

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

In re:	)	
	)	Chapter 11
	)	
VERTEX ENERGY, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 24-90507 (CML)
	)	
Debtors.	)	(Jointly Administered)
	)	

**NOTICE OF FILING OF  
REVISED PROPOSED FINAL ORDER  
(I) AUTHORIZING THE DEBTORS TO (A) CONTINUE  
TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND  
MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM  
INTERCOMPANY TRANSACTIONS, AND (C) MAINTAIN EXISTING BUSINESS  
FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that, on September 24, 2024, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed the *Debtors’ Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System and Maintain Existing Bank Accounts, (B) Continue to Perform Intercompany Transactions, and (C) Maintain Existing Business Forms and Books and Records, and (II) Granting Related Relief* [Docket No. 12] (the “Cash Management Motion”)<sup>2</sup> with the United States Bankruptcy Court for the Southern District of Texas (the “Court”), which was approved on an interim basis [Docket No. 61] (the “Interim Order”). A proposed form of final order was attached to the Cash Management Motion (the “Proposed Final Order”).

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Cash Management Motion.



**PLEASE TAKE FURTHER NOTICE** that the Debtors hereby file a revised proposed form of final order attached hereto as **Exhibit A** (the “Revised Proposed Final Order”), reflecting informal comments received from the Official Committee of Unsecured Creditors and the Consenting Term Loan Lenders.

**PLEASE TAKE FURTHER NOTICE** that a redline of the Revised Proposed Final Order marked against the Proposed Final Order is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that copies of the Cash Management Motion, the Interim Order, the Proposed Final Order, and all other documents filed in these chapter 11 cases may be obtained by visiting the Court’s website at <https://ecf.txsb.uscourts.gov> in accordance with the procedures and fees set forth therein or on the website of the Debtors’ claims and noticing agent, Kurtzman Carson Consultants, LLC dba Verita Global, at <https://www.veritaglobal.net/vertex>.

*[Remainder of page intentionally left blank]*

Houston, Texas  
October 29, 2024

/s/ Jason G. Cohen

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*Proposed Co-Counsel to the Debtors  
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**Certificate of Service**

I certify that on October 29, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Jason G. Cohen

Jason G. Cohen

**Exhibit A**

**Revised Proposed Final Order**

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

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In re:

VERTEX ENERGY, INC., *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)  
) Case No. 24-90507 (CML)  
)  
) (Jointly Administered)  
)  
) **Re: Docket Nos. 12, 61**

**FINAL ORDER**

**(I) AUTHORIZING THE DEBTORS TO (A) CONTINUE  
TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND  
MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM  
INTERCOMPANY TRANSACTIONS, AND (C) MAINTAIN EXISTING BUSINESS  
FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF**

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Upon the emergency motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”):

(i) authorizing the Debtors to (a) continue to operate their cash management system and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto, (b) continue to perform intercompany transactions and funding consistent with historical practice, as modified as set forth herein, and (c) maintain existing business forms and books and records; and (ii) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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

1. Subject to the limitations of this Final Order, the Debtors are authorized to:

(a) continue using the Cash Management System as described in the Motion in the ordinary course of business 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 B 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 usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; (e) open new debtor-in-possession Bank Accounts (subject to paragraph 16 herein); and (f) pay any Bank Fees, irrespective of whether such fees arose prior to the Petition Date, and perform their obligations under the documents and arrangements governing the Bank Accounts; *provided* that in the case of each of (a) through (f), such action is taken in the ordinary course of business and consistent with prepetition practices;

*provided, further*, however that the Debtors shall give notice of the opening or closing of any Bank Account to the U.S. Trustee, counsel to any statutory committee appointed in these chapter 11 cases, including the Official Committee of Unsecured Creditors appointed in these chapter 11 cases (the “Committee”), and counsel to the Consenting Term Loan Lenders.

2. To the extent any of the Debtors’ Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee’s requirements or guidelines, the Debtors shall have until November 8, 2024, without prejudice to seek an additional extension or waiver, to come into compliance with section 345(b) of the Bankruptcy Code; *provided* that nothing herein shall prevent the Debtors or the U. S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the period referenced above by entering into a written stipulation with the U.S. Trustee and filing such stipulation on the Court’s docket without the need for further Court order.

3. The Debtors are authorized to continue using, in their present form, the Business Forms (including purchase cards), as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, and maintain and continue using, in their present form, the Books and Records; *provided* that once the Debtors have exhausted their existing stock of Business Forms, they shall ensure that any new Business Forms are clearly labeled “Debtor in Possession” as soon as it is reasonably practicable to do so. To the extent the Debtors print any new checks or use any electronic Business Forms, they will include the designation “Debtor in Possession” and the corresponding bankruptcy number on all such checks within ten (10) days.



