EXHIBIT A

Proposed Order

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re PREMIERE JEWELLERY, INC., Debtor Tax I.D. 06-1470350	Case No. 20-11484 CHAPTER 11
In re TANYA CREATIONS, LLC, Debtor Tax I.D. 47-5521867	Case No. 20-11485 CHAPTER 11
In re PAW HOLDINGS, INC., Debtor Tax I.D. 05-0379043	Case No. 20-11486 CHAPTER 11
In re ETYM PROPERTIES, LLC, Debtor Tax I.D. 05-0504377	Case No. 20-11488 CHAPTER 11
In re PJT, LLC Debtor Tax I.D. 82-2653102	Case No. 20-11487 CHAPTER 11

ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES AND (II) WAIVING REQUIREMENTS OF SECTION 342(c)(1) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1005 AND 2002(n)

Upon the motion (the "Motion")[1] of Premiere Jewellery, Inc. and certain of its affiliated debtors and debtors-in-possession (collectively, the "Debtors") for entry of an order (this "Order") pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 1015(b), (a) directing the joint administration of these Chapter 11 Cases for procedural purposes only and (b) waiving the requirement that the captions in the Chapter 11 Cases list the Debtors' tax identification numbers and certain other information, and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and venue of these Chapter 11 Cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409, and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b), and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), and that, except as otherwise ordered herein, no other or further notice is necessary, and any objections (if any) to the Motion having been withdrawn or overruled on the merits, and a hearing having been held to consider the relief requested in the Motion and upon the record of the hearing and all of the proceedings had before this Court, and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties-in-interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is GRANTED as set forth herein.

[1] Capitalized terms not otherwise defined herein are to be given the meaning ascribed to them in the Motion.

2. These Chapter 11 Cases shall be jointly administered pursuant to Bankruptcy Rule 1015(b) and consolidated for procedural purposes only.

3. The Clerk of the Court shall maintain one file and one docket for these Chapter 11 Cases, which file and docket shall be the file and docket for the Chapter 11 Case of Premiere Jewellery, Inc., Case No. 20-11484.

4. All pleadings filed in these Chapter 11 Cases shall bear a consolidated caption in the following form:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re PREMIERE JEWELLERY, INC., et al., Debtors.[2]	Chapter 11 Case No. 20-11484 Jointly Administered

5. The Clerk of the Court shall make a docket entry docket in each of the Chapter 11 Cases (except that of Premiere Jewellery, Inc.), to reflect the joint administration of these Chapter 11 Cases, substantially as follows:

> An order has been entered in this case administratively consolidating the cases of Premiere Jewellery, Inc., Tanya Creations, LLC, PAW Holdings, Inc., ETYM Properties, LLC, and PJT, LLC for procedural purposes only and providing for its joint administration with the terms therein. The docket in the Chapter 11 case of Premiere Jewellery, Inc., Case No. 20-11484 should be consulted for all matters affecting this case.

[2] The Debtors in these cases each incorporated or organized in the state of Rhode Island and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. [0259], Tanya Creations, LLC [1867], PAW Holdings, Inc. [9043], ETYM Properties, LLC [4377], and PJT, LLC [3102]. The address of the corporate headquarters of Premiere Jewellery, Inc. is 580 Fifth Avenue, New York, NY 10036 and the other Debtors' corporate headquarters is 300 Metrocenter, East Drive, East Providence, RI 02915.

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Proposed Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.,[1]	)	Case No. 20-11484
Debtors	)	(Joint Administration Requested)

DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) MAINTAIN A LIST OF CEDITORS IN LIEU OF SUBMITTING A FORMATTED MAILING MATRIX AND (B) FILE A CONSOLIDATED LIST OF THE DEBTORS' TOP 20 CREDITORS AND (II) GRANTING RELATED RELIEF

Premiere Jewellery, Inc. and certain of its affiliated debtors and debtors-in-possession (collectively, the "Debtors") hereby submit this motion (the "Motion") for entry of an order, substantially in the form attached hereto as Exhibit A (the "Order"), pursuant to sections

[1] The Debtors in these cases are each incorporated or organized in the state of Rhode Island, and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (9206); Tanya Creations, LLC (1637); PAN Holdings Inc. (9931); ETYM Properties LLC (4027); and PJT, LLC (1105). The address of the corporate offices of Premiere Jewellery, Inc. is 389 Fifth Avenue, New York, NY 1018 and the other Debtors' corporate headquarters is 360 Narragansett Park Drive, East Providence, RI 02916.

105 and 521 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), rule 1007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 1007-1 of the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), (i) authorizing, but not directing, the Debtors to (a) maintain a consolidated list of creditors (the "Creditor Matrix") in lieu of submitting a separate matrix for each Debtor and (b) file a consolidated list of the Debtors' top 20 unsecured creditors (the "Top 20 Creditor List") and (ii) granting related relief. In further support of the Motion, the Debtors respectfully state as follows:

BACKGROUND

1. Premiere Jewellery, Inc. and affiliated debtors in possession (collectively, the "Debtors") are a jewelry design, sales and distribution enterprise, with headquarters in East Providence, Rhode Island and offices also located in New York, NY and Qingdao and Yiwu, China. The Debtors design and distribute costume jewelry and hair goods and partner with major retailers, who then sell the Debtors' merchandise to consumers.

2. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

3. A comprehensive description of the Debtors' operations and events leading to the commencement of these chapter 11 cases is set forth in the *Declaration of A. Howard Meier, Chief Restructuring Officer of Premiere Jewellery, Inc. and its Affiliates in Support of Debtors' Chapter 11 Proceedings and First Day Pleadings* (the "First Day Declaration"), filed contemporaneously herewith and incorporated herein by reference.

JURISDICTION

4. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334.

5. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

6. The statutory and procedural bases for the relief requested herein are sections 105 and 521 of the Bankruptcy Code, Bankruptcy Rule 1007 and Local Rule 1007-1.

RELIEF REQUESTED

7. By this Motion, the Debtors request entry of the Order, substantially in the form attached hereto as Exhibit A, (i) authorizing, but not directing, the Debtors to (a) maintain the Creditor Matrix in lieu of submitting a separate matrix for each Debtor and (b) file the Top 20 Creditor List and (ii) granting related relief.

BASIS FOR RELIEF

I. The Court May Allow Debtors to Maintain the Creditor Matrix in Lieu of Submitting a Formatted Mailing Matrix.

8. Local Rule 1007-1(a) requires a debtor in a voluntary chapter 11 case to file a list containing the name and complete address of each creditor. Local Rule 1007-1(a). The Debtors request that the Court authorize the Debtors to maintain the Creditor Matrix in lieu of filing separate matrices for each Debtor. Permitting the Debtors to maintain a consolidated list of their creditors in electronic format only, in lieu of filing a creditor matrix, is warranted under the circumstances of these chapter 11 cases.

9. Prior to the Petition Date, the Debtors maintained their books and records on a consolidated basis. Therefore, the preparation of separate creditor matrices and creditor lists would be time-consuming, unduly burdensome, and costly to the Debtors' estates.

10. The Debtors have prepared the Creditor Matrix in electronic format. To ensure that no parties-in-interest are prejudiced, the Debtors will make their Creditor Matrix available in readable electronic format to any party in interest who so requests (or in non-electronic format at such requesting party's sole cost and expense). The Debtors therefore submit that the preparation and maintenance of the Creditor Matrix is warranted under the facts and circumstances present in these chapter 11 cases.

II. The Court May Authorize the Debtors to File the Top 20 Creditor List.

11. Bankruptcy Rule 1007(d) provides that a debtor shall file a list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders. Fed. R. Bankr. P. 1007(d). Because many of the creditors are shared amongst the Debtors, the Debtors request authority to file a single consolidated Top 20 Creditor List.

12. The Debtors submit that permitting them to file the Top 20 Creditor List in lieu of filing a separate list for each debtor entity is warranted under the circumstances of the chapter 11 cases. The exercise of compiling separate creditor lists for each individual Debtor would consume an excessive amount of the Debtors' time and resources. Further, the Debtors believe that a single consolidated list of the Debtors' 20 largest unsecured, non-insider creditors will aid the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") and other parties in interest in their efforts to communicate with these creditors. As such, the Debtors believe that filing the Top 20 Creditor List in these chapter 11 cases is appropriate.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.[1]	)	Case No. 20-11484
Debtors	)	(Joint Administration Requested)

ORDER (I) AUTHORIZING THE DEBTORS TO (A) MAINTAIN A LIST OF CREDITORS IN LIEU OF SUBMITTING A FORMATTED MAILING MATRIX AND (B) FILE A CONSOLIDATED LIST OF THE DEBTORS' TOP 20 CREDITORS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion") of Premiere Jewellery, Inc. and certain of its affiliated debtors and debtors-in-possession (collectively, the "Debtors") for entry of an order (this "Order") pursuant to sections 105 and 521 of the Bankruptcy Code, Bankruptcy Rule 1007 and Local Rule 1007-1 (i) authorizing, but not directing, the Debtors to (a) maintain a consolidated list of creditors (the "Creditor Matrix") in lieu of submitting a separate matrix for each Debtor and (b) file a consolidated list of the Debtors' top 20 unsecured creditors (the "Top 20 Creditor List") and (ii) granting related relief, and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and venue of these chapter 11 cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409, and this matter being a core proceeding

[1] The Debtors in these cases are each a corporation or a limited liability company, and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (0204); Tiara Creations, LLC (1887); PJW Holdings, Inc. (9843); PJWM Properties, LLC (1437); and PPL, LLC (1855). The address of the corporate offices of Premiere Jewellery, Inc. is 180 Fifth Avenue, New York, NY 1016 and the address Debtors' corporate headquarters is 500 Narragansett Park Drive, East Providence, RI 02916.

pursuant to 28 U.S.C. § 157(b); and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), and that, except as otherwise ordered herein, no other or further notice is necessary, and any objections (if any) to the Motion having been withdrawn or overruled on the merits, and a hearing having been held to consider the relief requested in the Motion and upon the record of the hearing and all of the proceedings had before this Court, and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties-in-interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The Debtors are authorized to file the Top 20 Creditor List in lieu of each Debtor filing a list of its 20 largest unsecured creditors.

3. In lieu of submitting a formatted mailing matrix, the Debtors shall make available a single, consolidated Creditor Matrix of all of the Debtors' creditors in readable electronic format (or in non-electronic format at such requesting party's sole cost and expense) upon reasonable request by parties-in-interest.

