order or any DIP Financing Documents; or (iv) in the case of proceeds of any ABL DIP Loan, make any payment, advance, intercompany advance or transfer, or any other remittance or transfer whatsoever to any Debtor or affiliate of Debtors that is not a “Borrower” under, and as defined in, the ABL DIP Credit Agreement, other than for purchases of inventory in the ordinary course of business; or (v) make any payment otherwise prohibited by either Financing Order.

2. Execution, Delivery and Performance of DIP Financing Documents. The DIP Financing Documents and any amendments thereto may be executed and delivered on behalf of each Debtor by any officer, director, or agent of such Debtor, who by signing shall be deemed to represent himself or herself to be duly authorized and empowered to execute such DIP Financing Documents and amendments for and on behalf of such Debtor; the DIP Credit Parties shall be authorized to rely upon any such person’s execution and delivery any of the DIP Financing Documents and any amendments thereto as having done so with all requisite power and authority to do so; and the execution and delivery of any of the DIP Financing Documents or any



amendments thereto by any such person on behalf of such Debtor shall be conclusively presumed to have been duly authorized by all necessary corporate, limited liability company, or other entity action (as applicable) of such Debtor. Upon execution and delivery thereof, each of the DIP Financing Documents and any amendments thereto shall constitute valid and binding obligations of each Debtor, enforceable against each Debtor to the extent and in accordance with their terms for all purposes during its Chapter 11 Case, any subsequently converted case of such Debtor under Chapter 7 of the Bankruptcy Code (each, a “Successor Case”), and after the dismissal of any Chapter 11 Case. Subject to the provisions of Paragraphs 5(a) and 22 hereof, no obligation, payment, transfer or grant of security under the DIP Financing Documents or either Financing Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable non-bankruptcy law (including, without limitation, under Sections 502(d), 544, 548, 549 or 550 of the Bankruptcy Code or under any applicable Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim. In furtherance of the provisions of Paragraph 1 of this Final Order, each Debtor is authorized and directed to do and perform all acts; to make, execute and deliver all DIP Financing Documents; and to pay all fees, costs and expenses, in each case as may be necessary or, at the request of either DIP Agent, desirable to give effect to any of the terms and conditions of the DIP Financing Documents and any amendments thereto, to validate the perfection of the DIP Liens (as defined below), or as may otherwise be required or contemplated by the DIP Financing Documents and any amendments thereto.

3. DIP Liens. As security for the Debtors’ payment and performance of any DIP Credit Extensions, all interest, costs, expenses, fees and other charges at any time or times

payable by any Debtor to any DIP Credit Party in connection with all DIP Credit Extensions or otherwise pursuant to any of the DIP Financing Documents, all reimbursement obligations and other indebtedness in respect of the Pre-Petition LCs, and all other indebtedness and obligations under any of the DIP Financing Documents (including, without limitation, Cash Management Obligations (as defined in the ABL DIP Loan Agreement)) (to the extent any of the foregoing is owed to any of the ABL DIP Credit Parties, they are collectively called “ABL DIP Obligations”; to the extent any of the foregoing is owed to any of the Term DIP Credit Parties, they are collectively called “Term DIP Obligations”; and all of the foregoing are collectively called the “DIP Obligations”), each DIP Agent shall have, for itself and for the benefit of the DIP Credit Parties for which it serves, and is hereby granted, valid, binding, enforceable, non-avoidable and automatically and properly perfected security interests in and liens upon all of the DIP Collateral, subject to the provisions in Paragraph 3(d) (collectively, the “DIP Liens”) and in the priorities set forth herein. Subject to the Carve-Out provided in Paragraph 12 hereof, the DIP Liens shall be:

(a) Unencumbered Property. Pursuant to Section 364(c)(2) of the Bankruptcy Code, valid, binding, continuing, enforceable, fully perfected, first priority (except to the extent provided otherwise in this sentence) senior liens on, and security interests in, all DIP Collateral that was not otherwise subject to valid, perfected, enforceable and unavoidable liens on the Petition Date (collectively, the “Unencumbered Property”), which shall include, without limitation, the following and in the relative priorities specified: (i) security interests and liens of the ABL DIP Agent on the Unencumbered Property that is of a type that would be ABL Priority Collateral shall be first priority and senior to all other security interests and liens on such collateral, including security interests and liens of the Term DIP Agent and Pre-Petition Term Agent, (ii) security interests and liens of the Term DIP Agent on Unencumbered Property that is

of a type that would be Term Priority Collateral (including liens on all equity interests that any Debtor owns in another entity) shall be first priority and senior to all other liens on such collateral, including security interests and liens of the ABL DIP Agent and Pre-Petition ABL Agent, (iii) security interests and liens of the ABL DIP Agent on Unencumbered Property that is of a type that would be Term Priority Collateral shall be junior only to the security interests and liens of the Pre-Petition Term Agent, the Term DIP Agent and the Term Adequate Protection Liens (as defined below) on such collateral, and (iv) security interests and liens of the Term DIP Agent on Unencumbered Property that is of the type that would be ABL Priority Collateral shall be junior only to the security interests and liens of the Pre-Petition ABL Agent, the ABL DIP Agent and the ABL Adequate Protection Liens (as defined herein) on such collateral.

(b) Liens Junior to Certain Other Liens. Pursuant to Section 364(c)(3) of the Bankruptcy Code, (i) in the case of ABL DIP Agent, valid, binding, continuing, enforceable, fully perfected security interests and liens upon the Term Priority Collateral, which security interests and liens shall be junior to (but only to) (1) security interests and liens in favor of the Pre-Petition Term Agent and the Term DIP Agent with respect to the Term Priority Collateral, (2) the Term Adequate Protection Liens, (3) Permitted Liens (as defined in the ABL DIP Loan Agreement), to the extent such liens are permitted to have priority over the ABL Security Interests and are not the type of lien set forth in Paragraph 3(c) below, and (4) any properly perfected, valid, unavoidable, and enforceable liens in existence as of the Petition Date to the extent senior in priority on the Petition Date to the ABL Security Interests, but shall be senior to the security interests and liens in favor of the Pre-Petition ABL Agent with respect to the Term Priority Collateral and the ABL Adequate Protection Liens with respect to the Term Priority Collateral; and (ii) in the case of the Term DIP Agent, valid, binding, continuing, enforceable,

fully perfected security interests and liens upon the ABL Priority Collateral, which security interests and liens shall be junior to (but only to) (1) security interests and liens in favor of the Pre-Petition ABL Agent and the ABL DIP Agent with respect to the ABL Priority Collateral, (2) the ABL Adequate Protection Liens, (3) the Permitted Liens (as defined in the Term DIP Loan Agreement) to the extent such liens are permitted to have priority over the Term Security Interests and are not the type of lien set forth in Paragraph 3(c) below, and (4) any properly perfected, valid, unavoidable, and enforceable liens in existence as of the Petition Date to the extent senior in priority on the Petition Date to the Term Loan Security Interests, but shall be senior to the security interests and liens in favor of the Pre-Petition Term Agent with respect to the ABL Priority Collateral and the Term Adequate Protection Liens with respect to the ABL Priority Collateral.

(c) Priming DIP Liens. Pursuant to Section 364(d)(1) of the Bankruptcy Code, (i) in the case of ABL DIP Agent, valid, binding, continuing, enforceable, fully perfected security interests and liens upon the ABL Priority Collateral, which security interests and liens shall be prior and senior in all respects to (1) the security interests and liens in favor of the Pre-Petition ABL Agent with respect to the ABL Priority Collateral, (2) the security interests and liens in favor of the Pre-Petition Term Agent and Term DIP Agent with respect to the ABL Priority Collateral, (3) the ABL Adequate Protection Liens with respect to the ABL Priority Collateral, and (4) the Term Adequate Protection Liens with respect to the ABL Priority Collateral; and (ii) in the case of the Term DIP Agent, valid, binding, continuing, enforceable, fully perfected security interests and liens upon the Term Priority Collateral, which security interests and liens shall be prior and senior in all respects to (1) the security interests and liens in favor of the Pre-Petition Term Agent with respect to the Term Priority Collateral, (2) the security

interests and liens in favor of the Pre-Petition ABL Agent and ABL DIP Agent with respect to the Term Priority Collateral, (3) the Term Adequate Protection Liens with respect to the Term Priority Collateral, and (4) the ABL Adequate Protection Loans with respect to the Term Priority Collateral. The liens, if any there be, on any Collateral in favor of either or both of the Missouri Department of Economic Development or New Madrid County, Missouri, shall be junior in right and priority pursuant to Section 364(d) of the Bankruptcy Code to all of the DIP Liens securing any and all DIP Obligations. For avoidance of doubt, in no event shall the priming liens granted to ABL DIP Agent and Term DIP Agent pursuant to this subparagraph (c) be deemed to prime any legal, valid, binding, enforceable and unavoidable liens existing as of the Petition Date upon certain real property and improvements thereto of the Debtors to the extent that such liens are (A) Mechanics Liens in favor of Artisan, DMI, or Progressive (as well as any claims relating to insurance proceeds which may relate to actual repairs made, to the extent such parties have rights to same under otherwise applicable state law); or (B) liens for property taxes (and all post-petition interest and penalties payable in connection therewith, to the extent allowed by the Court) in favor of New Madrid County, in each case for the liens described in clauses (A) and (B), to the extent and only to the extent such liens are otherwise senior in priority to the ABL Security Interests or Term Loan Security Interests as of the Petition Date or otherwise constitute a Permitted Lien under (and as defined in) the DIP Financing Documents, and to such extent all rights with respect to such liens described in clauses (A) and (B) are expressly reserved.

(d) Liens Senior to Certain Other Liens. The DIP Liens and the Adequate Protection Liens shall not be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of any Debtor or its estate under Section 551 of the Bankruptcy Code, (B) any lien or security interest of any lessor or landlord under any agreement

or applicable state law to the extent any such lien has been waived in favor of the Pre-Petition ABL Loan or the Pre-Petition Term Loans, (C) except as to a DIP Agent whose DIP Financing Documents expressly allow a post-petition lien to have priority over the DIP Liens of such DIP Agent, any post-petition liens granted by any Debtor to other persons or entities or otherwise arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of any Debtor, or (D) any intercompany or affiliate liens or security interests of the Debtors; (ii) subordinated to or made *pari passu* with any other lien or security interest under Section 363 or 364 of the Bankruptcy Code or otherwise; or (iii) subject to Sections 510, 549 or 550 of the Bankruptcy Code. In no event shall any person or entity who pays (or, through the extension of credit to any Debtor, causes to be paid) any of the DIP Obligations be subrogated, in whole or in part, to any rights, remedies, claims, privileges, liens or priorities granted to or in favor of, or conferred upon, any DIP Credit Party by the terms of any DIP Financing Documents or the Financing Orders unless such person or entity contemporaneously causes Full Payment (as defined below) of all Pre-Petition Debt.