4. The Debtors are authorized to maintain the Credit Card Programs and pay prepetition and postpetition amounts incurred on account of the Credit Card Programs pursuant to the terms of the Credit Card Programs.

5. Except as otherwise provided in this Final Order and only to the extent funds are available in each applicable Bank Account, the Cash Management Bank at which the Bank Accounts are maintained is authorized 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, and to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers issued, whether before or after the Petition Date, including any transfers drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. For the avoidance of doubt, the Cash Management Bank and other payroll check processors are authorized to receive, process, honor, and pay, to the extent funds are available in each applicable Bank Account, any and all payroll checks that were issued prior to and remain outstanding as of the Petition Date.

6. Those certain prepetition deposit, cash management, and treasury services agreements existing between the Debtors and the Cash Management Bank shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Bank and, subject to applicable bankruptcy or other law, all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements, shall remain in full force and effect absent further order of the Court (including, for the avoidance of doubt, any rights of the Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement) unless the Debtors and such Cash Management Bank agree

otherwise, and any other legal rights and remedies afforded to the Cash Management Bank under applicable law shall be preserved, subject to applicable bankruptcy law.

7. The Cash Management Bank is authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course, including any prepetition amounts. Any postpetition fees, costs, charges, and expenses, including Bank Fees, or charge-backs or any other reimbursement or payment obligations that are not paid are hereby accorded priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

8. The Cash Management Bank is authorized to debit the Bank Accounts in the ordinary course of business without the need for any further order of this Court for: (a) all checks drawn on the Bank Accounts which are cashed at the Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to or after the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with the Cash Management Bank prior to or after the Petition Date which have been dishonored or returned unpaid for any reason, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to or after the Petition Date; (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business; and (d) any postpetition amounts due and owing to the

Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business.

9. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Cash Management Bank.

10. The Debtors are authorized to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Bank as service charges for the maintenance of the Cash Management System; and (b) reimburse the Cash Management Bank for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Bank that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

11. The Debtors are authorized to enter into, engage in, and satisfy any payments in connection with the Intercompany Transactions and to take any actions related thereto, in each case on the same terms as, and materially consistent with, the Debtors' operation of the businesses in the ordinary course during the prepetition period, as further described in the Motion; *provided* that, the Debtors shall maintain a matrix summarizing, and distinguishing between, all cash and non-cash Intercompany Transactions, the parties to such Intercompany Transactions, and the month-end intercompany gross receivable and gross payable balances between and among Debtors. The Debtors shall provide a copy of such matrix to counsel to the Committee and counsel to the Consenting Term Loan Lenders every thirty (30) days beginning upon entry of this Order.

12. The Debtors are authorized to set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System in the ordinary course of business consistent with prepetition practices, as further described in the Motion. The

Debtors shall continue to maintain accurate, current, and detailed records with respect to all transfers of cash so that all transactions, including Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. The Debtors shall make such records available to the counsel to the Committee upon reasonable request.

13. Pursuant to section 503(b)(1) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transaction, including any interest and fees related thereto, shall in each case be accorded administrative expense status, except to the extent such Intercompany Transactions are on account of antecedent debts (including with respect to “netting” or setoffs), and the priority of any claims on account of such Intercompany Transactions shall be subject to the DIP Order (as defined below) and the priorities set forth therein.

14. Except as otherwise set forth herein, the Debtors and the Cash Management Bank may, without further order of the Court, agree and implement changes to the policies and procedures related to the Cash Management System in the ordinary course of business.

15. The Debtors are authorized to open new bank accounts so long as any such new account is with the Debtors’ existing Cash Management Bank or with a bank that (a) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (b) is designated as an authorized depository by the U.S. Trustee, and (c) agrees to be bound by the terms of this Final Order (such bank, if not the Cash Management Bank, a “Qualifying Bank”); *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account as if it had been listed on Exhibit B attached to the Motion.

16. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, and in accordance with the terms hereof, which account shall

be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Qualifying Bank. The Debtors shall provide notice of the opening of a new bank account in accordance with the terms of this Final Order.

17. Notwithstanding any other provision of this Final Order, should the Cash Management Bank or any Qualifying Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item, including the Debtors' failure to stop payment on any such check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank or Qualifying Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Final Order. Without limiting the foregoing, the Cash Management Bank or Qualifying Bank may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of the Court, and such Cash Management Bank or Qualifying Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

18. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, to the extent consistent with any orders of this Court relating thereto, any relevant bank is authorized to honor the Debtors' requests to close such Bank Accounts.