4. The Debtors are authorized and empowered to execute and deliver such documents, and to take and perform all actions necessary to implement and effectuate the relief granted in this Order.

5. This Order is without prejudice to the rights of any party-in-interest or the U.S. Trustee to seek to unseal the Confidential Information or any part thereof.

6. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Order.

Dated: _____
New York, New York

_____
United States Bankruptcy Judge

Order Prepared By:

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Proposed Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.,[1]	)	Case No. 20-11484
	)	(Joint Administration Requested)
Debtors	)	

DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE THEIR PREPETITION INSURANCE PROGRAM AND (B) RENEW, SUPPLEMENT, OR PURCHASE INSURANCE POLICIES, AND (II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors") file this motion (the "Motion") for entry of the proposed interim and final orders (respectively, the "Proposed Interim Order" and "Proposed Final Order") (i) authorizing the Debtors to (a) continue their prepetition insurance program and satisfy prepetition obligations related thereto and (b) renew, supplement or purchase insurance policies, and (ii) granting related relief. In support of this Motion, the Debtors respectfully state as follows:

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Premiere Jewellery, Inc. (8330); Aurora Creations, LLC (1867); PJW Holdings, Inc. (9842); ETTM Properties, LLC (4372); and PJT, LLC (3155). The address of the corporate offices of Premiere Jewellery, Inc. is 389 Fifth Avenue, New York, NY 10016 and the main Debtors' corporate headquarters is 165 Newport Park Drive, East Providence, RI 02916.

BACKGROUND

1. Premiere Jewellery, Inc. and affiliated debtors in possession (collectively, the "Debtors") are a jewelry design, sales, and distribution enterprise, with headquarters in East Providence, Rhode Island and offices also located in New York, NY and Qingdao and Yiwu, China. The Debtors design and distribute costume jewelry and hair goods and partner with major retailers, who then sell the Debtors' merchandise to consumers.

2. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

3. A comprehensive description of the Debtors' operations and events leading to the commencement of these chapter 11 cases is set forth in the *Declaration of A. Howard Moser, Chief Restructuring Officer of Premiere Jewellery, Inc. and its Affiliates in Support of Debtors' Chapter 11 Proceedings and First Day Pleadings* (the "First Day Declaration") pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York, filed contemporaneously herewith and incorporated herein by reference.

JURISDICTION AND VENUE

4. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334.

5. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

6. The statutory bases for the relief requested herein are sections Bankruptcy Code sections 105, 363, 503, 1107, 1108 and 1112 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

RELIEF REQUESTED

7. By this Motion, and pursuant to of Bankruptcy Code sections 105(a), 363(b), 503, 1107(a), 1108 and 1112(b) of the Bankruptcy Code and Rules 6003 and 6004 of the Bankruptcy Rules, the Debtors seek entry of the Proposed Interim Order and Proposed Final Order (i) authorizing the Debtors to (a) continue insurance coverage entered into prepetition and satisfy prepetition obligations related thereto in the ordinary course of business and (b) renew, supplement or purchase insurance coverage in the ordinary course of business on a postpetition basis, if necessary, and (ii) granting related relief.

8. In addition, the Debtors request that the Court schedule a final hearing within approximately 21 days of the commencement of these chapter 11 cases to consider approval of this Motion on a final basis.

9. The Proposed Interim Order and the Proposed Final Order are attached hereto as Exhibit B.

THE DEBTORS' INSURANCE PROGRAM

10. In the ordinary course of business, the Debtors maintain 43 insurance policies (collectively, the "Insurance Policies") that are administered by various third-party insurance carriers (collectively, the "Insurance Carriers"). The Insurance Policies provide the Debtors with coverage for, among other things, the Debtors' property, general liability, automobile liability, product recall coverage, ocean marine, foreign liability, travel accident, directors and officers'

liability, employee benefits liability, employment practices liability, fiduciary liability and workers' compensation. In addition, the Insurance Policies include excess liability coverage. A schedule of the Insurance Policies is attached hereto as Exhibit A, which is incorporated herein by reference.

A. Premium Payments

11. In May 2020, the Debtors obtained a package of new Insurance Policies for the period from May 2020 until May 2021. As of the Petition Date, the Debtors do not believe any amounts are outstanding under the Insurance Policies. For the period from May 2020 until May 2021, the Debtors estimate they will owe approximately $149,572, in the aggregate, in premiums for the Insurance Policies, plus applicable taxes and surcharges, deductibles, fees and commissions (the "Premiums"). The Insurance Policies are generally one year in length and renew at various times throughout the year. For most of the Insurance Policies, the Debtors prepay the entire Premium on or around the start date of each policy period. The Premium payments for certain of the Insurance Policies are made in several installments during the policy period, as set forth in each insurance contract respectively. As such, the Debtors seek authority to continue paying Premium obligations in the ordinary course of business on a postpetition basis to ensure uninterrupted coverage of their Insurance Policies.

B. Deductible Fees

12. Some of the Insurance Policies require the Debtors to pay a per occurrence deductible (a "Deductible"). Debtors' Insurance Policies have per claim deductibles ranging from $1,000 to $25,000. Depending on the type of claim and the applicable Insurance Policy, the Debtors must ultimately pay up to the applicable deductible threshold for each successful or

preservation of the value of the Debtors' assets and operations during these chapter 11 cases. Moreover, in many instances, insurance coverage is required by the regulations, laws, and contracts that govern the Debtors' activities.

22. The Debtors believe it is essential to maintain and make all payments required under their Insurance Policies, and have the authority to supplement, amend, extend, renew or replace their insurance Policies pursuant to Bankruptcy Code sections 105(a), 363(b), and 503. Indeed, the Debtors' Insurance Policies are essential to the preservation of the value of the Debtors' businesses, properties, assets and the estates, as well as their ability to successfully reorganize and successfully emerge from chapter 11. Accordingly, in the event any of the Insurance Policies lapse or new coverage is required or necessary, it is imperative that the Debtors be able to renew, supplement or purchase insurance coverage on a post-petition basis in the ordinary course of business. The Insurance Policies protect the Debtors and other parties in interest from losses caused by casualty, natural disaster, fraud or other unforeseen events.

23. The Debtors also are required by law to maintain the workers' compensation programs. If the Debtors fail to maintain their workers' compensation programs, applicable state courts, among other things, prohibit the Debtors from operating. Granting authority to pay all workers' compensation obligations, therefore, is critical to the continued operation of the Debtors' business.

III. Processing of Checks and Electronic Fund Transfers Should Be Authorized

24. The Debtors have sufficient funds to pay the amounts described in this motion. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Insurance Policies. Accordingly, the Debtors believe that checks or wire transfer requests, other than those

relating to authorized payments, will not be dishonored inadvertently. Therefore, the Debtors respectfully request that the Court authorize and direct all applicable financial institutions, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

THE RELIEF REQUESTED IN BANKRUPTCY RULE 6003 ARE SATISFIED

25. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003(b). Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to reorganize or threaten the debtor's future as a going concern. For the reasons discussed above, authorizing the Debtors to continue to honor obligations arising under the Insurance Policies and, if necessary, to renew, supplement or purchase insurance coverage on a post-petition basis in the ordinary course of business is vital to the Debtors' operations and the failure to permit such relief can potentially severely disrupt the Debtors' operations at a critical juncture. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

WAIVER OF BANKRUPTCY RULES 6004(A) AND 6004(H)

26. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

27. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' or any other parties-in-interests' rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under Bankruptcy Code section 365. The Debtors expressly reserve their right to contest any claim related to the relief sought herein. Likewise, if the Court grants the relief sought herein, any payment made pursuant to an order of the Court is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' or any other parties-in-interests' rights to subsequently dispute such claim.

NOTICE

28. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Southern District of New York, (b) the holders of the 20 largest unsecured claims against the Debtors (on a consolidated basis), (c) counsel to Webster Bank, N.A. (Attn: Daniel E. Burgoyne, Esq.), (d) counsel to any statutory committee appointed in the chapter 11 cases, (e) the United States Attorney's Office for the Southern District of New York, (f) the Internal Revenue Service, (g) the United States Securities and Exchange Commission, (h) the state attorneys general for all states in which the Debtors conduct business and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court: (a) enter the Proposed Interim Order granting the relief requested in the Motion and such

other and further relief as may be just and proper, and (b) schedule a final hearing on the Motion as soon as is otherwise practicable thereafter to consider entry of the Proposed Final Order.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	)	Chapter 11
PREMIERE JEWELLERY, INC., et al.[1]	)	Case No. 20-11484
Debtors	)	(Joint Administration Requested)

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE INSURANCE COVERAGE ENTERED INTO PREPETITION AND SATISFY PREPETITION OBLIGATIONS RELATED THERETO AND (B) RENEW, SUPPEMENT, OR PURCHASE INSURANCE POLICIES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion") of the above captioned debtors and debtors in possession (collectively, the "Debtors") for an entry of an interim order (this "Interim Order") (a) authorizing the Debtors to (i) continue insurance coverage entered into prepetition and satisfy payment of prepetition obligations related thereto in the ordinary course of business and (ii) renew, supplement, or purchase insurance coverage in the ordinary course of business, (b) granting related relief, and (c) scheduling a final hearing to consider approval of the Motion on a final basis, all as more fully set forth in the Motion, and upon the First Day Declaration, and this Court 28 U.S.C. §§ 157 and 1334, and this Court having found that this is a core proceeding pursuant to 28 U.S.C. §157(b)(2), and that this Court may enter a final order consistent with

[1] The Debtors in these cases are each incorporated or organized in the state of Rhode Island, and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (8252); Tower Corporate, LLC (1863); PAC Holdings, Inc. (8047); 3550 Prospect, LLC (4179); and 701 LLC (6159). The address of the corporate offices of Premiere Jewellery, Inc. is 529 Fifth Avenue, New York, NY 10036 and for all other Debtors, corporate headquarters is 260 Narragansett Park Drive, East Providence, RI 02916.

Article III of the United States Constitution, and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest, and this Court having found that the Debtors provided appropriate notice and this Court having found that proper and adequate notice of the Motion and the relief requested therein in accordance with the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the "Local Rules") and the opportunity for a hearing under the circumstances, and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"), and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein, and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.