4. Superpriority Claims.

(a) Scope of Superpriority Claims. All DIP Obligations shall constitute joint and several allowed superpriority claims (the “Superpriority Claims”) against each Debtor (without the need to file any proof of claim) pursuant to Section 364(c)(1) of the Bankruptcy Code having priority in right of payment over all other obligations, liabilities and indebtedness of such Debtor, whether now in existence or hereafter incurred by any such Debtor, and over any and all administrative expenses of the kind specified in Sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under

Sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c), 507, 546(c), 552(b) 726, 1113 or 1114 of the Bankruptcy Code. Such Superpriority Claims shall for purposes of Section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under Section 503(b) of the Bankruptcy Code and shall be payable from and have recourse to all pre-petition and post-petition property of the Debtors and all proceeds thereof, including, without limitation, all Avoidance Proceeds received or recovered in respect of any Avoidance Claims; provided, however, that the Superpriority Claims shall be subject to the Carve-Out (as defined below).

(b) Sharing. Other than with respect to Avoidance Proceeds (which are subject to Paragraph 4(c) below), if any distribution is made on account of the Superpriority Claims of any DIP Credit Party payable from or from the proceeds of any Unencumbered Property or proceeds thereof, the DIP Credit Parties and the Pre-Petition Credit Parties shall be entitled to a share hereof based on the priorities set forth in Paragraph 3(a) above.

(c) Proceeds of Avoidance Claims. For the avoidance of doubt, the Superpriority Claims shall have recourse to all proceeds (the "Avoidance Proceeds") of all of the Debtors' claims and causes of action pursuant to Sections 502(d), 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code (the "Avoidance Claims"). The Avoidance Proceeds will be shared among DIP Agents (for the benefit of their respective DIP Credit Parties), with 40.3% to be remitted to ABL DIP Agent and 59.7% to be remitted to Term DIP Agent.

5. Repayment.

(a) Repayment of Pre-Petition ABL Debt. Upon or at any time after entry of this Final Order, ABL DIP Lenders shall be authorized, in their discretion, to fund under the ABL DIP Facility (to the extent that Full Payment of the Pre-Petition ABL Debt has not already occurred pursuant to Paragraphs 7(d) and (e) of the Interim Order) one or more ABL DIP Loans

in an amount sufficient to pay, and to be used to cause Full Payment of, all outstanding Pre-Petition ABL Debt (the "Roll-Up"), and in such event, the Debtors are authorized to draw and shall be deemed to have drawn on the ABL DIP Facility in order to effectuate the Roll-Up to the extent requested by ABL DIP Agent and cause Full Payment of the Pre-Petition ABL Debt, provided that the Roll-Up shall be subject to any remedy that may be available against the Pre-Petition ABL Credit Parties in the event of a timely and successful challenge pursuant to Paragraph 22(d) of this Final Order.

(b) Repayment of DIP Obligations. The DIP Obligations shall be due and payable, and shall be paid, as and when provided in the DIP Financing Documents and as provided herein, without defense, offset or counterclaim. Without limiting the generality of the foregoing, in no event shall any Debtor be authorized to offset or recoup any amounts owed, or allegedly owed, by any Pre-Petition Credit Party or any DIP Credit Party to any Debtor or any of its respective subsidiaries or affiliates against any of the DIP Obligations without the prior written consent of each Pre-Petition Credit Party or DIP Credit Party that would be affected by any such offset or recoupment, and no such consent shall be implied from any action, inaction or acquiescence by any Pre-Petition Credit Party or DIP Credit Party.

6. ABL Cash Collateral.

(a) Dominion Account. To the extent required in the ABL DIP Financing Documents, each Debtor shall cause all Cash Collateral constituting proceeds of ABL Priority Collateral ("ABL Cash Collateral") to be promptly deposited in an account or accounts designated by the ABL DIP Agent (each, a "Dominion Account"), and the Debtors shall not deposit into any Dominion Account any amounts that are not proceeds of ABL Priority Collateral. Prior to the deposit of ABL Cash Collateral to the Dominion Account, each Debtor



shall be deemed to hold such proceeds in trust for the benefit of the ABL DIP Credit Parties. The ABL DIP Agent shall be entitled to apply such ABL Cash Collateral to the payment of the Pre-Petition ABL Debt or the ABL DIP Obligations as authorized by the Financing Orders and the ABL DIP Loan Agreement.

(b) Use of Cash Collateral. Prior to Full Payment of the DIP Obligations, the Debtors shall not be authorized to use any Cash Collateral except to fund the Carve-Out, and to cause Full Payment of the Pre-Petition ABL Debt, ABL DIP Obligations, Pre-Petition Term Debt, and Term DIP Obligations subject to and in accordance with the Intercreditor Agreement and the lien and claim priorities set forth in this Final Order; provided, however, that (i) prior to the Full Payment of the Pre-Petition ABL Debt and ABL DIP Obligations, no proceeds of ABL Priority Collateral shall be used to pay any Pre-Petition Term Debt or Term DIP Credit Extensions, (ii) prior to the Full Payment of the Pre-Petition Term Debt and Term DIP Obligations, no proceeds of Term Priority Collateral shall be used to pay any Pre-Petition ABL Debt or ABL DIP Credit Extensions, and (iii) in no event shall any proceeds of ABL Priority Collateral be used to make any payment, advance, intercompany advance or transfer, or any other remittance or transfer whatsoever to any Debtor or affiliate of Debtors that is not a “Borrower” under, and as defined in, the ABL DIP Credit Agreement, other than for purchases of inventory in the ordinary course of business.

7. Adequate Protection of Pre-Petition ABL Credit Parties. As adequate protection of its interests in the Pre-Petition Collateral, until Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent (on behalf of the Pre-Petition ABL Credit Parties) is entitled, pursuant to Sections 105, 361, 363 and 364 of the Bankruptcy Code, to claims or other protection of an amount equal to the difference between the Collateral Diminution (as defined below) and

the cash payments made to the Pre-Petition ABL Credit Parties on account of the Pre-Petition ABL Debt (the “ABL Adequate Protection Claims”). As used in this Final Order, “Collateral Diminution” shall mean an amount equal to the aggregate diminution of any Pre-Petition Credit Party’s interest in the value of the Pre-Petition Collateral (including Cash Collateral) from and after the Petition Date for any reason, including, without limitation, any such diminution resulting from the use of Cash Collateral, the priming of any Pre-Petition Agent’s security interests in and liens on the Pre-Petition Collateral by the DIP Liens pursuant to the DIP Financing Documents and the Financing Orders, the depreciation, sale, loss, use, or collection by any Debtor (or any other decline in value) of such Pre-Petition Collateral, and the imposition of the automatic stay pursuant to Section 362 of the Bankruptcy Code, in each case to the fullest extent provided under the Bankruptcy Code. The Pre-Petition ABL Agent is hereby granted, subject to the rights of third parties preserved under Paragraph 22, the following for the benefit of the Pre-Petition ABL Credit Parties:

(a) ABL Adequate Protection Liens. The Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Credit Parties, was granted by the Interim Order (effective and perfected upon the date of entry of the Interim Order), and such grant is hereby confirmed, without the necessity of the execution, filing or recording by any Debtor, the Pre-Petition ABL Agent or any other Pre-Petition ABL Credit Party of security agreements, pledge agreements, mortgages, financing statements or other agreements) valid, perfected replacement security interests in and liens (the “ABL Adequate Protection Liens”) on all of the DIP Collateral (other than the Additional NBL Equity Interests). The ABL Adequate Protection Liens shall be junior and subordinate only to the Carve-Out, the ABL DIP Liens, and any liens that are senior to the ABL DIP Liens as and to the extent expressly provided in this Final Order. The ABL Adequate

Protection Liens shall not be subject to Sections 506(c), 510, 549, or 550 of the Bankruptcy Code, and no lien avoided and preserved for the benefit of any estate pursuant to Section 510 of the Bankruptcy Code shall be made *pari passu* with or senior to any ABL Adequate Protection Liens.

(b) Cash Payments. Until Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Credit Parties, is hereby entitled to receive as additional adequate protection cash payments of interest each month , in arrears, on the first of the month, at the non-default interest rate under the Pre-Petition ABL Loan Documents (including, for the avoidance of doubt, payment of all prepetition accrued and unpaid interest under the Pre-Petition ABL Loan Documents), provided, however, that Pre-Petition ABL Credit Parties reserve all rights to seek payment of interest on the principal amount of the Pre-Petition ABL Debt at the default rate under the Pre-Petition ABL Loan Documents, including, for any month in which interest was paid at the non-default rate, the difference between interest calculated at the default rate and interest calculated at the non-default rate; and provided further, however, that the Committee reserves the right to seek to recharacterize any interest paid to Pre-Petition ABL Credit Parties pursuant to the terms of this Paragraph 7(b) in the event that the Court determines that Pre-Petition ABL Credit Parties were undersecured on the Petition Date.

(c) Priority of ABL Adequate Protection Claims. The ABL Adequate Protection Claims, if any, will be allowed as superpriority administrative claims pursuant to Sections 503(b) and 507(b) of the Bankruptcy Code, which, subject to the Carve-Out and the Superpriority Claims, shall have priority in payment over any and all administrative expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, without limitation, Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726,

1113 or 1114 of the Bankruptcy Code, which shall at all times be senior to the rights of each Pre-Petition Obligor, and any successor trustee or any creditor in these Chapter 11 Cases or any subsequent proceedings under the Bankruptcy Code.

(d) Application of Proceeds of Pre-Petition Accounts. Except with respect to the \$10,000,000 of Cash Collateral in the Debtors' possession on the closing date of the ABL DIP Loan Agreement which the Debtors were authorized by Paragraph 7(d) of the Interim Order to retain and use solely as provided in the Interim Order and under the ABL DIP Loan Agreement (at least \$5,000,000 of which Cash Collateral the Debtors were obligated to expend prior to their requesting any ABL DIP Loans), and subject to Paragraph 22 of this Final Order, all collections and proceeds of accounts receivable and other rights to payment (excluding payment rights that are not ABL Priority Collateral) (collectively, the "Pre-Petition Accounts") will be presumed to constitute and arise from ABL Priority Collateral existing on the Petition Date or arise from the sale, lease or other disposition of inventory of a Pre-Petition Obligor or from such Pre-Petition Obligor's provision of services, including, without limitation, all payments by account obligors indebted to such Pre-Petition Obligor with respect to transactions entered into or concluded prior to the Petition Date, and may be applied to pay (or, despite any prior application, reapplied to pay), or in the case of contingent obligations, to cash collateralize, the Pre-Petition ABL Debt or the ABL DIP Obligations in such order of application as the Pre-Petition ABL Agent and ABL DIP Agent shall elect, in their discretion, until Full Payment of the Pre-Petition ABL Debt and the ABL DIP Obligations. The Pre-Petition ABL Agent shall be entitled to assume that all deposits to the Dominion Account and all collections of accounts receivable received by a Pre-Petition Obligor after the Petition Date constitute proceeds of Pre-Petition Accounts, until such time as the Pre-Petition ABL Agent has received and applied to the

Pre-Petition ABL Debt an amount equal to the aggregate balance of the Pre-Petition Accounts on the books and records of Pre-Petition Obligors as of the Petition Date.