19. Notwithstanding entry of this Final Order, nothing herein shall create, or is intended to (a) create any rights in favor of or enhance the status of any claim held by any party or (b) alter

or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

21. Notwithstanding anything to the contrary set forth herein, any payment made hereunder, and any authorization contained herein, shall be subject to the requirements imposed under any interim or final orders authorizing the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing (any such order, a "DIP Order") and any approved budget in connection therewith. To the extent there is any inconsistency between the terms of any DIP Order (including any approved budget in connection therewith) and any approval or action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

22. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

23. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, priority of, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's (including the Committee's) right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's

(including the Committee's), rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens; (i) to alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date or that arises after the Petition Date; (j) create, any rights in favor of or enhance the status of any claim held by any party; or (k) impact or prejudice the ability of any party to challenge, avoid, unwind, recharacterize, or assert any other claim or cause of action with respect to any Intercompany Transactions.

24. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

25. 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) and the Bankruptcy Local Rules are satisfied by such notice.

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

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

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

Houston, Texas

Signed: \_\_\_\_\_, 2024

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Christopher M. Lopez  
United States Bankruptcy Judge



**Exhibit B**

**Redline**

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

In re:

VERTEX ENERGY, INC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 24-90507 (CML)  
)  
) (Jointly Administrated Requested)  
)  
) Re: Docket Nos. —12, 61

**FINAL ORDER**

**(I) AUTHORIZING THE DEBTORS TO (A) CONTINUE  
TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND  
MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM  
INTERCOMPANY TRANSACTIONS, AND (C) MAINTAIN EXISTING BUSINESS  
FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF**

Upon the emergency motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”):

(i) authorizing the Debtors to (a) continue to operate their cash management system and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto-  
and, (b) continue to perform intercompany transactions and funding consistent with historical practice, as modified as set forth herein, and (c) maintain existing business forms and books and records; and (ii) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ ~~proposed~~—claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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

1. Subject to the limitations of this Final Order, the Debtors are authorized to:

(a) continue using the Cash Management System as described in the Motion in the ordinary course of business 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 B 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 usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; (e) open new debtor-~~debtor~~-in-possession Bank Accounts (subject to paragraph 16 herein); and (f) pay any Bank Fees, irrespective of whether such fees arose prior to the Petition Date, and perform their obligations under the documents and arrangements governing the Bank Accounts; *provided* that

in the case of each of (a) through (f), such action is taken in the ordinary course of business and consistent with prepetition practices; *provided, further*, however that the Debtors shall give notice of the opening or closing of any Bank Account to the U.S. Trustee ~~and~~, counsel to any statutory committee appointed in these chapter 11 cases, including the Official Committee of Unsecured Creditors appointed in these chapter 11 cases (the “Committee”), and counsel to the Consenting Term Loan Lenders.

~~2. The Debtors are authorized to maintain the Credit Card Programs and pay prepetition and postpetition amounts incurred on account of the Credit Card Programs pursuant to the terms of the Credit Card Programs.~~

2. ~~3.~~ To the extent any of the Debtors’ Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee’s requirements or guidelines, the Debtors shall have until November 8, 2024, without prejudice to seek an additional extension or waiver, to come into compliance with section 345(b) of the Bankruptcy Code; *provided* that nothing herein shall prevent the Debtors or the U. S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the period referenced above by entering into a written stipulation with the U.S. Trustee and filing such stipulation on the Court’s docket without the need for further Court order.

3. ~~4.~~ The Debtors are authorized to continue using, in their present form, the Business Forms (including purchase cards), as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, and maintain and continue using, in their present form, the Books and Records; *provided* that once the Debtors have exhausted their existing stock of Business Forms, they shall ensure that any new Business Forms are clearly

labeled “Debtor in Possession” as soon as it is reasonably practicable to do so. To the extent the Debtors print any new checks or use any electronic Business Forms, they will include the designation “Debtor in Possession” and the corresponding bankruptcy number on all such checks within ten (10) days.

4. The Debtors are authorized to maintain the Credit Card Programs and pay prepetition and postpetition amounts incurred on account of the Credit Card Programs pursuant to the terms of the Credit Card Programs.

5. Except as otherwise provided in this Final Order and only to the extent funds are available in each applicable Bank Account, the Cash Management Bank at which the Bank Accounts are maintained is authorized 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, and to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers issued, whether before or after the Petition Date, including any transfers drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. For the avoidance of doubt, the Cash Management Bank and other payroll check processors are authorized to receive, process, honor, and pay, to the extent funds are available in each applicable Bank Account, any and all payroll checks that were issued prior to and remain outstanding as of the Petition Date.