2. The Debtors are authorized, but not directed, to continue the Insurance Policies, including the Insurance Policies identified on Exhibit A to the Motion, and, in their sole discretion, pay any prepetition or postpetition obligations related to the Insurance Policies due prior to entry of a Final Order.

3. The Debtors are authorized, but not directed, to renew, amend, supplement, extend, or purchase insurance policies to the extent the Debtors determine, in their sole discretion, that such action is in the best interest of their estates.

4. The Debtors are further authorized, but not directed, to revise, extend, supplement or otherwise modify their insurance coverage as needed, including without limitation, through the purchase or renewal of new or existing insurance policies.

5. The Debtors are authorized, but not directed, to maintain their workers' compensation policies in accordance with practices and procedures that were in effect before the Petition Date.

6. Pursuant to this Interim Order, the Debtors are authorized, but not directed, to pay or remit any Premiums that (a) are due and owing as of the Petition Date, if any, and (b) any post-petition Premiums that become due and owing within 21 days after the Petition Date, in each case in the ordinary course of business.

7. Pursuant to this Interim Order, the Debtors are authorized, but not directed, to pay or remit (a) any prepetition Deductible Fees that are due and owing as of the Petition Date, if any, and (b) any post-petition Deductible Fees that become due and owing within 21 days after the Petition Date, in each case, in the ordinary course of business.

8. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the "Final Hearing").

9. To the extent Debtors have (a) in satisfied the prepetition amounts due for Premiums, Deductible Fees, or fees paid to the Insurance Broker, (b) paid an amount that was less than is actually owed, or (c) made any prepetition payments on account of the Insurance Policies that were rejected, lost, or otherwise not received in full by any applicable party, the Debtors are authorized, but not directed, to pay any Premiums, Deductible Fees, or fees to the Insurance Broker that may come due in the ordinary course of business on a post-petition basis.

10. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized, but not directed, to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

11. Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Order, any authorization contained in this Order, or any claim for which payment is authorized hereunder, shall be subject to any orders of this Court approving any debtor in possession financing for or any use of cash collateral by the Debtors, and any documents providing for such debtor in possession financing and the budget governing such debtor in possession financing and use of cash collateral.

12. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

13. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Interim Order shall create any rights in favor of, or enhance the status of any claim held by, any party in interest.

14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

4 The Debtors are authorized, but not directed to renew, amend, supplement, extend, or purchase insurance policies to the extent the Debtors determine in their sole discretion that such action is in the best interest of their estates.

5 The Debtors are authorized, but not directed, to maintain their workers' compensation policies in accordance with practices and procedures that were in effect before the Petition Date.

6 Nothing herein alters or amends the terms and conditions of any Insurance Policy or relieves the Debtors of any of their obligations under the Insurance Policies.

7 The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized, but not directed, to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

8 The Debtors are authorized to issue post-petition checks, or to effect post-petition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to the prepetition amounts owed in connection with any Insurance Policies.

9 Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Order, any authorization contained in this Order, or any claim for which payment is authorized hereunder, shall be subject to any orders of this Court approving any debtor in possession financing for, or any use of cash collateral by, the Debtors and any

documents providing for such debtor in possession financing and the budget governing such debtor in possession financing and use of cash collateral.

10 Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Final Order or any payment made pursuant to this Final Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

11. Notice of the Motion satisfied the requirements set forth in Bankruptcy Rule 6004(a).

12 Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

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

New York, New York
Dated ... . ____, 2020

_____
United States Bankruptcy Judge

Order Prepared By:

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Premiere Jewellery, Inc. et al.

Case No. 20-11484
Chapter 11

Debtor

Adversary Proceeding No. ____

Plaintiff

v.

Defendant

MOTION FOR ADMISSION TO PRACTICE, *PRO HAC VICE*

I, Erin M. Edelman, request admission, *pro hac vice*, before the Honorable ____ in the above-referenced Premiere Jewellery, Inc. et al. Debtors, in the above referenced ☐ case ☐ adversary proceeding.

I certify that I am a member in good standing of the Bar in the State of Missouri and, if applicable, the bar of the U.S. District Court for the Eastern District of Missouri.

I have submitted the filing fee of $200.00 with this motion for *pro hac vice* admission.

Dated: 06/25/2020
New York, New York

Erin M. Edelman
Proposed Attorney
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Premiere Jewellery, Inc. et al.

Case No. 20-11484
Chapter 11

Debtor

Adversary Proceeding No. ____

Plaintiff

v.

Defendant

ORDER GRANTING ADMISSION TO PRACTICE, *PRO HAC VICE*

Upon the motion of Erin M. Edelman, to be admitted, *pro hac vice*, to represent Premiere Jewellery, Inc. et al. (the "Client") a Debtor in the above referenced ☐ case ☐ adversary proceeding, and upon the movant's certification that the movant is a member in good standing of the bar in the State of Missouri and, if applicable, the bar of the U.S. District Court for the Eastern District of Missouri, it is hereby

ORDERED, that Erin M. Edelman, Esq., is admitted to practice, *pro hac vice*, in the above referenced ☐ case ☐ adversary proceeding to represent the Client in the United States Bankruptcy Court for the Southern District of New York, provided that the filing fee has been paid.

Dated: ____
New York, New York

/s/ ____
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re Premiere Jewellers, Inc. et al

Case No. 20-11484
Chapter 11

Debtor

Adversary Proceeding No. _____

Plaintiff

v.

Defendant

MOTION FOR ADMISSION TO PRACTICE, *PRO HAC VICE*

I, Jack Dyson, to be admitted, *pro hac vice*, before the Honorable _____, to represent Premiere Jewellers, Inc. et al, a Debtor in the above referenced ☒ case ☐ adversary proceeding

I certify that I am a member in good standing of the bar in the State of New York and, if applicable, the bar of the U.S. District Court for the Southern District of New York.

I have submitted the filing fee of $200.00 with this motion for *pro hac vice* admission.

Dated: 06/25/2020
New York, New York

Jack Dyson
919 Third Avenue, 37th Floor
New York, NY 10022
Email address: jdyson@stblp.com
Telephone number: (212) 209-4400

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re Premiere Jewellers, Inc. et al

Case No. 20-11484
Chapter 11

Debtor

Adversary Proceeding No.

Plaintiff

v.

Defendant

ORDER GRANTING ADMISSION TO PRACTICE, *PRO HAC VICE*

Upon the motion of Jack Dyson, to be admitted, *pro hac vice*, to represent Premiere Jewellers, Inc. et al (the "Client") a Debtor in the above referenced ☒ case ☐ adversary proceeding, and upon the movant's certification that the movant is a member in good standing of the bar in the State of New York and, if applicable, the bar of the U.S. District Court for the Southern District of New York, it is hereby

ORDERED, that Jack Dyson, Esq., is admitted to practice *pro hac vice*, in the above referenced ☒ case ☐ adversary proceeding to represent the Client, in the United States Bankruptcy Court for the Southern District of New York, provided that the filing fee has been paid.

Dated _____
_____, New York

/s/ _____
UNITED STATES BANKRUPTCY JUDGE

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Proposed Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.,[1]	)	Case No. 20-11484
Debtors	)	(Joint Administration Requested)

DEBTORS' MOTION SEEKING ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO, (C) MAINTAIN EXISTING BUSINESS FORMS AND (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS AND (II) GRANTING RELATED RELIEF

The above captioned debtors and debtors in possession (collectively, the "Debtors") file this motion (this "Motion") for entry of interim and final orders (the "Proposed Interim Order" and "Proposed Final Order," respectively) (i) authorizing, but not directing, the Debtors to (a) continue to operate the Debtors' cash management system (the "Cash Management System")

[1] The Debtors in these cases are each incorporated or organized in the state of Delaware, and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (0230); Terra Chic USA LLC (1082); PAW Holdings, Inc. (9043) and LTM Properties, LLC (4323) and PJI LLC (1005). The address of the corporate offices of Premiere Jewellery, Inc. is 285 Fifth Avenue, New York, NY 10016; the other Debtors' corporate headquarters is 300 Narragansett Park Drive, East Providence, RI 02916.

(b) honor certain prepetition obligations related thereto, (c) continue to perform the Intercompany Transactions (as defined below) consistent with historical practice and granting administrative expense status to Intercompany Claims (as defined below) in accordance with the terms set forth herein, and (d) maintain existing business forms; and (ii) granting related relief. In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). 2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b). 3. The statutory bases for the relief requested herein are sections 105, 363, 364, 503 and 507 of the Bankruptcy Code and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

BACKGROUND

4. Premiere Jewellery, Inc. and affiliated debtors in possession (collectively, the "Debtors") are a jewelry design, sales, and distribution enterprise, with headquarters in East Providence, Rhode Island and offices also located in New York, NY, and Qingdao and Yiwu, China. The Debtors design and distribute costume jewelry and hair goods and partner with major retailers, who then sell the Debtors' merchandise to consumers.

5. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

6. A comprehensive description of the Debtors' operations and events leading to the commencement of these chapter 11 cases is set forth in *the Declaration of A. Howard Meier, Chief Restructuring Officer of Premiere Jewellery, Inc. and its Affiliates in Support of Debtors' Chapter 11 Proceedings and First Day Pleadings* (the "First Day Declaration") pursuant to Rule 1007-2 of the Local Bankruptcy Rules of the Southern District of New York, filed contemporaneously herewith and incorporated herein by reference.

RELIEF REQUESTED

7. By this Motion, the Debtors request authority, pursuant to sections 105(a), 363, 364, 503, and 507 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, by way of entry of the Proposed Interim Order and Proposed Final Order, authorizing, but not directing, the Debtors to continue to operate the Cash Management System, and to honor certain prepetition obligations in accordance with the operation of the Cash Management System. Specifically, the Debtors request authority to: (i) continue to use, with the same account numbers, each of the Bank Accounts; (ii) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; and (iii) conduct banking transactions by all usual means and debit the Bank Accounts on account of all usual items and payment instructions.

8. Additionally, the Debtors seek authority to: (i) use, in their present form, all Business Forms (including check stock, letterhead, purchase orders and invoices) and other correspondence and documents related to the Bank Accounts, without reference to the Debtors' status as debtors in possession; and (ii) continue the Intercompany Transactions between and among the Debtors in the ordinary course of business and grant administrative expense status to Intercompany Claims.[2]

[2] Between the Debtors' company or business units, transactions are regularly done and such transactions are common among similar enterprises. The Debtors believe the Intercompany Transactions are ordinary course transactions

9. In addition, the Debtors request that the Court schedule a final hearing (the "Final Hearing") within approximately 21 days of the commencement of these chapter 11 cases to consider approval of this Motion on a final basis.