(e) Use of Pre-Petition Inventory. In consideration of any Debtor's use, consumption, sale or other disposition of any raw materials, work-in-process, finished goods, packaging materials or labels that were in existence on the Petition Date (collectively, "Pre-Petition Inventory"), Debtors shall pay to Pre-Petition ABL Agent, concurrently with any use, consumption, sale or other disposition thereof, the gross book value (in the manner reported to Pre-Petition ABL Agent or ABL DIP Agent on Debtors' pre-petition borrowing base certificates, which value reflects lower of cost or market adjustments made by Pre-Petition Obligors or Debtors consistent with past practices) of such Pre-Petition Inventory, and Pre-Petition ABL Agent shall be authorized to apply all such payments to the Pre-Petition ABL Debt (in such order of application as Pre-Petition ABL Agent may elect in its discretion consistent with the Pre-Petition ABL Credit Agreement) until Full Payment of the Pre-Petition ABL Debt (or, in the case of contingent obligations, cash collateralized). Based upon representations of Debtor representatives at or prior to the Interim Hearing, the total gross book value of all Pre-Petition Inventory as of the Petition Date was approximately \$113,393,888 (the "Pre-Petition Inventory Amount"), and, therefore, the aggregate of all payments made to Pre-Petition ABL Agent pursuant to the provisions of this subparagraph shall not exceed such amount. For purposes of implementing this measure of adequate protection, it shall be assumed that Debtors' use, consumption, sale or other disposition of any inventory after the Petition Date, including, without limitation, raw materials, work-in-process, finished goods, packaging materials or labels, constitutes a use of Pre-Petition Inventory until the aggregate amount of the payments received by Pre-Petition ABL Agent under this subparagraph equals the Pre-Petition Inventory Amount.

Regardless of whether the Debtors have ever utilized the retained cash referred to in the first sentence of clause (d) above, the ABL DIP Credit Parties are authorized to make ABL DIP Loans in amounts sufficient to satisfy the Debtors' payment obligations under this subparagraph and to disburse such ABL DIP Loans directly to the Pre-Petition ABL Agent for application to the Pre-Petition ABL Debt. All such ABL DIP Loans shall be entitled to all of the benefits and security of the DIP Financing Documents and the Financing Orders.

(f) Fees and Expenses of Professionals for Pre-Petition ABL Credit Parties.

Until Full Payment of the Pre-Petition ABL Debt, as additional adequate protection, the Debtors shall pay (i) the reasonable and documented professional fees and expenses (including, but not limited to, the fees and disbursements of counsel, third-party consultants, including financial consultants, and auditors) payable to or incurred by any Pre-Petition ABL Credit Party under and pursuant to the Pre-Petition ABL Loan Documents arising prior to the Petition Date, and (ii) on a current basis, the reasonable and documented professional fees and expenses (including, but not limited to, the fees and disbursements of counsel, third-party consultants, including financial consultants, and auditors) payable to or incurred by any Pre-Petition ABL Credit Party under and pursuant to the Pre-Petition ABL Loan Documents arising on or subsequent to the Petition Date. The Debtors shall pay the fees, expenses and disbursements set forth in this Paragraph 7(f) no later than ten (10) days (the "Review Period") after the receipt by counsel for the Debtors, counsel for the Committee, and the U.S. Trustee of invoices therefor (the "Invoiced ABL Fees") (which invoices may be redacted or summarized for any applicable privilege or the work product doctrine) and without the necessity of filing formal fee applications, including such amounts arising before and after the Petition Date; provided, however, that Debtors, the Committee and the U.S. Trustee may dispute the payment of any portion of the Invoiced ABL Fees (the

“Disputed Invoiced ABL Fees”) if, within the Review Period, (i) the Debtors pay in full the Invoiced ABL Fees, excluding the Disputed Invoiced ABL Fees, and (ii) a Debtor, the Committee, or the U.S. Trustee notifies the Pre-Petition ABL Agent in writing (to be followed by the filing with the Court, if necessary, of a motion or other pleading, on at least ten (10) days prior written notice to Pre-Petition ABL Agent and any affected Pre-Petition ABL Lender of any hearing on such motion or other pleading) setting forth the specific objections to the Disputed Invoiced ABL Fees. The Debtors shall pay any Disputed Invoiced ABL Fees promptly upon approval by the Court.

(g) Reservation of Rights. Nothing herein shall be deemed to be a waiver by any Pre-Petition ABL Credit Party of its right to request additional or further protection of its interests in any Pre-Petition Collateral, to move for relief from the automatic stay, to seek the appointment of a trustee or examiner for any Debtor or the conversion or dismissal of any of these Chapter 11 Cases, to object to any proposed sale or disposition of the Debtors’ assets under Section 363 of the Bankruptcy Code or otherwise, or to request any other relief in these cases; nor shall anything herein or in any of the ABL DIP Financing Documents constitute an admission by a Pre-Petition ABL Credit Party regarding the quantity, quality or value of any DIP Collateral securing the Pre-Petition ABL Debt or constitute a finding of adequate protection with respect to the interests of the Pre-Petition ABL Agent in any DIP Collateral. The Pre-Petition ABL Credit Parties shall be deemed to have reserved all rights to assert entitlement to the protections and benefits of Section 507(b) of the Bankruptcy Code in connection with any use, sale, encumbering or other disposition of any of the DIP Collateral, to the extent that the protections afforded by the Financing Orders to the Pre-Petition ABL Agent’s interests in any DIP Collateral proves to be inadequate.

(h) Reporting and Information Rights. Until Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent and Pre-Petition ABL Lenders shall be entitled to the same reporting, notification and other information rights as the ABL DIP Creditor Parties under the ABL DIP Financing Documents.

8. Adequate Protection of Pre-Petition Term Credit Parties. As adequate protection of its interests in the Pre-Petition Collateral, the Pre-Petition Term Agent (on behalf of the Pre-Petition Term Credit Parties) is entitled, pursuant to Sections 105, 361, 363 and 364 of the Bankruptcy Code, to claims and other protection of an amount equal to the difference between the Collateral Diminution and the cash payments made to any Pre-Petition Term Credit Party on account of the Pre-Petition Term Loan obligations (the “Term Adequate Protection Claims,” together with the ABL Adequate Protection Claims, the “Adequate Protection Claims”). The Pre-Petition Term Agent is hereby granted, subject to the rights of third parties preserved under Paragraph 22, the following for the benefit of the Pre-Petition Term Credit Parties:

(a) Term Adequate Protection Liens. The Pre-Petition Term Agent, for the benefit of the Pre-Petition Term Credit Parties, was granted by the Interim Order (effective and perfected upon the date of entry of the Interim Order), and such grant is hereby confirmed, without the necessity of the execution, filing or recording by any Pre-Petition Obligor, the Pre-Petition Term Agent or any other Pre-Petition Term Credit Party of security agreements, pledge agreements, mortgages, financing statements or other agreements) to secure the Term Adequate Protection Claims, valid, perfected replacement security interests in and liens on all of the DIP Collateral (the “Term Adequate Protection Liens”). The Term Adequate Protection Liens shall be junior and subordinate only to the Carve-Out, the Term DIP Liens, and any liens that are senior to the Term DIP Liens as and to the extent expressly provided in this Final Order. The



Term Adequate Protection Liens shall not be subject to Sections 506(c), 510, 549, or 550 of the Bankruptcy Code, and no lien avoided and preserved for the benefit of any estate pursuant to Section 510 of the Bankruptcy Code shall be made *pari passu* with or senior to any Term Adequate Protection Liens.

(b) Priority of Term Adequate Protection Claims. The Term Adequate Protection Claims, if any, will be allowed as superpriority administrative claims pursuant to Sections 503(b) and 507(b) of the Bankruptcy Code, which, subject to the Carve-Out and the Superpriority Claims, shall have priority in payment over any and all administrative expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including, without limitation, Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 or 1114 of the Bankruptcy Code, which shall at all times be senior to the rights of each Pre-Petition Obligor, and any successor trustee or any creditor in these Chapter 11 Cases or any subsequent proceedings under the Bankruptcy Code.

(c) Cash Payments. The Pre-Petition Term Agent, for the benefit of the Pre-Petition Term Credit Parties, is hereby entitled to receive as additional adequate protection cash payments of interest each month, in arrears, on the first of the month, at the non-default interest rate under the Pre-Petition Term Loan Documents (including, for the avoidance of doubt, payment of all prepetition accrued and unpaid interest under the Pre-Petition Term Loan Documents), provided, however, that Pre-Petition Term Credit Parties reserve all rights to seek payment of interest on the principal amount of the Pre-Petition Term Debt at the default rate under the Pre-Petition Term Loan Documents, including, for any month in which interest was paid at the non-default rate, the difference between interest calculated at the default rate and interest calculated at the non-default rate; and provided further, however, that the Committee

reserves the right to seek to recharacterize any interest paid to Pre-Petition Term Credit Parties pursuant to the terms of this Paragraph 8(c) in the event that the Court determines that Pre-Petition Term Credit Parties were undersecured on the Petition Date.

(d) Fees and Expenses of Professionals for Pre-Petition Term Credit Parties.

As additional adequate protection, the Debtors shall pay in cash, on a current basis, the fees and expenses of the Pre-Petition Term Agent including the reasonable and documented professional fees and expenses of one primary counsel for the Pre-Petition Term Agent, conflicts counsel (to the extent necessary), and any necessary local counsel in the Eastern District of Missouri. In addition, to the extent Pre-Petition Term Lenders holding in the aggregate of at least 30% of the outstanding principal amount of the Pre-Petition Term Debt determine, in their reasonable discretion, to retain one financial advisor separate from the financial advisor by the Pre-Petition Term Lenders that are also Term DIP Lenders, whose fees and expenses are covered by Paragraph 19(c) hereof, then the Debtors shall pay in cash, on a current basis, the reasonable and documented fees and expenses of such separate financial advisor so long as such financial advisor is not entitled to a success fee. In any event, such fees and expenses described in this Paragraph shall be payable whether such fees and expenses were incurred prior to or after the Petition Date. The payment of the fees, expenses and disbursements set forth in this Paragraph 8(d) shall be made no later than the Review Period after the receipt by counsel for the Debtors, counsel for the Committee, and the U.S. Trustee of invoices thereof (the "Invoiced Term Fees") (which invoices may be redacted or summarized for an applicable privilege or the work product doctrine) and without the necessity of filing formal fee applications, including such amounts arising before and after the Petition Date; provided, however, that the Debtors, the Committee and the U.S Trustee may dispute the payment of any portion of the Invoiced Term Fees (the

“Disputed Invoiced Term Fees”) if, within the Review Period, (i) the Debtors pay in full the Invoiced Term Fees, excluding the Disputed Invoiced Term Fees, and (ii) a Debtor, the Committee, or the U.S. Trustee notifies the Pre-Petition Term Agent in writing (to be followed by the filing with the Court, if necessary, a motion or other pleading, on at least ten (10) days prior written notice to Pre-Petition Term Agent and any affected Pre-Petition Term Lender of any hearing on such motion or other pleading) setting forth the specific objections to the Disputed Invoiced Term Fees. The Debtors shall pay any Disputed Invoiced Term Fees promptly upon approval by the Court.