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

7. The Cash Management Bank is authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course, including any prepetition amounts. Any postpetition fees, costs, charges, and expenses, including Bank Fees, or charge-backs or any other reimbursement or payment obligations that are not paid are hereby accorded priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

8. The Cash Management Bank is authorized to debit the Bank Accounts in the ordinary course of business without the need for any further order of this Court for: (a) all checks drawn on the Bank Accounts which are cashed at the Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to or after the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with the Cash Management Bank prior to or after the Petition Date which have been dishonored or returned unpaid for any reason, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to or after the Petition Date; (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business; and (d) any postpetition amounts due and owing to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business.

9. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Cash Management Bank.

10. The Debtors are authorized to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Bank as service charges for the maintenance of the Cash Management System; and (b) reimburse the Cash Management Bank for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Bank that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

11. The Debtors are authorized to enter into, engage in, and satisfy any payments in connection with the Intercompany Transactions and to take any actions related thereto, in each case on the same terms as, and materially consistent with, the Debtors' operation of the businesses in the ordinary course during the prepetition period, as further described in the Motion; provided that, the Debtors shall maintain a matrix summarizing, and distinguishing between, all cash and non-cash Intercompany Transactions, the parties to such Intercompany Transactions, and the month-end intercompany gross receivable and gross payable balances between and among Debtors. The Debtors shall provide a copy of such matrix to counsel to the Committee and counsel to the Consenting Term Loan Lenders every thirty (30) days beginning upon entry of this Order.

12. The Debtors are authorized to set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System in the ordinary course of business consistent with prepetition practices, as further described in the Motion. The Debtors shall continue to maintain accurate, current, and detailed records with respect to all transfers of cash so that all transactions, including Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. The Debtors shall make such records available to the counsel to the Committee upon reasonable request.



13. Pursuant to section 503(b)(1) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transaction, including any interest and fees related thereto, shall in each case be accorded administrative expense status, except to the extent such Intercompany Transactions are on account of antecedent debts (including with respect to “netting” or setoffs), and the priority of any claims on account of such Intercompany Transactions shall be subject to the DIP Order (as defined below) and the priorities set forth therein.

14. Except as otherwise set forth herein, the Debtors and the Cash Management Bank may, without further order of the Court, agree and implement changes to the policies and procedures related to the Cash Management System in the ordinary course of business.

15. The Debtors are authorized to open new bank accounts so long as any such new account is with the Debtors’ existing Cash Management Bank or with a bank that (ia) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ib) is designated as an authorized depository by the U.S. Trustee, and (ic) agrees to be bound by the terms of this Final Order (such bank, if not the Cash Management Bank, a “Qualifying Bank”); *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account as if it had been listed on Exhibit B attached to the Motion.

16. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, and in accordance with the terms hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Qualifying Bank. The Debtors shall provide notice of the opening of a new bank account in accordance with the terms of this Final Order.

17. Notwithstanding any other provision of this Final Order, should the Cash Management Bank or any Qualifying Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item, including the Debtors' failure to stop payment on any such check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank or Qualifying Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Final Order. Without limiting the foregoing, the Cash Management Bank or Qualifying Bank may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of the Court, and such Cash Management Bank or Qualifying Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

18. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, to the extent consistent with any orders of this Court relating thereto, any relevant bank is authorized to honor the Debtors' requests to close such Bank Accounts.

19. Notwithstanding entry of this Final Order, nothing herein shall create, or is intended to (a) create any rights in favor of or enhance the status of any claim held by any party or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

21. ~~1.~~ Notwithstanding anything to the contrary set forth herein, any payment made hereunder, and any authorization contained herein, shall be subject to the requirements imposed under any interim or final orders authorizing the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing (any such order, a "DIP Order") and any approved budget in connection therewith. To the extent there is any inconsistency between the terms of any DIP Order (including any approved budget in connection therewith) and any approval or action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

22. ~~2.~~ All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

23. ~~3.~~ Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, priority of, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's (including the Committee's) right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority,

enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's (including the Committee's), rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens; (i) to alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date or that arises after the Petition Date; (j) create, any rights in favor of or enhance the status of any claim held by any party; or (k) impact or prejudice the ability of any party to challenge, avoid, unwind, recharacterize, or assert any other claim or cause of action with respect to any Intercompany Transactions.

24. ~~4.~~ The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

25. ~~5.~~ 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) and the Bankruptcy Local Rules are satisfied by such notice.

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

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

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

Houston, Texas

~~Dated~~Signed: \_\_\_\_\_, 2024

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~~CHRISTOPHER~~Christopher M.  
~~LOPEZ~~Lopez  
~~UNITED STATES BANKRUPTCY~~  
~~JUDGE~~United States Bankruptcy Judge