10. The Proposed Interim Order and the Proposed Final Order granting the relief requested in the Motion on an interim basis is attached hereto as Exhibit B.

THE CASH MANAGEMENT SYSTEM

11. The Debtors (collectively, the "Company") use an integrated, centralized Cash Management System to collect, transfer and disburse funds generated by their operations. The Cash Management System facilitates cash monitoring, forecasting and reporting, and enables the Debtors to maintain control over the administration of these (3) bank accounts (together with any other bank accounts the Debtors may open in the ordinary course of their business, the "Bank Accounts") owned by the Company maintained with multiple banks (collectively, the "Banks"), including those set forth on Exhibit A.

12. The Cash Management System is vital to the Debtors' ability to conduct business throughout the United States and in foreign markets, and is tailored to meet the Debtors' operating needs. Specifically, the integrated Cash Management System helps control funds, serves as a repository for cash receipts, manages cash disbursements, ensures cash availability for each of the Debtors, and reduces administrative expenses by facilitating the movement of funds among multiple entities by centralizing cash operations. The Cash Management System is generally similar to those commonly employed by complex businesses comparable in size and scale to the Debtors. Any disruption of the Cash Management System would have an immediate adverse effect on the Debtors' business and operations to the detriment of their estates and

within the meaning of Bankruptcy Code section 364(c)(1) and, therefore, do not require the Court's approval. Nonetheless, out of an abundance of caution, the Debtors are seeking express authority to engage in such transactions on a post-petition basis.

Apparel, Inc. (In re Crystal Apparel, Inc., 207 B.R. 406, 409 (S.D.N.Y. 1997). Included within the purview of Bankruptcy Code section 363(c) is a debtor's ability to continue the "routine transactions" necessitated by a debtor's cash management system. *See American Nat'l Diversif. Co. v. Amdura Corp. (In re Amdura Corp.)*, 75 F.3d 1447, 1453 (10th Cir. 1996). Bankruptcy courts within the Second Circuit have held that a transaction qualifies as "ordinary course" if it is of a type that is commonly undertaken within the debtor's industry. *In re Velo Holdings Inc.*, 472 B.R. 201, 211-12 (Bankr. S.D.N.Y. 2012).

24. Bankruptcy courts treat requests for authority to continue utilizing existing cash management systems as a relatively "simple matter." *see In re Bothelo-United Corp.*, 72 B.R. 321, 327 (Bankr. S.D. Ohio 1987) and have recognized that an integrated cash management system "allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash." *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff'd in part and rev'd in part*, 997 F.2d 1039 (3d Cir. 1993). As a result, courts have concluded that the requirement to maintain all accounts separately "would be a huge administrative burden and economically inefficient." *Columbia Gas*, 997 F.2d at 1061; *see also In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (stating that cash management system allows a debtor "to administer more efficiently and effectively its financial operations and assets").

25. Here, requiring the Debtors to adopt a new, segmented cash management system at this critical stage of the chapter 11 cases would be expensive and disruptive and create unnecessary administrative burdens. Further, the Debtors would be subject to significant administrative burdens and expenses because they would need to execute new signature cards and deposition agreements and create an entirely new manual system for issuing checks and

paying postpetition obligations, all as would otherwise be required by the U.S. Trustee Guidelines. *See* U.S. Trustee Guidelines, at 2-3.

26. By contrast, maintaining the current Cash Management System would ensure a smooth transition into chapter 11 by, among other things, minimizing delays in paying postpetition debts and eliminating administrative inefficiencies. Importantly, the Cash Management System provides the Debtors with the ability to, among other things, quickly create status reports on the location and amount of funds, which allows the Debtors' management team to track and control such funds, ensure cash availability, and reduce administrative costs through a centralized method of coordinating the collection and movement of funds.

27. The Debtors satisfy the standards for maintaining an existing cash management system. The Debtors have utilized the Cash Management System in its current form for years as part of their ordinary and usual business practices, and as such, the Debtors believe the continued use of the Cash Management System falls within the purview of ordinary course transactions permitted under Bankruptcy Code section 363(c)(1). In addition, the Debtors respectfully submit that parties in interest will not be harmed by the Debtors' maintenance of the Cash Management System, including the Bank Accounts, because the Debtors have implemented appropriate mechanisms to ensure that payments will not be made on account of obligations incurred before the Petition Date, other than those authorized by the Court. Specifically, with the assistance of their professional advisors, the Debtors have implemented internal protocols that prohibit payments on account of prepetition debts, including prepetition intercompany debts, without the prior approval of the Debtors' finance department. The Debtors will continue to work closely with the Banks to ensure that appropriate procedures are in place to prevent checks that were issued prepetition from being honored without the Court's approval. In light of such protective

measures, the Debtors submit that maintaining the Cash Management System is in the best interests of their estates and creditors.

28. Accordingly, the Debtors respectfully request that the Court authorize the continued use of the existing Cash Management System to facilitate the Debtors' transition into chapter 11. Specifically, the Debtors respectfully request that the Court authorize the Banks to maintain, service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business. The Debtors further respectfully request that the Court authorize and direct the Banks to receive, process, honor and pay any and all checks, wire transfer, credit card, ACH payments and other instructions and drafts payable through, or drawn or directed on, such Bank Accounts after the Petition Date by holders, makers or other parties entitled to issue instructions with respect thereto, irrespective of whether such checks, drafts, wires, credit card, or ACH payments are dated prior to or subsequent to the Petition Date.[1] The Debtors also respectfully request that, to the extent a Bank honors a prepetition check or other item drawn on any account that is the subject of this Motion either at the direction of the Debtors or in a good-faith belief that the Court has authorized such prepetition check or item to be honored, such Bank will not be deemed to be liable to the Debtors or to their estates on account of such prepetition check or other item honored postpetition. Such relief is reasonable and appropriate because the Banks are not in a position to independently verify or audit whether the Debtors may pay a particular item in accordance with a Court order or otherwise.

29. Finally, the Debtors respectfully request that the Court authorize the Debtors to continue to pay the Bank Fees, including any prepetition Bank Fees, and further authorize the

[1] The Debtors also request authority for the Cash Management Banks to honor any check, wire, or other instruction that the Debtors advise the Cash Management Banks to have been issued or otherwise processed prior to the Petition Date only to the extent authorized by order of the Court.

Banks to chargeback returned items to the Bank Accounts, whether such items are dated prior to, on, or subsequent to the Petition Date, in the ordinary course of business.

30. Courts in this and other districts specifically have authorized debtors to maintain and continue using their existing cash management systems and prepetition bank accounts. *See In re Tops Holding II Corp.*, Case No. 18-22279 (RDD) (Bankr. S.D.N.Y. Feb. 26, 2018); *In Re BCBG Max Azria Glob. Holdings, LLC*, Case No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017); *In re Fairway Grp. Holdings Corp.*, Case No. 16-11241 (MEW) (Bankr. S.D.N.Y. Jun. 1, 2016); *In re The Great Atl. & Pac. Tea Co.*, Case No. 15-23007 (RDD) (Bankr. S.D.N.Y. August 11, 2015); *In re Chaaste Holdings, Inc.*, Case No. 15-10578 (MFW) (Bankr. S.D.N.Y. Apr. 13, 2015); *In re MPM Silicones, LLC*, Case No. 14-22503 (RDD) (Bankr. S.D.N.Y. May 16, 2014); *In re dHIA's, INC.*, Case No. 14-23678 (RDD) (Bankr. S.D.N.Y. Dec. 24, 2014); *In re Investcomes Abraco S.A.*, Case No. 14-12896 (MG) (Bankr. S.D.N.Y. Dec. 4, 2014); *In re SIGA Techs., Inc.*, Case No. 14-12623 (SHL) (Bankr. S.D.N.Y. Oct. 23, 2014).

II. The Court Should Authorize the Debtors to Continue Using Debit, Wire, Credit Card and ACH Payments

31. The Debtors request that the Court grant further relief from the U.S. Trustee Guidelines to the extent they require the Debtors to make all disbursements by check. In particular, the U.S. Trustee Guidelines require that all receipts and all disbursements of estate funds must be made by check with a notation representing the reason for the disbursement. As discussed above, in the ordinary course of business, the Debtors conduct transactions through ACH transfers and other similar methods. In addition, a sizable percentage of the Debtors' customer receipts are received through credit card and cash payments. The Debtors also utilize a payroll account to pay for certain payroll expenses. If the Debtors' ability to conduct transactions by debit, wire, ACH transfer, credit card or other similar methods is impaired, the

and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

42. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' or any other party-in-interest's rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under Bankruptcy Code section 365. The Debtors expressly reserve their right to contest any claim related to the relief sought herein. Likewise, if the Court grants the relief sought herein, any payment made pursuant to an order of the Court is not intended to be, nor should it be construed as an admission as to the validity of, any claim or a waiver of the Debtors' or any other party-in-interest's rights to subsequently dispute such claim.

NOTICE

43. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 20 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to Webster Bank, N.A. (Attn: Daniel E. Burgoyne, Esq.); (d) counsel to any statutory committee appointed in the chapter 11 cases; (e) the United States Attorney's Office for the Southern District of New York; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the state attorneys general for all states in which the Debtors conduct business and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court (a) enter the Proposed Interim Order granting the relief requested in the Motion and such other and further relief as may be just and proper, and (b) schedule a final hearing on the Motion as soon as is otherwise practicable thereafter to consider entry of the Proposed Final Order.

Dated: June 25, 2020
New York, New York

/s/ Jeffrey A. Wurst

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-and-

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Bank Accounts

interim basis any or all of their existing Bank Accounts, including but not limited to the Bank Accounts identified on Exhibit A annexed to the Motion, in the names and with the account numbers existing immediately before the Petition Date, (c) deposit funds in and withdraw funds from the Bank Accounts by all means, including checks, wire transfers, ACH transfers and other debits, (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts, and (e) open new debtor in possession Bank Accounts *provided that*, in the case of each of (a) through (c), such action is taken in the ordinary course of business and consistent with prepetition practices.