(e) Reservation of Rights. Nothing herein shall be deemed to be a waiver by any Pre-Petition Term Credit Party of its right to request additional or further protection of its interests in any Pre-Petition Collateral, to move for relief from the automatic stay, to seek the appointment of a trustee or examiner for any Debtor or the conversion or dismissal of any of these Chapter 11 Cases, to object to any proposed sale or disposition of the Debtors’ assets under Section 363 of the Bankruptcy Code or otherwise, or to request any other relief in these cases; nor shall anything herein or in any of the Term DIP Financing Documents constitute an admission by a Pre-Petition Term Credit Party regarding the quantity, quality or value of any DIP Collateral securing the Pre-Petition Term Debt or constitute a finding of adequate protection with respect to the interests of the Pre-Petition Term Agent in any DIP Collateral. Nothing herein shall be deemed to be a waiver of the Committee’s right to object to any proposed sale or other disposition of the Debtors’ assets under Section 363 of the Bankruptcy Code or otherwise. Each Pre-Petition Term Credit Party shall be deemed to have reserved all rights to assert entitlement to the protections and benefits of Section 507(b) of the Bankruptcy Code in connection with any use, sale, encumbering or other disposition of any of the DIP Collateral, to

the extent that the protections afforded by the Financing Orders to any Pre-Petition Term Credit Party's interests in any DIP Collateral proves to be inadequate.

(f) Reporting and Information Rights. The Pre-Petition Term Agent, Pre-Petition Term Lenders and the Committee shall be entitled to the same reporting, notification and other information rights as the Term DIP Creditor Parties under the Term DIP Financing Documents.

9. Payments Free and Clear. Subject only to the potential challenges by third parties to the extent permitted by Paragraph 22 below, any and all payments or proceeds remitted (a) to a DIP Agent on behalf of any DIP Credit Party or (b) to or on behalf of any Pre-Petition Credit Parties, in each case pursuant to the provisions of the Financing Orders or any subsequent order of this Court, shall be received free and clear of any claim, charge, assessment or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, Sections 506(c) or the "equities of the case" exception of 552(b) of the Bankruptcy Code, except as otherwise provided in the Intercreditor Agreement.

10. Fees and Expenses of Estate Professionals. So long as no Event of Default (as defined below) has occurred and is continuing, and subject to the Carve-Out after an Event of Default, each Debtor is authorized to use Cash Collateral (other than ABL Cash Collateral required to be turned over to ABL DIP Agent or Pre-Petition ABL Agent pursuant to the Financing Orders or the ABL DIP Financing Documents) and DIP Loans to pay such compensation and expense reimbursement (collectively, "Professional Fees") of professional persons (including attorneys, financial advisors, accountants, investment bankers, appraisers, and consultants) retained by any Debtor (the "Debtors Professionals") or the Committee (the "Committee Professionals"; the Debtors Professionals and Committee Professionals are referred

to collectively as the “Professionals”), in each case to the extent that such compensation and expense reimbursement is authorized by the Court (including pursuant to any interim compensation procedures, the compensation procedures approved pursuant to the order (the “A&M Retention Order”) approving the retention of Alvarez & Marsal North America, LLC (“A&M”), or ordinary course provisions approved by the Court); provided, however, that, notwithstanding anything herein or in any other order of this Court to the contrary, no DIP Credit Extensions or any Cash Collateral shall be used to pay Professional Fees incurred for any Prohibited Purpose (as defined below).

11. Section 506(c) Claims. No costs or expenses of administration shall be imposed upon any DIP Credit Party, any Pre-Petition Credit Party, or any of the Pre-Petition Collateral or DIP Collateral (collectively, the “Collateral”) pursuant to Section 506(c) of the Bankruptcy Code or otherwise without the prior written consent of such DIP Credit Party or Pre-Petition Credit Party, as the case may be, and no such consent shall be implied from any action, inaction or acquiescence by any DIP Credit Party or Pre-Petition Credit Party.

12. Carve-Out. Notwithstanding anything in the Financing Orders, any DIP Financing Documents, or any other order of this Court to the contrary, prior to Full Payment of the DIP Obligations, all of the rights and claims of DIP Lenders and Pre-Petition Lenders, including the DIP Liens, the Superpriority Claims, the Pre-Petition Security Interests, the Adequate Protection Liens, and the Adequate Protection Claims, shall be subject and subordinate in all respects to the payment of the Carve-Out. As used in this Final Order, “Carve-Out” means the sum of (i) all unpaid fees required to be paid (a) to the Clerk of this Court and (b) to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) and 28 U.S.C. § 156(c); (ii) all reasonable fees and expenses incurred by a trustee under Section 726(b) of the Bankruptcy Code

not to exceed \$50,000; and (iii) following the (x) occurrence and during the continuance of an “Event of Default” as that term is defined in any of the DIP Financing Documents (an “Event of Default”), and delivery by either DIP Agent on behalf of the respective DIP Lenders (which may be by email) of a notice (a “Carve-Out Trigger Notice”) to counsel for the Debtors and counsel for the Committee, or (y) consummation of the sale of substantially all of the Debtors' assets, an amount comprising all allowed<sup>8</sup> and unpaid fees, expenses, and disbursements (regardless of when such fees, expenses, and disbursements become allowed by order of the Court, but excluding fees, expenses, and disbursements for a Prohibited Purpose) incurred by Professionals retained by the Debtors and the Committee (whose retention was authorized by the Court) in an aggregate amount not to exceed the sum of (A) \$3,000,000 for services provided subsequent to receipt of the Carve-Out Trigger Notice (collectively, the “Post-Trigger Carve-Out”), plus (B) all such fees, expenses, and disbursements that were incurred for services provided at any time on or before receipt of the Carve-Out Trigger Notice (collectively, the “Pre-Trigger Carve-Out”); provided further, that nothing in this Final Order shall be construed to impair the ability of any interested party to object to the fees, expenses, or disbursements of any Professional. In no event shall the Carve-Out, or the funding of any DIP Loans or use of Cash Collateral to satisfy the Carve-Out, result in any reduction in the amount of any DIP Obligations, Pre-Petition ABL Debt, or Pre-Petition Term Debt. Notwithstanding the foregoing, (x) the ABL Priority Collateral (and the liens thereon of the Pre-Petition ABL Credit Parties and ABL DIP Credit Parties), ABL Adequate Protection Liens, and the Superpriority Claims in favor of ABL DIP Credit Parties shall be subject to only 20.5% of the Carve-Out amount (the “ABL Carve-Out Share”) and the

---

<sup>8</sup> As used herein, the term “allowed” as relates to fees, expenses and disbursements owed to A&M shall be such fees, expenses and disbursements permitted to be paid pursuant to the procedures stated in the A&M Retention Order or by order of the Court and, as relates to fees, expenses and disbursements owed to other Professionals, shall mean such fees, expenses and disbursements authorized to be paid by an order of the Court.

Term Priority Collateral (and the liens thereon of the Pre-Petition Term Credit Parties and Term DIP Credit Parties), Term Adequate Protection Liens, and the Superpriority Claims in favor of the Term DIP Credit Parties shall be subject to only 79.5% of the Carve-Out amount (the “Term Carve-Out Share”); (y) the Pre-Petition ABL Credit Parties' and the ABL DIP Credit Parties' aggregate share of the Pre-Trigger Carve-Out shall not exceed \$4,000,000 (the “ABL Pre-Trigger Carve-Out Amount”); and (z) in no event shall the Term DIP Credit Parties' and the Pre-Petition Term Credit Parties' aggregate share of the Pre-Trigger Carve-Out exceed 79.5% of the Pre-Trigger Carve-Out. Promptly after the delivery of a Carve-Out Trigger Notice, (i) the ABL Credit Parties shall be obligated to fund an ABL DIP Loan and/or make available to the Debtors ABL Cash Collateral, in an aggregate amount equal to its ABL Carve-Out Share, provided, that, whether or not an Event of Default under (and as defined in) the ABL DIP Loan Agreement has occurred or exists, the ABL DIP Credit Parties may at any time prior to delivery of a Carve-Out Trigger Notice fund a DIP Loan and/or make available to Debtor ABL Cash Collateral in an amount equal to the ABL Carve-Out Share (not to exceed \$4,000,000 for the ABL Pre-Trigger Carve-Out Amount), whereupon the ABL Carve-Out Share will be deemed satisfied, and (ii) the Term DIP Lenders and Pre-Petition Term Lenders shall be obligated to make available to the Debtors Cash Collateral constituting proceeds of Term Priority Collateral, in an aggregate amount equal to the Term Carve-Out Share, and the Debtors shall be required to deposit such funds in a segregated account (the “Carve-Out Account”) not subject to the control of the DIP Agents or the Pre-Petition Agents to fund the Carve-Out in cash and provide for payment of the Carve-Out amount; provided, however, (x) in no event shall funds allocated to the ABL Pre-Trigger Carve-Out Amount be used to pay Professional Fees in excess of the ABL Pre-Trigger Carve-Out Amount, and no funds allocated to the Post-Trigger Carve-Out shall be used to pay

professional fees or expenses in excess of the Post-Trigger Carve-Out amount; and (y) the ABL Credit Parties and Term Credit Parties shall retain a lien on such funds in the Carve-Out Account to the extent of any surplus remaining after payment of all actual allowed claims of retained Professionals of the Debtors and the Committee as set forth in this Paragraph, with such excess to be remitted by the Debtors to the ABL DIP Agent and Term DIP Agent as soon as reasonably practicable in the ratio of their relative funding contributions to the Carve-Out Account.

13. Excluded Professional Fees. Notwithstanding anything to the contrary in this Final Order, neither the Carve-Out nor any proceeds of any DIP Credit Extensions, Cash Collateral, Pre-Petition Collateral, Letters of Credit, or DIP Collateral shall be used to pay any Professional Fees (including, without limitation, expenses) in connection with any of the following (each a “Prohibited Purpose”): (a) objecting to, seeking subordination of, or contesting the validity or enforceability of, or asserting any defense, counterclaim or offset to, the Financing Orders, any DIP Obligations, Pre-Petition ABL Debt, Pre-Petition Term Debt, or the Pre-Petition Loan Documents, or the perfected status of any of the DIP Collateral or Pre-Petition Collateral, provided that the Committee may spend up to \$125,000 (the “Investigation Budget”) for the fees and expenses incurred in connection with the investigation of, but not the litigation, objection or any challenge to, any Pre-Petition Security Interests, Pre-Petition ABL Debt, Pre-Petition Term Debt, or Pre-Petition Loan Documents; (b) asserting or prosecuting any claim or cause of action against any DIP Lender, either DIP Agent, or any Pre-Petition Credit Party, including, in each case, without limitation, for lender liability or pursuant to Sections 105, 510, 544, 547, 548, 549, 550 or 552 of the Bankruptcy Code, applicable non-bankruptcy law, or otherwise (other than to enforce the terms of a DIP Facility or this Final Order); (c) seeking to modify any of the rights granted under the Financing Orders to any DIP Lender or either DIP



Agent or any Pre-Petition Credit Party (other than with the requisite consent of the applicable DIP Credit Party); or (d) objecting to, contesting, delaying, preventing or interfering in any way with the exercise of rights or remedies by any DIP Credit Party with respect to any DIP Collateral, after the occurrence and during the continuance of an Event of Default, provided that the Debtors and the Committee may contest or dispute whether an Event of Default has occurred and shall be entitled to any notice provisions provided in this Final Order. For the avoidance of doubt, there shall not be any restrictions or limitations under this Paragraph 13 on any fees and expenses the Committee and its advisors have expended in connection with the filing and prosecution of any objections to the DIP Motion prior to the entry by the Court of this Final Order; provided, however, that all rights of the Debtors, DIP Credit Parties, Pre-Petition Credit Parties, and any other party in interest to object on any ground to such fees and expenses are hereby reserved and the Committee reserves the right to defend such objections.

14. Preservation of Rights Granted.

(a) Protection from Subsequent Financing Order. There shall not be entered in any of these Chapter 11 Cases or in any Successor Case any order that authorizes the obtaining of credit or the incurrence of indebtedness by any Debtor (or any trustee or examiner) that is (i) secured by a security interest, mortgage or collateral interest or lien on all or any part of the DIP Collateral that is equal or senior to the DIP Liens or Pre-Petition Liens (other than as expressly permitted in the DIP Financing Documents of each DIP Credit Party) or (ii) entitled to claims with priority administrative status that is equal or senior to the Superpriority Claims granted to DIP Credit Parties herein (or the Adequate Protection Liens granted to the Pre-Petition Credit Parties herein); provided, however, that nothing herein shall prevent the entry of an order that specifically provides for, as a condition to the granting of the benefits of clauses (i) or (ii)

above, the Full Payment of all of the DIP Obligations and Pre-Petition Obligations from the proceeds of such credit or indebtedness, and the termination of any funding commitments under the ABL DIP Facility and Term DIP Facility.

(b) Rights Upon Dismissal, Conversion or Consolidation. If any of the Chapter 11 Cases is dismissed, converted or substantively consolidated with another case, then neither the entry of this Final Order nor the dismissal, conversion or substantive consolidation of any of the Chapter 11 Cases shall affect the rights or remedies of any DIP Credit Party under the DIP Financing Documents or the rights or remedies of any DIP Credit Party or Pre-Petition Credit Party under this Final Order, and all of the respective rights and remedies hereunder and thereunder of each DIP Credit Party and each Pre-Petition Credit Party shall remain in full force and effect as if such Chapter 11 Case had not been dismissed, converted, or substantively consolidated. Unless and until Full Payment of all DIP Obligations and Adequate Protection Claims has occurred, it shall constitute an Event of Default if any Debtor seeks, or if there is entered, any order dismissing any of the Chapter 11 Cases. If an order dismissing any of the Chapter 11 Cases is at any time entered, such order shall provide (in accordance with Sections 105 and 349 of the Bankruptcy Code) that (i) the Superpriority Claims, the Adequate Protection Claims, the DIP Liens and the Adequate Protection Liens shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until Full Payment of all DIP Obligations and all Adequate Protection Claims, (ii) such Superpriority Claims, Adequate Protection Claims, DIP Liens and Adequate Protection Liens shall, notwithstanding such dismissal, remain binding on all parties in interest, (iii) the other rights granted to the DIP Credit Parties and Pre-Petition Credit Parties by the Financing Orders shall not be affected, including the rights granted by Paragraph 22 of this Final Order, and (iv) this Court shall retain

jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in this Paragraph and otherwise in the Financing Orders.

(c) Survival of Order. The provisions of this Final Order, and any actions taken pursuant thereto, shall survive entry of and shall govern with respect to any conflict with any order that may be entered confirming any plan of reorganization or liquidation in any of the Chapter 11 Cases or any Successor Case.

(d) No Discharge. None of the DIP Obligations shall be discharged by the entry of any order confirming a plan of reorganization or liquidation in any of these Chapter 11 Cases, and, pursuant to Section 1141(d)(4) of the Bankruptcy Code, each Debtor has waived such discharge.

(e) Debtors Will Not Challenge Credit Bid Rights. No Debtor shall object to any DIP Credit Party or any Pre-Petition Credit Party credit bidding up to the full amount of the applicable outstanding DIP Obligations, Pre-Petition Term Debt (as applicable), and Pre-Petition ABL Debt (as applicable), in each case including any accrued interest and expenses, in any sale of any DIP Collateral or Pre-Petition Collateral, as applicable, and whether such sale is effectuated through Section 363 or 1129 of the Bankruptcy Code, by a Chapter 7 trustee under Section 725 of the Bankruptcy Code, or otherwise, subject in each case to the rights and duties of the parties under the Intercreditor Agreement. Notwithstanding the foregoing, the Committee reserves the right to object to the ability of any DIP Credit Party or any Pre-Petition Credit Party to credit bid as part of a Challenge under (and as defined in) Paragraph 22 of this Final Order.

(f) No Marshaling. In no event shall any DIP Credit Party or Pre-Petition Credit Party be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to any Collateral; and in no event shall any DIP Liens be subject to any pre-petition or

post-petition lien or security interest that is avoided and preserved for the benefit of any Debtor's estate pursuant to Section 551 of the Bankruptcy Code.

(g) No Requirement to File Claim for DIP Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any bar order establishing a deadline for the filing of proofs of claims entitled to administrative expense treatment under Section 503(b) of the Bankruptcy Code, no DIP Credit Party shall be required to file any proof of claim with respect to any of the DIP Obligations, all of which shall be due and payable in accordance with the DIP Loan Agreements and the other DIP Financing Documents applicable thereto without the necessity of filing any such proof of claim; and the failure to file any such proof of claim shall not affect the validity or enforceability of any of the DIP Financing Documents or of any indebtedness, liabilities or obligations arising at any time thereunder or prejudice or otherwise adversely affect any DIP Credit Party's rights, remedies, powers or privileges under any of the DIP Financing Documents, the Financing Orders or applicable law.

15. Automatic Perfection of Liens. The DIP Liens, the ABL Adequate Protection Liens, and the Term Adequate Protection Liens were upon entry of the Interim Order and are deemed hereunder to be valid, binding, enforceable and duly perfected. Neither any Pre-Petition Credit Party nor any DIP Credit Party shall be required to file any UCC-1 financing statements, mortgages, deeds of trust, assignments, pledges, security deeds, notices of lien or any similar document or instrument or take any other action (including taking possession of any of the DIP Collateral) in order to validate the perfection of any DIP Liens, the ABL Adequate Protection Liens, or the Term Adequate Protection Liens, but all of such filings and other actions are hereby authorized by the Court. The DIP Credit Parties shall be deemed to have "control" over all

deposit accounts for all purposes of perfection under the Uniform Commercial Code or any other similar laws. If the Pre-Petition ABL Agent, Pre-Petition Term Agent or either DIP Agent shall, in its respective discretion, choose to file or record any such mortgages, deeds of trust, assignments, pledges, security deeds, notices of lien, or UCC-1 financing statements, or take any other action to evidence the perfection of any part of the DIP Liens, the ABL Adequate Protection Liens, or the Term Adequate Protection Liens, each Debtor and its respective officers are directed to execute any documents or instruments as the Pre-Petition ABL Agent, Pre-Petition Term Agent or either DIP Agent shall request, and all such documents and instruments shall be deemed to have been filed or recorded at the time and on the date of entry of the Interim Order. Either DIP Agent may, in its discretion, file a certified copy of this Final Order in any filing office in any jurisdiction in which any Debtor is organized or has or maintains any DIP Collateral or an office, and each filing office is directed to accept such certified copy of this Final Order for filing and recording. Any provision of any lease, license, contract or other agreement that requires the consent or approval of one or more counterparties or requires the payment of any fees or obligations to any governmental entity, in order for a Debtor to pledge, grant, sell, assign or otherwise transfer any such interest or the proceeds thereof is hereby found to be (and shall be deemed to be) inconsistent with the provisions of the Bankruptcy Code and shall have no force and effect with respect to the transactions granting either DIP Agent a security interest in and lien on such interest, or the proceeds of any assignment and/or sale thereof by any Debtor, in accordance with the terms of the applicable DIP Financing Documents and this Final Order.

16. Reimbursement of Expenses. All reasonable costs and expenses incurred by a DIP Agent (or, to the extent provided by the applicable DIP Loan Agreements, any DIP Lender) in connection with (i) the negotiation and drafting of any DIP Financing Documents or any

amendments thereto, (ii) the preservation, perfection, protection, pursuit or enforcement of a DIP Agent's and any DIP Lender's rights or remedies hereunder or under any DIP Financing Documents or applicable law, (iii) the collection of any DIP Obligations, or (iv) the monitoring of or participation in these Chapter 11 Cases, including, without limitation, all filing and recording fees and reasonable fees and expenses of attorneys, accountants, consultants, financial advisors, appraisers and other professionals incurred by a DIP Credit Party in connection with any of the foregoing, whether any of the foregoing were incurred prior to or after the Petition Date, shall form a part of the DIP Obligations owing to such DIP Credit Party and shall be paid by the Debtors (without the necessity of filing any application with or obtaining further order from the Court) in each case, subject to and solely in accordance with the terms of the applicable DIP Financing Documents. In no event shall any statement submitted by any DIP Credit Party to any Debtor, the Committee, the U.S. Trustee or any other interested person (or any of their respective Professionals) with respect to fees or expenses incurred for any professional retained by such DIP Credit Party operate to waive the attorney/client privilege, the work-product doctrine or any other evidentiary privilege or protection recognized under applicable law.

17. Amendments to DIP Financing Documents. The Debtors and DIP Credit Parties are hereby authorized to implement, in accordance with the terms of the applicable DIP Financing Documents and without further order of the Court, any amendments to and modifications of any of such DIP Financing Documents on the following conditions: (i) the amendment or modification must not constitute a material change to the terms of such DIP Financing Documents, and (ii) copies of the amendment or modification must be served upon counsel for the Committee, the U.S. Trustee, and other interested parties specifically requesting such notice under Bankruptcy Rule 2002. Any amendment or modification that constitutes a

material change, to be effective, must be approved by the Court on not less than 7 days prior notice. For purposes hereof, a “material change” shall mean a change to a DIP Financing Document that operates to shorten the term of a DIP Facility or the maturity of the DIP Obligations, to increase the aggregate amount of the commitments of DIP Lenders under such DIP Facility, to increase the rate of interest or the amount of any fees other than as currently provided in or contemplated by such DIP Financing Documents, to add specific Events of Default, or to enlarge the nature and extent of remedies available to a DIP Agent following the occurrence of an Event of Default. Without limiting the generality of the foregoing, any amendment of a DIP Financing Document or this Final Order to postpone or extend any date or deadline therein or herein (including, without limitation, the expiration of the term of a DIP Facility) shall not constitute a “material change” and may be effectuated by Debtors and the applicable DIP Credit Parties without the need for further approval of the Court.

18. Events of Default; Remedies.

(a) Events of Default. The occurrence of any “Event of Default” under (and as defined in) either of the DIP Loan Agreements shall constitute an Event of Default (after giving effect to any applicable notice, cure and grace period in the relevant DIP Loan Agreements) under this Final Order. Without limiting the foregoing and notwithstanding anything to the contrary in the DIP Financing Documents, absent waiver or amendment from the Term DIP Agent (or, following the Full Payment of all Obligations under the Term DIP Facility, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent), the failure to meet the following milestones (the “Milestones”) in these Chapter 11 Cases shall constitute an immediate Event of Default without the need for any

notice or action by any Pre-Petition Credit Party or DIP Credit Party; provided that such Milestones may be extended with the written consent of the DIP Agents:

(i) On or before the date that is 73 days after the Petition Date, a final order approving the Downstream Sale Process (as such terms are defined in the Term DIP Facility), which order shall permit each of the DIP Credit Parties and Pre-Petition Credit Parties to credit bid all or some of their claims for DIP Obligations and/or Pre-Petition Debt and otherwise be in form and substance reasonably acceptable to the Term DIP Agent (or, following the Full Payment of all Obligations under the Term DIP Facility, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent). Nothing herein shall be deemed to be a waiver by the Committee of its right to object to the Downstream Sale Process (subject to the provisions of Paragraph 14(e) in the case of any objection to the exercise of credit bid rights).