4. For banks at which the Debtors hold Bank Accounts that are not party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall use their good-faith effort to cause the banks to execute a Uniform Deposition Agreement in a form prescribed by the U.S. Trustee within 30 days of the Petition Date. The U.S. Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

5. The Debtors are authorized to deposit their cash in the Bank Accounts consistent with their prepetition practices and the Cash Management System. The Debtors are relieved from the obligations under section 345(b) of the Bankruptcy Code and the requirements of the U.S. Trustee Guidelines to obtain a bond from any entity with which money is deposited or maintained in the Bank Accounts.

6. The Debtors are authorized, but not directed, on an interim basis and, in their sole discretion, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date,

including electronic versions of the Debtors' Business Forms, checks and other documents related to the Bank Accounts.

7. Except as otherwise provided in this Interim Order and only to the extent sufficient funds standing in the Debtors' credit are available in each applicable Bank Account, Banks at which the Bank Accounts are maintained are authorized, but not directed, to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession without interruption and in the ordinary course of business, consistent with prepetition practices, and to receive, process, honor, and pay any and all checks, drafts, wire transfers, and ACH and other transfers issued, whether before or after the Petition Date, and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, *provided that* the Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers or ACH transactions that the Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Each of the Debtors' existing deposition and disbursement Banks is authorized to debit the Debtors' accounts in the ordinary course of business without the need for further order of this Court for: (a) all checks drawn on the Debtors' Bank Accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of the Debtors' Bank Accounts with such cash bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

8. Except for those checks, drafts, wires or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Petition Date but presented to such Bank for payment after the Petition Date.

9. Except otherwise provided in this Interim Order, the Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow prepetition and post-petition fees, costs, charges, and expenses, including the Bank Fees and charge back returned items, whether such items were deposited prepetition or post-petition, to the Bank Accounts in the ordinary course of business and consistent with prepetition practices. Any such post-petition fees, costs, charges, and expenses, including the Bank Fees or charge backs that are not so paid shall be entitled to priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

10. The Debtors' credit card processors are authorized to process payments in the ordinary course of business, including the netting out of any fees and/or chargebacks whether arising before or after the Petition Date.

11. With respect to Post-petition Intercompany Transactions occurring in the ordinary course of business (including with respect to netting or setoffs), the Debtors are authorized, but not directed, to continue such practices in the ordinary course of business.

12. Any payment that is authorized by the Debtors and paid from a Bank Account by a Bank before the Petition Date (including any ACH payment such Bank is or becomes obligated to settle), any instruments issued by such Bank on behalf of any Debtor pursuant to a "midnight deadline" or otherwise, or any reimbursement or charge back for any prior and concurrent orders

provided by the Bank prior to the Petition Date shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition.

13. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid post-petition payments on account of a Post-petition Intercompany Transaction made in the ordinary course by a Debtor to another Debtor shall in each case be accorded administrative expense status, subject and junior to the claims, including adequate protection claims, granted in connection with any debtor in possession financing in accordance with any order(s) of this Court approving any post-petition secured debtor in possession financing and/or the use of cash collateral, except to the extent such Post-petition Intercompany Transactions are on account of antecedent debts.

14. Except as otherwise set forth herein, those certain existing deposit agreements between the Debtors' Banks shall continue to govern the post-petition cash management relationship between the Debtors and the Banks, and all provisions of such agreements, including without limitation, the termination and fee provisions, shall remain in full force and effect. Either the Debtors or the Cash Banks may, subject to the entry of the Final Order, implement changes to the Cash Management System and procedures in the ordinary course of business pursuant to the terms of those certain existing deposit agreements, including without limitation, the opening and closing of Bank Accounts.

15. The Debtors are authorized, but not directed, to open new bank accounts so long as any such new account is: (a) with one of the Debtors' existing Banks, or (b) with a bank that is (i) insured with the FDIC and (ii) designated as an authorized depository by the U.S. Trustee pursuant to the U.S. Trustee Guidelines, and (c) the Debtors provide notice to the U.S. Trustee and the Notice Parties of the opening of such account, *provided that* each account opened by any

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.[1]	)	Case No. 20-11484
	)	(Joint Administration Requested)
Debtors.	)	

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USING THE CASH MANAGEMENT SYSTEM AND (B) MAINTAIN EXISTING BANK ACCOUNTS AND BUSINESS FORMS, (II) AUTHORIZING CONTINUED INTERCOMPANY TRANSACTIONS; (III) GRANTING ADMINISTRATIVE EXPENSE STATUS TO POST-PETITION INTERCOMPANY PAYMENTS; AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of a final order (this "Final Order" or "Order") (a) authorizing, but not directing, the Debtors (i) continue to operate the Debtors' cash management system (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms, and (iv) continue to maintain business relationships with each other consistent with historical practice, and (b) granting related relief, all as more fully set forth in the Motion, and upon the First Day Declaration, and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that this court may enter a final order consistent with

[1] The Debtors in the cases are each incorporated or organized in the state of Rhode Island and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (8106), Classic Creations, LLC (1867), PJS Holdings, Inc. (9843), PJS Properties, LLC (4379) and PJS LLC (3105). The address of the corporate offices of the [illegible] Jewellery, Inc. is 589 Fifth Avenue, New York, NY 1036 and the other Debtors' corporate headquarters is 560 Narragansett Park Drive, East Providence, RI 02916.

[2] Capitalized terms used but not otherwise defined in this Order shall have the meanings ascribed to such terms in the Motion.

Article III of the United States Constitution, and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest, and the Court having found that the Debtors provided appropriate notice of the Motion and the relief requested therein in accordance with the Bankruptcy Rules and the Local Rules of the United States District Court for the Southern District of New York (the "Local Rules") and the opportunity for a hearing on the Motion under the circumstances, and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"), and the Court having determined that the legal and factual bases set forth in the Motion and the Hearing establish just cause for the relief granted herein, and upon all of the proceedings had before the Court, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis to the extent set forth herein.

2. The relief granted in the Interim Order is hereby approved on a final basis.

3. The Debtors authorized but not directed to, on an final basis and in their sole discretion (a) continue using the Cash Management System and honor any prepetition obligations related to the use thereof, (b) designate, maintain, close, and continue to use on a final basis any or all of their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit A attached to the Motion, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all means, including checks, wire transfers, ACH transfers, and other

debits; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor in possession Bank Accounts, *provided that*, in the case of each of (a) through (e), such action is taken in the ordinary course of business and consistent with prepetition practices.

4. For banks at which the Debtors hold Bank Accounts that are not party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall use their good-faith effort to cause the banks to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee within 30 days of the Petition Date. The U.S. Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

5. The Debtors are authorized to deposit their cash in the Bank Accounts consistent with their prepetition practices and the Cash Management System. The Debtors are relieved from the obligations under section 345(b) of the Bankruptcy Code and the requirements of the U.S. Trustee Guidelines to obtain a bond from any entity with which money is deposited or maintained in the Bank Accounts.

6. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, including electronic versions of the Debtors' business Forms, checks, and other documents related to the Bank Accounts.

7. Except as otherwise provided in this Final Order and only to the extent sufficient funds standing in the Debtors' credit are available in each applicable Bank Account, Banks at which the Bank Accounts are maintained are authorized, but not directed, to continue to service and administer the Bank Accounts as accounts of the Debtors or debtors in possession, without

interruption and in the ordinary course of business, consistent with prepetition practices, and to receive, process, honor, and pay any and all checks, drafts, wire transfers, and ACH and other transfers issued, whether before or after the Petition Date, and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, *provided that* the Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers or ACH Transactions that the Banks are obligated to settle), or other items presented, issued, or drawn shall not be honored. Each of the Debtors' existing depository and disbursement Banks is authorized to debit the Debtors' accounts in the ordinary course of business without the need for further order of this Court for: (a) all checks drawn on the Debtors' Bank Accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of the Debtors' Bank Accounts with such cash bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date, and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

8. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Petition Date but presented to such Bank for payment after the Petition Date.

9. Except as otherwise provided in this Final Order, the Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees and charge back

Order Prepared By:

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Proposed Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PREMIERE JEWELLERY, INC. et al.,[1]	)	Case No. 20-11484
	)	(Joint Administration Requested)
Debtors	)	

DEBTORS' MOTION SEEKING ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO PAY CERTAIN PREPETITION CLAIMS OF TRADE CLAIMANTS AND (II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors") file this motion (this "Motion") for entry of interim and final orders (the "Interim Order" and "Final Order," respectively) (i) authorizing the Debtors to pay certain prepetition claims of Trade Claimants and (ii) granting related relief. In support of this Motion, the Debtors respectfully state as follows:

[1] The Debtors in these cases are each incorporated or organized in the state of Rhode Island and along with the last four digits of each Debtor's federal tax identification number are: Premiere Jewellery, Inc. (8219); Tiara Creations, LLC (1863); Pavé Holdings, Inc. (0843); 37 W.U. Properties, LLC (6373); and PJE, LLC (3105). The address of the corporate offices of Premiere Jewellery, Inc. is 389 Fifth Avenue, New York, NY 10018 and the other Debtors' corporate headquarters is 360 Narragansett Park Drive, East Providence, RI 02916.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of New York (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

3. The statutory bases for relief requested herein are sections 105, 363, 1107(a) and 1108 of title 11 of the United States Code, §§ 101-1532 (the "Bankruptcy Code") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

BACKGROUND

4. Premiere Jewellery, Inc. and affiliated debtors in possession (collectively, the "Debtors" or the "Company") are a jewelry design, sales, and distribution enterprise, with headquarters located in East Providence, Rhode Island and offices also located in New York, NY and Qingdao and Yiwu, China. The Debtors design and distribute costume jewelry and hair goods and partner with major retailers, who then sell the Debtors' merchandise to consumers.

5. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

6. A comprehensive description of the Debtors' operations and events leading to the commencement of these chapter 11 cases is set forth in the *Declaration of A. Hovanes Motor Pursuant to Rule 1007-2 of Local Bankruptcy Rules for the Southern District of New York* (the

"First Day Declaration"), filed contemporaneously herewith and incorporated herein by reference.