(ii) On or before the date that is 45 business days after the Petition Date, the idling of the Debtors' aluminum smelter located in New Madrid, Missouri.

(iii) On or before April 8, 2016, the proposal of a business plan, in form and substance acceptable, in their reasonable discretion, to the Term DIP Agent (or, following the Full Payment of all Obligations under the Term DIP Facility, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) in all respects, relating to the Upstream Business (as such term is defined in the Term DIP Facility) and including, among other things, (1)



evidence of new contracts for the Debtors' chemical grade alumina product; (2) an acceptable marketing plan and timeline for the sale of all of the Debtors' assets in Orange Valley, in the parish of Saint Ann; (3) an acceptable marketing plan and timeline for the sale of all of the Debtors' real estate assets in New Madrid, Missouri; (4) an acceptable plan for the reduction of capital and other expenditures in the Debtors' facilities in Saint Ann Parish, Jamaica; and (5) providing for the Full Payment of the DIP Obligations (the "Acceptable Business Plan"); provided, however, that none of the DIP Agents or Pre-Petition Agents shall be required to accept any business plan that requires funding from any DIP Credit Party or Pre-Petition Credit Party other than pursuant to the terms and conditions of the DIP Financing Documents.

(iv) On or before the date that is 60 days after the Petition Date, either (x) entry of a final order by this Court, in form and substance reasonably acceptable to the DIP Agents, authorizing NBL to reject that certain Bauxite Sales Agreement dated as of December 29, 2012 (the "Sherwin Contract") between NBL and Sherwin Alumina Company, LLC ("Sherwin") pursuant to Section 365 of the Bankruptcy Code; or (y) entry by this court of a final order, in form and substance reasonably acceptable to the DIP Agents in all respects, pursuant to Rule 9019 of the Bankruptcy Rules approving a settlement agreement (the "Sherwin Settlement") between NBL and Sherwin regarding the Sherwin Contract and any and all claims and counterclaims between the Debtors and Sherwin, including, but not limited to, any claims arising from or relating to that certain credit agreement, dated as of December 29, 2012, between NBL, as borrower, and Surela Investments Limited, and the occurrence of the effective date of the Sherwin Settlement.

(v) On or before the date that is 123 days after the Petition Date, entry by the Bankruptcy Court of a final order, in form and substance reasonably acceptable to the Term DIP Agent (or, following the Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) (i) approving the sale of the Debtors' assets and property that comprise the Downstream Business (as such term is defined in the Term DIP Facility) (the "Downstream Asset Sale") and (ii) providing that the liens and claims of the Term DIP Lenders, ABL DIP Credit Parties, Pre-Petition ABL Credit Parties and the Pre-Petition Term Credit Parties shall attach to the proceeds of the Downstream Asset Sale in accordance with the provisions of this Final Order and the Intercreditor Agreement (after giving effect to the reduction in debt of any party who purchases assets by means of a credit bid), and that (A) the ABL DIP Lenders and Pre-Petition ABL Lenders, as applicable, shall receive at or promptly after closing of the Downstream Asset Sale all proceeds of ABL Priority Collateral sold in the Downstream Asset Sale and (B) the Term DIP Lenders and Pre-Petition Term Lenders, as applicable, shall receive at or promptly after closing of the Downstream Asset Sale all proceeds of Term Priority Collateral sold in the Downstream Asset Sale; provided, however, that nothing herein shall be deemed a waiver of any DIP Credit Parties' or the Committee's rights to object to any part of the Downstream Sale Process or to any sale of assets of the Downstream Business (subject to the provisions of Paragraph 14(e) in the case of any objection to the exercise of credit bid rights); provided further that any failure of Debtors to achieve this

milestone as a result of an objection filed by any DIP Credit Parties shall not constitute an Event of Default hereunder.

(vi) On or before the date that is 148 days after the Petition Date, closing of the sale of the Downstream Business;

(vii) On or before the date that is 111 days after the Petition Date, the Debtors having filed either (1) a plan of reorganization (the “Plan”) (providing, among other things, for Full Payment of the DIP Obligations) and related disclosure statement each in a form acceptable, in their reasonable discretion, to the Term DIP Agent (or, following the Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) (the “Plan Filing Date”) or (2) the Upstream Sale Motion (as such term is defined in the Term DIP Loan Agreement), provided, however, that no plan of reorganization that requires funding from any DIP Credit Party or Pre-Petition Credit Party shall be deemed to be acceptable unless such party otherwise consents to provide such funding in its sole discretion.

(viii) In the event that the Plan Filing Date is met in accordance with foregoing subparagraph (the following subparagraphs (1), (2), and (3), the “Plan Milestones”):

(1) On or before the date that is 35 days after the Plan Filing Date, entry of an order approving the disclosure statement and plan solicitation procedures, each to be in a form and substance reasonably acceptable to the Term DIP Agent (or, following the Full Payment of all

Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent);

(2) On or before the date that is 90 days after the Plan Filing Date, entry of an order reasonably acceptable to the Term DIP Agent (or, following the Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) confirming the Plan (the “Confirmation Order”);

(3) On the date that is the earlier of (x) 30 days after the entry of the Confirmation Order and (y) 231 days after the Petition Date, the occurrence of the effective date of the Plan;

(ix) In the event that the Debtors do not comply with any of the Plan Milestones (as determined in the respective sole discretion of the Term DIP Agent (or, following the Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all Obligations under the ABL DIP Facility without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent), filing of the Upstream Sale Motion within five (5) Business Days of such non-compliance.

(b) Default Remedies. Upon the occurrence of an Event of Default and during the continuance thereof, (i) each DIP Agent is fully authorized, in its sole discretion, to

terminate further DIP Credit Extensions under the respective DIP Facility, demand payment of all DIP Obligations, and, subject to the giving of any required Default Notice by an enforcing DIP Credit Party, hold and apply any balances in any accounts of the Debtors to the payment or cash collateralization of any of the DIP Obligations, but subject to the Intercreditor Agreement, and any Carve-Out (to the extent of the Term Carve-Out Share or the ABL Carve-Out Share, as applicable), or, following Full Payment of all DIP Obligations, each Pre-Petition Agent may in its discretion terminate the Debtors' use of Term Priority Collateral or ABL Priority Collateral, as applicable; (ii) the Term DIP Agent (or, following Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) or the ABL DIP Agent (or, following Full Payment of all ABL DIP Obligations without Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) may in its discretion file with the Court and serve upon the Debtors, counsel for the Debtors, counsel for the Committee, if any, and the U.S. Trustee a written notice (a "Default Notice") setting forth the Events of Default, in which event effective five (5) business days after the Default Notice is filed (or if the Debtors, the Committee or the U.S. Trustee timely request an emergency hearing but the Court does not schedule a hearing by the fifth business day, the conclusion of the hearing when scheduled by the Court), the Term DIP Agent (or, following the Full Payment of all Term DIP Obligations, the Pre-Petition Term Agent) and the ABL DIP Agent (or, following the Full Payment of all ABL DIP Obligations without the Full Payment of the Pre-Petition ABL Debt, the Pre-Petition ABL Agent) shall be deemed to have received complete relief from the automatic stay imposed by Section 362(a) of the Bankruptcy Code with respect to enforcement upon any and all of the Pre-Petition Collateral and DIP Collateral, unless the Court has determined that an Event of Default has not occurred and/or is not continuing. Unless otherwise ordered by the Court, any party in interest's sole recourse with respect to

opposing such modification of the automatic stay under Section 362(a) of the Bankruptcy Code shall be to contest the occurrence and/or continuance of an Event of Default. Upon the effectiveness of any relief from the automatic stay granted or deemed to have been granted to the Agents, each Agent may in its discretion, subject to the Intercreditor Agreement and its Term Carve-Out Share or ABL Carve-Out Share, as applicable, enforce its DIP Liens, the Pre-Petition Security Interests, and the Adequate Protection Liens with respect to the Collateral, as applicable, take all other actions and exercise all other rights and remedies under the DIP Financing Documents, the Pre-Petition Loan Documents and applicable law that may be necessary or deemed appropriate to collect any of its DIP Obligations and/or the Pre-Petition Debt, proceed against or realize upon all or any portion of the Collateral as if these Chapter 11 Cases or any Successor Case was not pending, and otherwise enforce any of the provisions of this Final Order. Any Agent's delay or failure to exercise rights and remedies under the DIP Financing Documents, this Final Order or applicable law shall not constitute a waiver of such Agent's rights and remedies hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the DIP Loan Agreements.

(c) Rights Cumulative. The rights, remedies, powers and privileges conferred upon any DIP Credit Party pursuant to this Final Order shall be in addition to and cumulative with those contained in the applicable DIP Financing Documents and created under applicable law.

19. Loan Administration.

(a) Cash Dominion and Control. Subject to any cash management order entered in these cases, from and after entry of the Interim Order and until Full Payment of all

Pre-Petition ABL Debt and all ABL DIP Obligations, the ABL DIP Agent will have exclusive control over the Primary Payment Account (as defined in the ABL DIP Loan Agreement), and the ABL DIP Agent shall implement and the Debtors shall strictly comply with the cash collection and payment provisions of the ABL DIP Loan Agreement and the ABL DIP Collateral Agreement governing the collection of accounts, including, without limitation, Section 6.13 of the ABL DIP Loan Agreement and Section 3.06 of the ABL DIP Collateral Agreement.

(b) Inspection Rights. As set forth in the DIP Financing Documents, representatives of each DIP Agent shall be authorized, with prior notice to the Debtors, to visit the business premises of any Debtor and its subsidiaries to (i) inspect any Collateral, (ii) inspect and make copies of any books and records of any Debtor, and (iii) verify or obtain supporting details concerning the financial information to be provided by any Debtor hereunder or under any of the DIP Financing Documents, and the Debtors shall facilitate the exercise of such inspection rights.

(c) DIP Agents' Right to Retain Professionals. The ABL DIP Agent is authorized to retain one firm as counsel, one additional firm as local counsel in the United States, and conflicts counsel for the ABL DIP Lenders, plus (i) an appraiser, (ii) a financial advisor and consultants, (iii) to the extent necessary in the ABL DIP Agent's reasonable discretion, an environmental consultant, and (iv) a field auditor. As provided in the ABL DIP Financing Documents, all such attorneys, appraisers, auditors and financial advisors and consultants shall be afforded reasonable access to the Collateral and each Debtor's business premises and records, during normal business hours, for purposes of monitoring the businesses of the Debtors, verifying each Debtor's compliance with the terms of the DIP Financing Documents and this Final Order, and analyzing or appraising all or any part of the Collateral. The Debtors shall be

liable for the reasonable fees and expenses owed to or actually paid to all such attorneys, appraisers, consultants and financial advisors, and field auditors solely to the extent provided in the respective DIP Financing Documents. Each of (a) the Term DIP Agent and (b) any group of Term DIP Credit Parties holding more than 50% of the Term DIP Obligations is authorized to retain one firm as counsel, one additional firm as local counsel in the United States, one Jamaican law firm, and, if necessary, conflicts counsel, plus, to the extent necessary in the reasonable discretion of the parties described in clause (a) and (b) above, (i) an appraiser, (ii) a financial advisor and consultants, (iii) an environmental consultant, and (iv) a field auditor. As provided in the Term DIP Financing Documents, all such attorneys, appraisers, auditors and financial advisors and consultants shall be afforded reasonable access to the Collateral and each Debtor's business premises and records, during normal business hours, for purposes of monitoring the businesses of the Debtors, verifying each Debtors' compliance with the terms of the DIP Financing Documents and this Final Order, and analyzing or appraising all or any part of the Collateral. The Debtors shall be liable for the reasonable fees and expenses owed to or actually paid to all such attorneys, appraisers, consultants and financial advisors, and field auditors solely to the extent provided in the respective DIP Financing Documents.