I. Trade Claims Overview

7. As of the Petition Date, the Debtors owe approximately $3.2 million in total to all trade creditors. By this Motion, the Debtors seek authorization, but not direction, to pay, in equal bi-weekly installments over a period of one year commencing the later to occur of the execution of the Trade Agreement (as defined below) or the entry of an order of the Court authorizing the Company to enter into the Trade Agreement, the prepetition obligations of certain critical trade creditors in an aggregate not to exceed $2.0 million, which is the minimum amount necessary to preserve the Debtors' estates, allow the Debtors to continue their operations seamlessly, and ensure a smooth chapter 11 process. As such, the Debtors request authorization to pay the prepetition claims of the following categories of trade creditors: (1) shippers and other lien claimants (the "Carriers") and (2) certain other essential vendors and service providers (the "Critical Vendors" and together with the Carriers, the "Trade Claimants") and accrued in the ordinary course of business (collectively, the "Trade Claims").

A. The Carriers

8. The Debtors depend on certain vendors to transport and store products (collectively, the "Carrier Products"). After leaving source factories in Asia, the Debtors' products go to consolidated freight stations in the applicable sourcing country before sailing on freight vessels to ports in the United States. From there, the products are sent to the Debtors' facilities before being delivered to stores. The Debtors also engage the Carriers to transport and deliver the Carrier Products throughout their supply chain. The Carriers regularly possess the Carrier Products belonging to the Debtors in the course of transporting and delivering the Carrier

Products. As of the Petition Date, certain Carriers have outstanding invoices for services provided to the Debtors before the Petition Date (the "Carriers Claims").

9. Under the laws of certain jurisdictions, a Carrier may have a lien on the goods in its possession securing the charges or expenses incurred in connection with the transportation or storage of those goods. If the Debtors do not timely pay the Carriers Claims, the Carriers may assert possessory liens on the goods currently in their possession and refuse to deliver or release such goods until their invoices are paid. In addition, pursuant to Bankruptcy Code section 363(e) the Carriers, as bailees, may be entitled to adequate protection for any valid possessory lien.

10. The refusal of Carriers to deliver or return the Debtors' goods as a result of not being paid would severely disrupt the Debtors' operations and potentially cost the Debtors a substantial amount of revenue. Accordingly, by this Motion, the Debtors seek authorization, but not direction, to commence paying, in installments pursuant to the terms of the Trade Agreement, outstanding prepetition obligations on account of the Carriers upon entry of the Proposed Interim Order and to continue to pay the Carriers in the ordinary course of business upon entry of the Proposed Final Order.

B. The Critical Vendors

11. The Debtors have spent significant time (1) reviewing and analyzing their books and records, (2) consulting operations managers and purchasing personnel, (3) reviewing contracts and supply agreements and (4) analyzing applicable law, regulations and historical practices to understand the Debtors' critical business relationships and suppliers of services—the loss of which would keep the Debtors from achieving the goals of the chapter 11 cases. In this process, the Debtors considered a variety of factors, including:

- whether certain specifications or contract requirements prevent, directly or indirectly, the Debtors from obtaining services from alternative sources;

business. *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for the payment of prepetition claims); *In re United Am., Inc.*, 327 B.R. 776, 781 (Bankr. E.D. Va. 2005) (acknowledging the doctrine of necessity "because otherwise there will be no reorganization and no creditor will have an opportunity to recoup any part of its prepetition claim"); *In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensable necessary to the debtors' continued operation).

21. Several courts apply the doctrine of necessity where payment of a prepetition claim (a) is "necessary for the successful reorganization of the debtor," (b) falls within "the sound business judgment of the debtor," and (c) will not "prejudice other unsecured creditors." (*United Am.*, 327 B.R. at 782; *see also In re Universal Fin., Inc.*, 493 B.R. 735, 739-40 (Bankr. M.D. N.C. 2013) (applying the *United American* three-part test); *In re Carmer Home Care, Inc.*, 438 B.R. 122, 127-29 (Bankr. W.D. Ky. 2010) (same). "Under 11 U.S.C. § 105 the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor." *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere*, 98 B.R. at 177). The rationale for the necessity of payment rule—the rehabilitation of a debtor in reorganization cases—is "the paramount policy and goal of Chapter 11." *Ionosphere*, 98 B.R. at 175-76; *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 287 (S.D.N.Y. 1987) (authorizing payment of prepetition workers' compensation claims on grounds that the fundamental purpose of reorganization and equity powers of bankruptcy courts "is to create a flexible mechanism that will permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately").

In re Just For Feet, 242 B.R. at 826 (finding that payment of prepetition claims to certain trade vendors was "essential to the survival of the debtor during the chapter 11 reorganization").

22. Moreover, pursuant to Bankruptcy Code sections 1107(a) and 1108, debtors in possession are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *CoServ*, 273 B.R. at 497. Implicit in the fiduciary duties of any debtor in possession is the obligation to "protect and preserve the estate, including an operating business's going-concern value." *Id.* The court in *CoServ* specifically noted the pre-plan satisfaction of prepetition claims would be a valid exercise of the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *Id.*

23. The Debtors submit that the relief requested herein represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm, and is justified under Bankruptcy Code sections 105(a), 363(b), 1107 and 1108.

24. As discussed above, a Carrier may have a lien on goods in its possession that secures the charges or expenses incurred in connection with the transportation of the goods. The Carrier may be unwilling to release goods in their possession on which they may be entitled to liens because releasing possession of goods may convert the status of their claims against the Debtors from secured to unsecured. Therefore, unless the Court authorizes the Debtors to pay the Carriers Claims, it is unlikely the Debtors will be able to obtain goods currently in transit. If the Carriers possession rights or have the ability to exercise "self-help" remedies to secure payment of their claims, failure to satisfy the obligations owed to the Carriers could have a material adverse effect that ultimately may devastate the Debtors' operations to the detriment of the Debtors' creditors.

25. In addition, pursuant to Bankruptcy Code section 363(e), the Carriers as bailees may be entitled to adequate protection of a valid possession lien. Given that the value of the Carrier Products generally will far exceed the value of their respective claims, the satisfaction of prepetition claims of such parties will not harm creditors—and, in fact, will benefit them because such payments will help preserve the going-concern value of the Debtors' business. Furthermore, failure to pay the Critical Vendors as outlined herein could result in significant disruptions to the Debtors' operations and impair the Debtors' ability to successfully reorganize. Seventy-five percent (75%) of the Debtors' annual sales occur during the second half of the year. These Trade Claimants are comprised of the most necessary factories and logistics providers without whom the Debtors will be unable to procure and timely deliver product for the holiday season. Moreover, the Debtors seek the pay the prepetition claims of the Trade Claimants in installments, thereby lessening any financial strain on the Debtors' estates, but at the same time, allowing the Debtors to continue conducting business with the Trade Claimants in the ordinary

course. Because the Debtors believe the relief sought in this Motion is necessary to preserve the value of their estates for the benefit of all stakeholders in these chapter 11 cases, this Motion should be granted.

26. Courts in this district routinely grant similar relief as requested herein. *See, e.g., In re Sears Holding Corporation*, Case No. 18-23538-rdd (RDD) (S.D.N.Y. Nov. 16, 2018) [Docket No. 793] (authorizing debtors to pay up to $90 million in critical vendor claims on a final basis); *In re Westinghouse Elec. Co., LLC*, Case No. 17-10751 (MEW) (Bankr. S.D.N.Y. June 1, 2017) [Docket No. 640] (authorizing debtors to pay vendors' claims entitled to priority under section 503(b)(9) of the Bankruptcy Code); *In re Aeropostale, Inc.*, Case No. 16-11275 (SHL) (Bankr. S.D.N.Y. June 3, 2016) [Docket No. 244] (authorizing payment of claims entitled to administrative priority pursuant to section 503(b)(9) up to $4 million); *In re Sabine Oil & Gas Corp.*, No. 15-11835 (SCC) (Bankr. S.D.N.Y. Aug. 17, 2015) [Docket No. 180] (approving payment of prepetition claims of shippers and warehousemen).

PROCESSING OF CHECKS AND ELECTRONIC FUND TRANSFERS SHOULD BE AUTHORIZED

27. Under the Debtors' existing cash management system, the Debtors have made arrangements to readily identify checks or wire transfer requests relating to the Trade Claims. The Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be inadvertently made. Thus, the Debtors request that the Court authorize, but not direct, all applicable financial institutions to receive, process, honor and pay any and all checks or wire transfer requests in respect of the Trade Claims, *provided that* sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments.

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

TRADE AGREEMENT

Tanya Creations, LLC (the "Company"), on the one hand, and the Vendor identified in the signature block below (the "Vendor"), on the other hand, hereby enter into the following trade agreement (this "Trade Agreement") dated as of the latest date in the signature blocks below.

Recitals

WHEREAS on [ ], 2020 (the "Petition Date"), the Company and certain affiliates (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Court").

WHEREAS on [●], 2020, the Court entered its *[Interim/Final] Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims of Trade Claimants and (II) Granting Related Relief* (the "Critical Vendor Order") [Docket No. [●]] authorizing the Debtors on [an interim/a final] basis, under certain conditions, to pay the prepetition claims of certain Vendors, including the Vendor, subject to the terms and conditions set forth therein.[1]

WHEREAS prior to the Petition Date, the Vendor delivered goods to the Company and/or performed services for the Company, and the Company paid the Vendor for such goods and/or services, according to customary trade terms.

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

Agreement

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

2 Vendor Payment. The Vendor represents and agrees that, after due investigation, the sum of all amounts currently due and owing by the Company to the Vendor under all purchase orders and contracts between the Company and Vendor ("Purchase Orders") through the Petition Date, is $[ ] (the "Agreed Vendor Pre-Petition Claim"). Following execution of this Trade Agreement, the Company shall, in full and final satisfaction of the Agreed Vendor

[1] Capitalized terms used but not defined herein shall have the meanings set forth in the Critical Vendor Order.

Pre-Petition Claim, pay the Vendor $[ ] on account of its Agreed Vendor Pre-Petition Claim (the "Vendor Payment") (without interest, penalties, or other charges) in equal bi-weekly installments over a period of one year commencing on the first business day of the month following the later to occur of the execution of this Agreement or the entry of an Order of the Court authorizing the Company to enter into this Agreement. In addition, the Company shall pay all invoices for goods delivered by Vendor after the Petition Date (the "Post-Petition Administrative Claims") within ten (10) days of the date when such invoices became due and payable as provided for in the Memo of Understanding entered into by and between the Vendor and the Company dated _____ (the "MOU"). Company agrees to exercise best efforts to obtain purchase order financing and if such financing is obtained and approved by the Court upon Vendor's agreement to a discount for early payment (the "Early Payment Discount") in an amount equal to 5% of the face amount of any invoice representing a Post Petition Administrative Claim shall be paid within 20 days from the invoice date. The Early Payment Discount shall be in addition to any rebate or contribution otherwise agreed to by the Vendor and Company.