20. Modification of Automatic Stay. The automatic stay provisions of Section 362 of the Bankruptcy Code are hereby modified and lifted to the extent necessary to implement the provisions of this Final Order and the DIP Financing Documents, thereby permitting each Agent to receive collections and proceeds of Collateral for application to the DIP Obligations, Pre-Petition ABL Debt or Pre-Petition Term Debt as and to the extent provided herein, to file or record any UCC-1 financing statements, mortgages, deeds of trust, assignments, pledges, security deeds and other instruments and documents evidencing or validating the perfection of



any DIP Liens or Adequate Protection Liens, and to enforce any DIP Liens and Adequate Protection Liens as and to the extent authorized by the Financing Orders. Notwithstanding anything to the contrary in the Financing Orders, the Pre-Petition Term Agent shall be permitted to file applicable assignment documents in respect of financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in connection with the succession by Cortland as Pre-Petition Term Agent, and the automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the foregoing, and BofA's resignation as Pre-Petition Term Agent under the Pre-Petition Loan Documents shall in no way cause, create, or result in a lapse in perfection of the Pre-Petition Term Lenders' liens.

21. Effect of Appeal. Consistent with Section 364(e) of the Bankruptcy Code, if any or all of the provisions of this Final Order are hereafter modified, vacated or stayed on appeal:

(a) such stay, modification or vacation shall not affect the validity of any obligation, indebtedness or liability incurred or liens granted by the Debtors to any DIP Credit Party prior to the effective date of such stay, modification or vacation, or the validity, enforceability or priority of any liens, rights or claims authorized or created under the original provisions of this Final Order or pursuant to any of the DIP Financing Documents; and

(b) any indebtedness, obligation or liability incurred by the Debtors to any DIP Credit Party under any DIP Financing Documents prior to the effective date of such stay, modification or vacation shall be governed in all respects by the original provisions of this Final Order and the DIP Financing Documents, and each DIP Credit Party shall be entitled to all of the rights, remedies, privileges and benefits, including the DIP Liens and priorities granted to or for its benefit herein or pursuant to the applicable DIP Financing Documents, with respect to any

such indebtedness, obligation or liability. All DIP Credit Extensions under the DIP Financing Documents are deemed to have been made in reliance upon the Financing Orders, and, therefore, the indebtedness resulting from such DIP Credit Extensions prior to the effective date of any stay, modification or vacation of this Final Order cannot as a result of any subsequent order in any of these Chapter 11 Cases, or any Successor Case of a Debtor, (i) be subordinated or (ii) be deprived of the benefit or priority of the DIP Liens and the Superpriority Claims granted to DIP Credit Parties under the Financing Orders or the DIP Financing Documents.

22. Effect of Stipulations on Third Parties; Deadline for Challenges.

(a) Each Debtor's admissions, stipulations, agreements and releases contained in this Final Order, including, without limitation, those contained in Paragraph B of this Final Order, shall be binding upon such Debtor and any successor thereto (excluding any Chapter 7 trustee or Chapter 11 trustee or examiner appointed or elected for such Debtor) under all circumstances and for all purposes.

(b) Each Debtor's admissions, stipulations, agreements and releases contained in this Final Order, including, without limitation, those contained in Paragraph B of this Final Order shall be binding upon all other parties in interest (including, without limitation, the Committee, any Chapter 7 trustee or Chapter 11 trustee, and any examiner appointed or elected for such Debtor) under all circumstances and for all purposes unless and to the extent (a) the Committee or any other party in interest having requisite standing has timely and properly filed, in accordance with this Paragraph 22, an adversary proceeding or contested matter by no later than the Challenge Deadline (as defined below) (A) objecting to or challenging the amount, validity, perfection, enforceability, priority or extent of the Pre-Petition ABL Debt, Pre-Petition Term Debt, or any Pre-Petition Credit Party's Liens securing such Pre-Petition Debt or

(B) otherwise asserting any defenses, claims, causes of action, counterclaims or offsets against any Pre-Petition Credit Party or its respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors in any way relating to any transactions, events, actions or failure to act under or in connection with any of the Pre-Petition Documents (collectively, a "Challenge"), and (b) the Court rules in favor of the plaintiff with respect to any such timely and properly filed Challenge. As used herein, the term "Challenge Deadline" means (i) in the case of a party in interest with requisite standing other than the Committee, 60 days after the Petition Date, provided that if a trustee or examiner is appointed prior to 60 days after the Petition Date the time for the trustee or examiner to object shall be the later of 80 days after the Petition Date or 20 days after the trustee or examiner is appointed, (ii) in the case of the Committee, 75 days after the filing of notice of appointment of the Committee, in each case, any such later date agreed to in writing by DIP Agents, in their respective discretion, or ordered by the Court for cause shown, after notice and an opportunity to be heard, provided that such motion for an order to extend the Challenge Period is filed with the Court not later than 10 days prior to the expiration of any applicable period as set forth in clause (i) or (ii) of this sentence. Nothing contained in this Paragraph 22 increases the Investigation Budget. Notwithstanding anything else contained in this Final Order, if prior to the Challenge Deadline the Committee files a motion to be heard by this Court within 14 days of the filing of the motion or as soon thereafter as the Court's calendar will permit (and none of the Debtors or Pre-Petition Credit Parties shall object to such motion being heard upon an expedited basis) seeking standing from this Court to pursue a Challenge and attaches to such motion a proposed complaint setting forth the basis for such Challenge, the Committee shall be deemed to have satisfied the requirements of this Paragraph 22 for timely asserting a Challenge prior to the Challenge Deadline; provided that the Committee

shall not be authorized to prosecute any such Challenge (including by way of discovery or motion) unless and until the Court shall have granted the Committee's motion seeking standing to pursue such Challenge.

(c) If no such Challenge is timely and properly filed as of the applicable Challenge Deadline against a Pre-Petition Credit Party or the Court does not rule in favor of the plaintiff with respect to such Challenge, then in these Chapter 11 Cases and in any Successor Case, (i) each Debtor's admissions, stipulations, agreements and releases contained in this Final Order, including, without limitation, those contained in Paragraph B of this Final Order, shall be binding on all parties in interest, including any committee, any trustee and any examiner, with respect to such Pre-Petition Credit Party; (ii) the Pre-Petition Debt owing to such Pre-Petition Credit Party shall constitute an allowed claim that is not subject to defense, claim, counterclaim, recharacterization, subordination, offset or avoidance, for all purposes in the Chapter 11 Cases and any subsequent Chapter 7 case(s); (iii) the Pre-Petition Security Interests in favor of such Pre-Petition Credit Party shall be deemed to have been, as of the Petition Date and thereafter, legal, valid, binding, perfected, first priority security interests and liens, not subject to recharacterization, subordination, avoidance or other defense and shall not be subject to any other or further claim or challenge by any committee or any other party in interest seeking to exercise the rights of any Debtor's estate, including, without limitation, any Chapter 7 trustee or Chapter 11 trustee or examiner appointed or elected for any Debtor or any other successor in interest to a Debtor; and (iv) each Debtor (for itself, its estate and its successors and assigns) shall be deemed to have forever waived and released any and all Claims (as defined in the Bankruptcy Code), counterclaims, causes of action, defenses or setoff rights that each such Debtor may have against any Pre-Petition Credit Party or any of its respective officers, directors,

agents, employees, attorneys and affiliates and that arise out of or relate to any of the Pre-Petition Loan Documents or any acts, inaction, or transactions thereunder, whether disputed or undisputed, at law or in equity, or known or unknown, including, without limitation, any recharacterization, subordination, avoidance or other claim arising under or pursuant to Section 105 or Chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law. If any such Challenge is properly filed as of the Challenge Deadline, each Debtor's admissions, stipulations, agreements and releases contained in this Final Order, including, without limitation, those contained in Paragraph B of this Final Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this Paragraph) except to the extent that such admissions, stipulations, agreements and releases were expressly challenged in such Challenge and the plaintiff prevails on the merits with respect thereto. Nothing contained in this Final Order shall vest or confer any person or entity, including the Committee, with standing or authority to pursue or commence any Challenge.

(d) Notwithstanding anything else contained in this Final Order, if a Challenge is timely and properly filed as of the applicable Challenge Deadline against a Pre-Petition Credit Party, the entity prosecuting that timely Challenge can, if successful, challenge the adequate protection provided with respect to any lien avoided and payments made to any Pre-Petition Credit Party and all of the provisions regarding Adequate Protection Claims and Adequate Protection Liens in this Final Order are qualified by this reservation of the rights of third parties. If the adequate protection payments made exceed the amount of adequate protection to which any Pre-Petition Credit Party is entitled, that excess shall be applied to that Pre-Petition Credit Party's allowed secured claim or as otherwise ordered by the Court.

23. Debtors' Waivers. At all times during the Chapter 11 Cases, and whether or not an Event of Default has occurred, each Debtor irrevocably waives any right that it may have to seek authority (i) to use Cash Collateral except to the extent expressly permitted in this Final Order; (ii) until Full Payment of all DIP Obligations, the ABL Adequate Protection Claims and the Term Adequate Protection Claims, to obtain post-petition loans or other financial accommodations pursuant to Section 364(c) or (d) of the Bankruptcy Code, other than from a DIP Credit Party on the terms and conditions set forth herein, including the lien priorities set forth in the Intercreditor Agreement; (iii) to challenge the application of any payments authorized by this Final Order to ABL Pre-Petition Credit Parties pursuant to Section 506(b) of the Bankruptcy Code or assert that the value of the ABL Priority Collateral is less than the amount of the Pre-Petition ABL Debt (notwithstanding anything to the contrary in this Final Order, the Debtors' waiver of the ability to assert that the value of the ABL Collateral is less than the amount of the Pre-Petition ABL Debt shall not be binding upon the Term DIP Credit Parties or Pre-Petition Credit Parties); (iv) to propose or support a plan of reorganization or liquidation that does not provide for the Full Payment of all Obligations under both the ABL DIP Facility and the Term DIP Facility; or (v) to seek relief under the Bankruptcy Code, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent any such relief would in any way restrict or impair the rights and remedies of any DIP Credit Party or any Pre-Petition Credit Party as provided in this Final Order or any of the DIP Financing Documents, as applicable, or a DIP Credit Party's exercise of such rights or remedies, in each case subject to the terms of the Intercreditor Agreement.

24. Intercreditor Agreement. The provisions of the Intercreditor Agreement (as each may be amended by agreement of the parties thereto) shall continue in full force and effect

during the pendency of the Chapter 11 Cases or any Successor Case, and all DIP Credit Parties shall be bound by the terms and provisions set forth in the Intercreditor Agreement to which they are a party except to the extent of any inconsistency with the provisions of this Final Order, in which event the provisions of this Final Order shall govern and control. All of the types and items of property that are included within the ABL Priority Collateral or Term Priority Collateral (as those terms are defined in the Intercreditor Agreement) and that are created, acquired or arise after the Petition Date shall constitute ABL Priority Collateral and Term Priority Collateral, as applicable, for all purposes of the Intercreditor Agreement and this Final Order; provided, however, that Term Priority Collateral for Term DIP Obligations shall include assets of each foreign Debtor and NHB Capital, LLC in respect of which Term DIP Agent has a DIP Lien.

25. No Deemed Control; Exculpation; Release.

(a) In determining to make any DIP Credit Extension under a DIP Loan Agreement, or in exercising any rights or remedies as and when permitted pursuant to the Interim Order, this Final Order or the DIP Financing Documents, no DIP Credit Party and no Pre-Petition Credit Party shall be deemed to be in control of any Debtor or its operations or to be acting as a “responsible person,” “managing agent” or “owner or operator” (as such terms are defined in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601, et seq., as amended, or any similar state or federal statute) with respect to the operation or management of such Debtor.

(b) Nothing in the Financing Orders, the DIP Financing Documents, or any other document related to the DIP Financing shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Credit Party or any Pre-Petition Credit Party any liability for any claims arising from the pre-petition or post-petition activities of any Debtor in

the operation of its business or in connection with its restructuring efforts. So long as a DIP Credit Party or Pre-Petition Credit Party complies with its obligations under the applicable DIP Financing Documents and its obligations, if any, under this Final Order and applicable law (i) such DIP Credit Party or Pre-Petition Credit Party shall not, in any way or manner, be liable or responsible for (A) the safekeeping of the Collateral, (B) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (C) any diminution in the value thereof, or (D) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person or entity; and (ii) all risk of loss, damage or destruction of the Collateral shall be borne by the Debtors.

(c) Effective as of entry of this Final Order, the Debtors hereby forever, unconditionally and irrevocably release, discharge and acquit the Pre-Petition Credit Parties and the DIP Credit Parties and each of their respective successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, attorneys, and agents, past, present, and future, and their respective heirs, predecessors, successors, and assigns (collectively, the “Releasees”) of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, expenses (including, without limitation, reasonable attorneys’ fees), debts, liens, actions, and causes of action of any and every nature whatsoever, whether arising in law or otherwise, and whether or not known or matured, arising out of or relating to, as applicable, the Pre-Petition Loan Documents, the DIP Financing Documents, and/or the transactions contemplated hereunder or thereunder including, without limitation, (A) any so-called “lender liability” or equitable subordination claims or defenses, (B) any and all claims and causes of action arising under the Bankruptcy Code, and (C) any and all claims and causes of action with respect to the validity, priority, perfection, or avoidability of the DIP Liens, DIP Obligations,



Pre-Petition Security Interests, and Pre-Petition Debt, except only for actions or omissions to act that are determined by a final and non-appealable court order to be due to Releasees' own respective gross negligence or willful misconduct. The Debtors further waive and release any defense, right of counterclaim, right of set-off, or deduction to the payment of the Pre-Petition Debt and the DIP Obligations that the Debtors now have or may claim to have against the Releasees, arising out of, connected with, or relating to any and all acts, omissions, or events occurring prior to the Court entering this Final Order. Notwithstanding anything contained in this Paragraph 25, the Committee reserves all of its rights to assert a Challenge against the Releasees pursuant to Paragraph 22 of this Final Order.

26. Authorization to File Master Proof of Claim. The Pre-Petition ABL Agent and Pre-Petition Term Agent shall not be required to file any proof of claim with respect to any of the Pre-Petition Debt, all of which shall be due and payable in accordance with the Pre-Petition Term Loan Documents and the Pre-Petition ABL Loan Documents and the other financing documents applicable thereto without the necessity of filing any such proof of claim; and the failure to file any such proof of claim shall not affect the validity or enforceability of the Pre-Petition Term Loan Documents or the Pre-Petition ABL Loan Documents or prejudice or otherwise adversely affect any Pre-Petition Term Credit Party's rights, remedies, powers or privileges under any of the Pre-Petition Term Loan Documents, the Pre-Petition ABL Loan Documents, this Final Order, or applicable law. Notwithstanding the preceding sentence, if the Pre-Petition ABL Agent and/or Pre-Petition Term Agent so elects, each of the Pre-Petition ABL Agent and Pre-Petition Term Agent shall be authorized and empowered (but not required) to (i) file (and amend and/or supplement as it sees fit) a proof of claim and/or aggregate proof of claim in each Chapter 11 Case or Successor Case for any claim described herein, on behalf of Pre-

Petition ABL Credit Parties and Pre-Petition Term Credit Parties, respectively, on account of its respective claims against the Debtors, (ii) file (and amend and/or supplement as it sees fit) a single proof of claim in the case of In re Noranda Aluminum, Inc., Case No. 16-10083-399, for any claim described herein, in which such case such proof of claim will be deemed to have been filed against each of the Debtors (a “Master Proof of Claim”), and (iii) collect and receive any monies or other property payable or distributable on account of any such claims and to share such payments or property with Pre-Petition ABL Credit Parties and Pre-Petition Term Credit Parties, as the case may be, in accordance with their respective Pre-Petition Loan Documents, this Final Order and the Intercreditor Agreement. Upon the filing of a Master Proof of Claim, each Pre-Petition Credit Party on whose behalf such Master Proof of Claim was filed shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against any Debtor under the applicable Pre-Petition Loan Documents, and the claim of each Pre-Petition Credit Party (and each of its respective successors and assigns) named in such Master Proof of Claim shall be treated as if each such entity had filed a separate proof of claim in each Chapter 11 Case. Neither the Pre-Petition ABL Agent nor Pre-Petition Term Agent shall be required to amend a proof of claim or a Master Proof of Claim filed by it to reflect a change in the holder of a claim set forth therein or a reallocation among such holders of the claims asserted therein and resulting from the transfer of all or any portion of such claims. The provisions of this Paragraph and each Master Proof Claim are intended solely for the purpose of administrative convenience and shall not affect any right of any Pre-Petition Credit Party (or its respective successors in interest) to vote separately on any plan of reorganization or liquidation proposed in any of these Chapter 11 Cases or to file its own proof of claim, which claim, if filed, shall be in addition to, and not in lieu of, any other proof of claim filed by any of the Pre-Petition

Agents. Neither the Pre-Petition ABL Agent nor Pre-Petition Term Agent shall be required to file with a Master Proof of Claim any instruments, agreements or other documents evidencing the obligations owing by any Debtor to any Pre-Petition Credit Party, which instruments, agreements or other documents will be provided upon written request to counsel for Pre-Petition ABL Agent or Pre-Petition Term Agent, as applicable.

27. Preservation of Sherwin Claim. If and to the extent that Sherwin, as assignee of Surela Investments Ltd., as lender under the credit agreement dated as of December 29, 2012, with NBL may, pursuant to Section 553(a) of the Bankruptcy Code, set off amounts owed by NBL under that agreement against amounts owed to NBL by Sherwin under the Sherwin Contract (the “Sherwin Setoff Claim”), nothing in this Final Order (including any relief granted under this Final Order pursuant to Section 364(d) of the Bankruptcy Code) shall be deemed to impair or otherwise affect the Sherwin Setoff Claim, if any, including whatever priority or secured status such claim may have or be entitled to under Section 506(a)(1) of the Bankruptcy Code, provided that the Sherwin Setoff Claim does not affect or implicate any ABL Priority Collateral.

28. Binding Effect; Successors and Assigns. The provisions of this Final Order shall be binding upon all parties in interest in these Chapter 11 Cases, including, without limitation, the DIP Credit Parties and the Debtors and their respective successors and assigns (including any Chapter 11 trustee hereafter appointed for the estate of any Debtor, any Chapter 7 trustee appointed or elected in a Successor Case, any examiner appointed pursuant to Section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any Debtor or with respect to any property of the estate of any Debtor), and shall inure to the benefit of DIP Credit Parties and their respective successors and assigns. In no event shall any DIP Credit Party

or Pre-Petition Credit Party have any obligation to make DIP Credit Extensions to, or permit the use of the Collateral (including Cash Collateral) by, any Chapter 7 trustee, Chapter 11 trustee or similar responsible person appointed or elected for the estate of any Debtor.

29. Objections Overruled. Any and all objections to the relief requested in the Motion, to the extent not otherwise withdrawn, waived, or resolved by this Final Order or by consent at or before the Final Hearing, and all reservations of rights included therein, are hereby OVERRULED and DENIED.

30. Insurance. To the extent Pre-Petition ABL Agent and/or Pre-Petition Term Agent is listed as loss payee under any Debtor's insurance policies, ABL DIP Agent and/or Term DIP Agent shall also be deemed to be the loss payee under such Debtor's insurance policies and, subject to the Intercreditor Agreement and this Final Order, shall act in that capacity and distribute any proceeds recovered or received in respect of any such insurance policies.

31. DIP Collateral Rights. Except as expressly permitted in this Final Order and the DIP Financing Documents, in the event that any person or entity holds a lien on or security interest in DIP Collateral that is junior or subordinate to the DIP Liens in such DIP Collateral and such person or entity receives or is paid the proceeds of such DIP Collateral, or receives any other payment with respect thereto from any other source, in each case in a manner prohibited by any of the DIP Financing Documents or this Final Order prior to Full Payment of all DIP Obligations, such junior or subordinate lienholder shall be deemed to have received, and shall hold, the proceeds of any such DIP Collateral in trust for the applicable DIP Credit Parties, and shall immediately turn over such proceeds to the appropriate DIP Agent for application in accordance with this Final Order and the DIP Financing Documents, and the Intercreditor Agreement.

32. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loans under the respective DIP Financing Documents unless the conditions precedent to making such extensions of credit under the respective DIP Financing Documents have been satisfied in full or waived in accordance with such DIP Financing Documents.

33. No Impact on Certain Contracts or Transactions. No rights of any person or entity in connection with a contract or transaction of the kind listed in Sections 555, 556, 559, 560 or 561 of the Bankruptcy Code, whatever such rights might or might not be, are affected by the provisions of this Final Order.

34. Effectiveness; Enforceability. This Final Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable nunc pro tunc to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be valid, take full effect, and be enforceable immediately upon entry hereof; there shall be no stay of execution or effectiveness of this Final Order; and any stay of the effectiveness of this Final Order that might otherwise apply is hereby waived for cause shown.


35. Inconsistencies. To the extent that any provisions in the DIP Financing Documents are expressly inconsistent with any of the provisions of this Final Order, the provisions of this Final Order shall govern and control.

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

37. No later than two (2) business days after the date of the entry of this Order, the Debtors shall serve a copy of this Order and shall file a certificate of service no later than 24 hours after service.

DATED: March 11, 2016  
St. Louis, Missouri

cks

  
Barry S. Schermer  
United States Bankruptcy Judge

**Order Prepared By:**

Alan W. Kornberg  
Elizabeth McColm  
Alexander Woolverton  
Michael M. Turkel  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, New York 10019