3 Agreement to Supply.

a The Vendor shall supply goods to and/or perform services for the Company, and the Company shall accept and pay for goods and/or services from the Vendor (to the extent the Company seeks such goods and/or services under Purchase Orders or via any other manner), for the duration of the Debtors' chapter 11 cases based on the terms contained in the MOU. "Duration of the Debtors' chapter 11 cases" means until the earlier of: (i) the effective date of a chapter 11 plan in the Company's chapter 11 cases, (ii) the closing of a sale of all or a material portion of the Company's assets pursuant to Bankruptcy Code section 363 resulting in a cessation of the Company's business operations, (iii) the liquidation of the Company or conversion of the Debtor's chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, or (iv) a default under any of the Company's debtor-in-possession financing facilities that results in the Company losing access to funds available under any such facility.

b The MOU may not be modified, adjusted, or reduced in a manner adverse to the Company except as agreed to in writing by the Parties.

c The Vendor shall continue to honor all vendor rebates and contributions unaffected by bankruptcy filing and the Company is authorized to continue to apply all such vendor rebates and contributions towards future orders in the ordinary course of business.

d The Vendor shall continue all shipments of goods in the ordinary course and shall fill orders for goods requested by the Company in the ordinary course of business pursuant to customary trade terms.

e The Vendor agrees that it may not cancel any order. In the event Vendor does cancel in violation of this Agreement payments on the Agreed Vendor Pre-Petition Claim shall terminate and Vendor shall be obligated to repay the Company for all amounts received in excess of what it would have received as its distribution as a general unsecured creditor and the Company may setoff payments made on the Agreed Vendor Pre-Petition Claim against future amounts that may be owing to the Vendor.

f Vendor represents and agrees that it shall not unreasonably withhold any bill of lading and shall release all bills of lading upon delivery of goods to the Company or its agent without regard to the time of its receipt of payment from the Company.

4 Electronic Trade Terms.

The parties agree that the electronic vendor portal data (EVP) procedures or Internet/Web based documents may be used by Company in lieu of conventional, paper-based documents for the purchase and sale of merchandise. The Vendor is accountable for all EVP information to be provided regardless of the provider or applications used to retrieve the data. Each transaction made pursuant to this Agreement (and any related communication) shall also be subject to the terms and conditions contained in this Agreement and such practices and procedures established by Company from time to time.

5 Other Matters.

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

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

c The Vendor will not file or otherwise assert against the Company, its assets, or any other person or entity or any of their respective assets or property (real or personal) any lien regardless of the statute or other legal authority upon which the lien is asserted related in any way to any remaining prepetition amounts allegedly owed to the Vendor by the Company arising from prepetition agreements or transactions. Furthermore, if the Vendor has taken steps to file or assert such a lien prior to entering into this Trade Agreement, the Vendor will promptly take all necessary actions to remove such liens and hereby authorizes the Company to take any such actions on its behalf.

6 Breach.

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

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

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

7 Notice.

If to the Vendor, then to the person and address identified in the signature block hereto.

If to the Company:

Tanya Creations, LLC
360 Narragansett Park Drive
East Providence, RI 02916
Ph: 401-490-6161
Attn: A. Howard Moger
ahmoser@tanyacreations.com

with a copy to:

Jeffrey A. Worst
Armstrong Teasdale LLP
919 Third Avenue, 37th Floor
New York, NY 10022
Email: jworst@atllp.com

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

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

b any payments made on account of the Agreed Vendor Pre-Petition Claim shall be subject to the terms and conditions of the Critical Vendor Order.

所约定的账单到期应付日起 30 天内完成支付，公司向供应商支付大部分收取采购订单的部分，如果公司能将剩余部分继续且在没有实质性违约的情况下，在供应商提供报价后的 60 天内完成支付，该部分款项应为供应商与公司另行约定的定制产品部分增之并向供应商报价。

3 供应协议

a 在债务人的破产法第 11 章（"破产程序"）发生期间，基于适用各总法所规定的条款，供应商应（在公司通过采购订单或任何其他方式要求该等货物和/或服务的范围内）为公司提供货物和/或服务，并且公司应接受供应商提供的货物和/或服务并支付其款项，"债务人的破产法第 11 章案件发生期间"是指自提单日起至在以下情况发生的较早：（i）公司的破产法第 11 章案件中、第 11 章重组计划的生效日期，（ii）根据《破产法》第 363 条完成公司全部或重要资产出售，除非公司的业务中断，（iii）公司选择放弃债务人的破产法第 11 章案件成为根据破产法第 7 章（"破产清算"）处理的案件，或（iv）任何公司破产保护融资安排项下的违约，导致公司无法在任何适用法律规定下的可用资金。

b 除非经双方书面同意，否则不得以不利于公司的方式修改、调整或删减服务之外。

c 供应商应在履行不受破产申请影响的所有供应商回扣环节外，而公司在以在正常业务过程中继续于未来发生的申请受所需该等供应商回扣的分摊。

d 供应商应根据正常惯例提供货物，并应依据提用贸易条款在正常业务过程中按公司的要求填写货物订单。

e 供应商可以从不得取消任何订单，如果供应商违反本交易协议的规定或违约，公司停止支付约定的供应商破产申请前款项，且供应商有义务向公司提交其收到的广告回款以 确无被拒绝收入身份户收取的所有款项的部分，并且公司有权将已支付的约定的供应商破产申请前款项用于抵消其未来可能应付给供应商的金额。

f 不论供应商收到公司支付供款的时间，供应商都应并且应当不得不合理地拖延履行义务，并应在公司或其代理支付货物以及服务提单。

4 电子交易条款

双方同意，公司可以使用电子供应商门户系统（EVP）或任何基于互联网的交易或代理平台的基本文件进行交易的建立和销售，本条款用于管理在EVP上发生的交易，供应商对其提供的所有 EVP 费用负责。根据本交易协议进行的每笔交易（以及任何相关通知）也应受本交易协议项下的条款和条件以及公司不时制定的当时适用的规则的约束。

5 其他条款

a 供应商同意在公司的第 11 章重组计划生效后，其不会基于供应商因破产申请后提出或服务的交付而向使用出的任何未偿付款项而要求一次性付款，但前提是该等交易的商业惯例，供应商向客户提供新的信贷安排条款对于划手可以确认后，公司将在正常业务过程中发行常规交易，供应商应按照与经确认的重组计划中规定的其他未偿付款项相同的方式进行。

b 除本交易协议的条款或经确认的公司第 11 章重组计划外，供应商不会因任何破产申请前索赔（包括但不限于任何重新授权或任何根据破产法第 503 (b) (9) 条提出的优先权主张）而单独要求公司付款。

c 就根据破产申请前协议或交易项下所产生的公司欠供应商的任何剩余破产申请前款项，供应商不得针对公司、其资产或任何其他人士、实体、其各自的任何资产或财产（不动产或动产）提出或以其他方式主张任何留置权、法定留置权或其他担保权益或选择留置权，此外，如果供应商在签订本交易协议前已采取措施以调交或保持任何留置权，供应商将立即采取所有必要行动或措施等的撤销，并将此授权公司代表其采取任何该等行动。

6 违约

a 如果供应商未能履行其在本交易协议项下产生的，无争议的义务（"供应商违约"），供应商应在收到书面通知后应按照公司支付应付款项，根据公司的选择，前述金额将于供应商款项或公司从应付欠供应商的破产申请后应收账款中无法收回的供应商款项的任何部分。

b 如果公司根据本交易协议第 3 (a)条或以其他方式收回供应商款项，应按照约定的供应商破产申请前款项。如果未支付供应商款项一致。

c 供应商应受其承诺，如果发生供应商违约，则公司应不可撤回的权利，法律上的权利不是或和公司，因此，供应商同意，除公司享有的任何其他权利和救济之外，公司还有权获得一项或多项禁令，以防止违反本交易协议的规定，并可通过一项或多项要求履行特定义务的诉讼，以及一项或多项要求强制履行、财令救济和/或其他衡平法救济的请求，强制执行公司在本交易协议项下的权利及义务，尽管存在本交易协议任何其他规定，法律或衡平法救济（包括强制履行或禁令救济）的权利应存在，且不受本交易协议任何其他规定的限制，供应商特此放弃对法律救济是否适当的任何抗辩，以及就开展任何禁令救济、强制履行或其他衡平法救济的行动提供担保金或其他担保的要求。

7 通知

如发送给供应商，则发送至本交易协议签署页中规定的人士及地址。

如发送给公司，发送至：

Tanya Creations, LLC
140 Narragansett Park Drive
East Providence, RI 02916
Ph 401-400-6101
Attn A Howard Moser
ahmoser@tanyacreations.com

并抄送

Jeffrey A. Worth
Armstrong Teasdale LLP
919 Third Avenue 37th Floor
New York, NY 10022
Email jaworth@atllp.com

8 陈述与确认 双方同意，确认并陈述如下

a 双方已审查关键供应商命令与本交易协议的条款和规定，并同意受其约束的条款，本交易协议要确受供应商破产申请命令批准的约束。

b 国内定的供应商破产申请前款项专发行的任何款项应受限于关键供应商命令的条款和条件

c 如果供应商拒绝履行本交易协议的规定的公司供应商继续提供服务，或以其他方式未履行其在本交易协议项下的任何义务，公司可立即发出警告令，除产法法律规定项下的所有权利和救济，及

d 如果双方就是否对全部或部分存在分歧，任何一方均可向法院申请确定其相应权利，在该等情况下，任何一方均不得采取任何行动，除非得到书面中止从供应商命令公司获得，并受法院法院裁决。

9 免责 除明示陈述与公司之间的任何书面协议外，供应商不应对任何一方作出，不向任何一方陈述：(a) 本交易协议、(b) 公司根据本交易协议支付的任何款项所有款项、(c) 本交易协议项下的交付货品及 (d) 需要质量参数（合称"货品质量"），并放棄如果任何一方试图通过口头陈述其他方式和供应商陈述任何与所在保证范围，或者供应商根据法律所享有或主张的，供应商应立即向公司发出书面通知，以防公司可采取措施，保护公司任何其他司法权利的救济，以防止损害赔偿，如果未及时通知等救济，供应商应以提供法律要求提供的救济

10 商业秘密 供应商同意并确认，在向公司生产，供应及交付产品的过程中，供应商将权利赋予及使用公司的设计、图纸、及其他与公司提供方或者关的信息及其他专有信息（"商业秘密"），作为公司与供应商签订本交易协议的条件之一，供应商同意绝不基于其所在自身商业秘密在网络评估前提保护公司的商业秘密，并同意赔偿公司由于供应商本段保护公司的商业秘密由造成的所有损失、责任、损失和费用，产品公司免受损失，除与商业秘密赔偿但不限于第人使用公司竞争对手之下的任何商业秘密（包括产品设计）。

11 附则

a 双方特此陈述并保证：(i) 其拥有代表各相关方签署本交易协议的完全授权，(ii) 各相关方充分了解本交易协议，并已同意本交易协议，及 (iii) 其拥有使该方成本交易协议所有条款和条件生效的完全授权。

b 本交易协议收明双方就本交易协议主题事项达成的完整理解，并取代双方先前达成的所有口头或书面协议（包括所有要约函）。除非明示表达公司与供应商签订的书面协议项下的任何规定与本交易协议的条款相抵触，则以本交易协议为准，除非经双方签署书面文件，否则不得对本交易协议进行变更、修改、增删或作废，此外，在第 11 章案件中制定了与本交易协议实质上一致的处理任何应的供应商破产申请前款项的方式，供应商应受根据任何相关破产申请和/或随附的命令和程序制定或今后实施拥有的所有权利上在该程序或任何法 11 章重组计划，除不受限于任何法律程序的行动或实质同时对任何第 11 章重组计划的确认，并且此处对向债务人发送书面式答案的通知。

c 本经公司事先书面同意，供应商不得全部或部分转让本交易协议或本交易协议项下的任何权利、权益或义务，无论是依法转让还是以其他方式转让，任何未经该转让的转让均无效，且应使供应商在本交易协议项下的权利无效，如果供应商违反本交易协议的规定进行转让，公司应有权立即终止供应商破产申请前款项，且供应商有义务向公司支付其收取所且起出款项，除无法撤销收入身份户收取的所有款项的部分，并且公司应有已支付的约定的供应商破产申请前款项以抵消未来应付给供应商的金额。

d 本交易协议受纽约州法律管辖，除了解释约定的纽约州法律及政府法规外，对本交易协议项下的任何争议提出的专属管辖权。

e 就所有目的而言，包括传真或电子方式所作的签字应视为原始签字。

f 本交易协议以签署的英文本，母语文本应理为"原始"，在所有文本产生冲突时，应以英文版为准。

g 双方特此授权或法院的专属管辖，以解决与本交易协议和其明示的义务，或因本交易协议和采购订单产生的任何争议。

(including credit limits, pricing, timing of payments, availability, and other terms) at least as favorable to the Debtors as those in place during the 12 months prior to the Petition Date, or as otherwise agreed by the Debtors in their reasonable business judgment (the "Customary Trade Terms"), and (b) agree that they shall not be permitted to cancel any contract or agreement pursuant to which they provide services to the Debtors. The Debtors reserve the right to require additional favorable trade terms with any Trade Claimant as a condition to payment of any Trade Claim. Any party that accepts payment from the Debtors on account of a Trade Claim shall be deemed to have agreed to the terms and provisions of this Interim Order.

5. Prior to entry of a Final Order, the Debtors shall not pay any obligations under this Interim Order unless they are due or deemed necessary to be paid in the Debtors' reasonable business judgment to ensure ongoing provision of goods or services or otherwise to avoid an adverse effect on operations.

6. Notwithstanding paragraph 4 of this Interim Order, the Debtors may (a) in their reasonable business judgment, negotiate, amend, or modify the form of Trade Agreement and (b) decline to condition payment of Trade Claims upon the execution of a Trade Agreement.

7. Regardless of whether a Trade Agreement has been executed, if any party accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with trade terms as least as favorable to the Debtors as the Customary Trade Terms then subject to the entry of a final order on the Motion from this Court: (a) any payment on account of a prepetition claim received by such party shall be deemed, in the Debtors' sole discretion, an improper post-petition transfer and therefore, recoverable by the Debtors in cash upon written request by the Debtors; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding post-

petition balance due from the Debtors to such party, the Debtors may elect to recharacterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding post-petition balance and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the post-petition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

8. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing contained in the Motion or this Interim Order shall constitute, nor is it intended to constitute: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim or finding that any particular claim is an administrative expense claim or other priority claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien or security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection, or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party-in-interest's rights to subsequently dispute such claim.

9. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

10. The Debtors are authorized to issue post-petition checks, or to effect post-petition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any of the Trade Claimants.

11. The Debtors shall maintain a matrix/schedule of amounts directly or indirectly paid, subject to the terms and conditions of this Order including the following information: (a) the names of the payee; (b) the amount of the payment; (c) the category or type of payment, as further described and classified in the Motion; (d) the Debtor or Debtors that made the payment; and (e) the payment date. The Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Order.

12. Nothing herein shall impair or prejudice the rights of the U.S. Trustee and any statutory committee appointed in these chapter 11 cases which are expressly reserved, to object to any payment made pursuant to this order to an insider (as such term is defined in section 101(31) of the Bankruptcy Code), or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment to an insider or an affiliate of an insider of the Debtors, the

Debtors shall, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases, provided, that if any party objects to the payment, the Debtors shall not make such payment without further order of the Court.

13. Notwithstanding anything to the contrary herein, prior to making any payment pursuant to this Order to a Trade Claimants or on account of an Outstanding Order, the Debtors shall provide such Trade Claimant with a copy of this Interim Order (unless previously provided to such Trade Claimant).

14. Notwithstanding the relief granted in this Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to the orders authorizing the use of cash collateral, and any cash collateral budget associated therewith.

15. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a).

16. The requirements of Local Rule 9013-1(b) are satisfied.

17. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

18. To the extent that this Interim Order is inconsistent with any prior order or pleading with respect to the Motion in these cases, the terms of this Interim Order shall govern.

19. Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Interim Order, any authorization contained in this Interim Order, or any claim for which payment is authorized hereunder, shall be subject to any orders of this Court approving any debtor in possession financing for, or any use of cash collateral by, the Debtors.

(including credit limits, pricing, timing of payments, availability, and other terms) at least as favorable to the Debtors as those in place during the 12 months prior to the Petition Date, or as otherwise agreed by the Debtors in their reasonable business judgment (the "Customary Trade Terms"), and (b) agree that they shall not be permitted to cancel any contract or agreement pursuant to which they provide services to the Debtors. The Debtors reserve the right to require additional favorable trade terms with any Trade Claimant as a condition to payment of any Trade Claim. Any party that accepts payment from the Debtors on account of a Trade Claim shall be deemed to have agreed to the terms and provisions of this Final Order.

6. Prior to entry of a Final Order, the Debtors shall not pay any obligations under this Final Order unless they are due or deemed necessary to be paid in the Debtors' reasonable business judgment to ensure ongoing provision of goods or services or otherwise to avoid an adverse effect on operations.

7. Notwithstanding paragraph 5 of this Final Order, the Debtors may (a) in their reasonable business judgement, negotiate, amend, or modify the form of Trade Agreement and (b) decline to condition payment of Trade Claims upon the execution of a Trade Agreement.

8. Regardless of whether a Trade Agreement has been executed, if any party accepts payment hereunder and does not continue supplying goods or services to the Debtors in accordance with trade terms at least as favorable to the Debtors as the Customary Trade Terms then, subject to the entry of a final order on the Motion from this Court, (a) any payment on account of a prepetition claim received by such party shall be deemed, in the Debtors' sole discretion, an improper post-petition transfer and, therefore, recoverable by the Debtors in cash upon written request by the Debtors; (b) upon recovery by the Debtors, any prepetition claim of such party shall be reinstated as if the payment had not been made; and (c) if there exists an outstanding post-

petition balance due from the Debtors to such party, the Debtors may elect to recharacterize and apply any payment made pursuant to the relief requested by the Motion to such outstanding post-petition balance and such supplier or vendor will be required to repay to the Debtors such paid amounts that exceed the post-petition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

9. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing contained in the Motion or this Final Order shall constitute, nor is it intended to constitute: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim or finding that any particular claim is an administrative expense claim or other priority claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors or any other party-in-interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Final Order are valid and the Debtors and all other parties-in-interest expressly reserve their rights to contest the extent, validity, or perfection, or to seek avoidance of all such liens. Any payment made pursuant to this Final Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party-in-interest's rights to subsequently dispute such claim.

10. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

11. The Debtors are authorized to issue post-petition checks, or to effect post-petition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any of the Trade Claimants.

12. The Debtors shall maintain a matrix/schedule of amounts directly or indirectly paid, subject to the terms and conditions of this Order, including the following information: (a) the names of the payee; (b) the amount of the payment; (c) the category or type of payment, as further described and classified in the Motion; (d) the Debtor or Debtors that made the payment; and (e) the payment date. The Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee and any statutory committee appointed in these chapter 11 cases every 30 days beginning upon entry of this Order.

13. Nothing herein shall impair or prejudice the rights of the U.S. Trustee and the statutory committee appointed in these chapter 11 cases, which are expressly reserved to object to any payment made pursuant to this order to an insider (as such term is defined in section 101(31) of the Bankruptcy Code) or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment to an insider or an affiliate of an insider of the Debtors, the

Debtors shall, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases, provided that if any party objects to the payment, the Debtors shall not make such payment without further order of the Court.

14. Notwithstanding anything to the contrary herein, prior to making any payment pursuant to this Order to a Trade Claimant or on account of an Outstanding Order, the Debtors shall provide such Trade Claimant with a copy of this Final Order (unless previously provided to such Trade Claimant).

15. Notwithstanding the relief granted in this Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to the orders authorizing the use of cash collateral, and any cash collateral budget associated therewith.

16. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a).

17. The requirements of Local Rule 9013-1(b) are satisfied.

18. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

19. To the extent that this Final Order is inconsistent with any prior order or pleading with respect to the Motion in these cases, the terms of this Final Order shall govern.

20. Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Final Order, any authorization contained in this Final Order, or any claim for which payment is authorized hereunder, shall be subject to any orders of this Court approving any debtor in possession financing for, or any use of cash collateral by, the Debtors, and any