

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

)	Chapter 11
In re:)	
)	Case No. 22-10584 (CTG)
FIRST GUARANTY MORTGAGE)	
CORPORATION, <i>et al.</i> , ¹)	(Jointly Administered)
)	
)	Related Docket Nos. 22 and 67
Debtors.)	Objection Deadline: July 21, 2022 at 4:00 p.m. ET
)	Hearing Date: July 28, 2022 at 10:00 a.m. ET

**NOTICE OF ENTRY OF INTERIM ORDER AND FINAL HEARING REGARDING
MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE
DEBTORS TO OBTAIN POSTPETITION OPERATIONAL CASH FLOW FINANCING;
(II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL; (III) GRANTING
LIENS AND SUPER-PRIORITY ADMINISTRATIVE EXPENSE STATUS; (IV)
GRANTING ADEQUATE PROTECTION; (V) SCHEDULING A FINAL HEARING;
(VI) MODIFYING THE AUTOMATIC STAY; AND
(VII) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on June 30, 2022, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Operational Cash Flow Financing; (II) Authorizing the Debtors to Use Cash Collateral; (III) Granting Liens and Superpriority Administrative Expense Status; (IV) Granting Adequate Protection; (V) Modifying the Automatic Stay; (VI) Scheduling a Final Hearing; and (VII) Granting Related Relief* [Docket No. 22] (the “Cash Flow DIP Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). A copy of the Motion is attached hereto as **Exhibit 1**.

PLEASE TAKE FURTHER NOTICE that the Debtors presented certain first-day motions at a hearing before the Honorable Craig T. Goldblatt at the Bankruptcy Court on

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors’ mailing address is 5400 Tennyson Parkway, Suite 450, Plano, TX 75024.



July 1, 2022. The Bankruptcy Court granted interim relief on the Motion and entered the *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Operational Cash Flow Financing; (II) Authorizing the Debtors to Use Cash Collateral; (III) Granting Liens and Superpriority Administrative Expense Status; (IV) Granting Adequate Protection; (V) Scheduling a Final Hearing; (VI) Modifying the Automatic Stay and (VII) Granting Related Relief* (the “Interim Order”) [Docket No. 67], attached hereto as **Exhibit 2**.

PLEASE TAKE FURTHER NOTICE that any response or objection to the entry of a final order with respect to the relief sought in the Motion must be filed with the Bankruptcy Court on or before **July 21, 2022 at 4:00 p.m. (Eastern time)**.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE FINAL RELIEF REQUESTED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE FINAL RELIEF SOUGHT IN THE MOTION WILL BE HELD ON JULY 28, 2022 AT 10:00 A.M. (EASTERN TIME) BEFORE THE HONORABLE CRAIG T. GOLDBLATT, UNITED STATES BANKRUPTCY COURT JUDGE, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 3RD FLOOR, COURTROOM NO. 7, WILMINGTON, DELAWARE 19801.

Dated: July 5, 2022

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Laura Davis Jones

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Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT 1

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

In re:

FIRST GUARANTY MORTGAGE
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10584 (CTG)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION OPERATIONAL CASH FLOW FINANCING;
(II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL;
(III) GRANTING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE STATUS; (IV) GRANTING ADEQUATE
PROTECTION; (V) MODIFYING THE AUTOMATIC STAY;
(VI) SCHEDULING A FINAL HEARING; AND
(VII) GRANTING RELATED RELIEF**

First Guaranty Mortgage Corporation (“FGMC”) and Maverick II Holdings, LLC (“Maverick”), the above-referenced affiliated debtors and debtors in possession (together, the “Debtors”)² under chapter 11 of title 11 of the United States Code, §§ 101 *et seq.* (the “Bankruptcy Code”), in these chapter 11 cases (the “Chapter 11 Cases”), by and through the undersigned counsel of record, hereby move (the “Motion”), pursuant to sections 105(a), 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), 507 and 552, Rules 2002, 4001, 6003(b), 6004(a), 6004(h), and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1, 4001-1, 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”),

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors’ mailing address is 5800 Tennyson Parkway, Suite 450, Plano, TX 75024.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cash Flow DIP Documents (defined herein).

for entry of an interim order (substantially in the form attached hereto as **Exhibit A**, the “Interim Cash Flow DIP Order”) and a final order (the “Final Cash Flow DIP Order”, and together with the Interim Cash Flow DIP Order, the “Cash Flow DIP Orders”) (i) authorizing the Debtors to obtain debtor-in-possession operational cash flow financing on the terms set forth herein, (ii) authorizing the Debtors to use cash collateral, (iii) granting liens and providing super-priority administrative expense status, (iv) granting adequate protection, (v) modifying the automatic stay, (vi) scheduling an interim hearing to approve the proposed Interim Order and a final hearing with respect to the relief requested herein (the “Final Hearing”); and (vii) granting related relief.

In further support of this Motion, the Debtors submit and rely on (i) the *Declaration of Aaron Samples, Chief Executive Officer of First Guaranty Mortgage Corporation In Support of Chapter 11 Petitions and First Day Pleadings* sworn to the date hereof (the “Samples Declaration” or the “First Day Declaration”), and (ii) the Declaration of Tanya Meerovich in support of this Motion (the “Meerovich Declaration”), each of which has been filed contemporaneously herewith and is incorporated by reference herein.

In further support of this Motion, the Debtors, by and through their proposed undersigned counsel, respectfully represent:

PRELIMINARY STATEMENT

1. The Debtors seek authority to enter into the Cash Flow DIP Facility (as defined below) provided by LVS II SPE XXXIV LLC, including any permitted assignees and successors (the “Cash Flow DIP Lender”).³ The relief sought in this Motion is critical for the Debtors to obtain the necessary liquidity to pay their ordinary course operating costs and administrative expenses, maintain the enterprise value of their business, and, ultimately, provide the Debtors with an opportunity to reorganize.

2. The Debtors request authority to, among other things, obtain the liquidity necessary to fund their operations, including the payment of vendors, employee payroll, facilities rent,

³ The Cash Flow DIP Lender is an indirect subsidiary of a private investment managed by Pacific Investment Management Company LLC. B2 FIE IV LLC, an affiliate of the DIP Lender, owns 100% of the equity interests of FGMC.

professional fees, and other necessary expenses. The Cash Flow DIP Facility will provide the Debtors with up to \$22 million in new money borrowing capacity (of which, \$11 million will be available on an interim basis) to ensure the Debtors will have sufficient liquidity, affording all parties in interest with confidence that the Debtors will have ample funds available to honor all post-petition obligations. Further, the Cash Flow DIP Facility will include additional amounts necessary to fund any shortfalls in the Debtors' existing pipeline of mortgage loans -- the Mortgage Loan Funding Amounts (as defined below), plus transaction costs and related expenses associated with a potential sale of the Debtors' loans to a third party to come -- the Pipeline Sale Transaction Funding Amounts (as defined below). As part of the Cash Flow DIP Facility and in consideration of the new money advances contemplated thereunder, the Debtors also seek authority, subject to entry of the Final Cash Flow DIP Order, to roll-up certain Prepetition Bridge Loan Obligations (as defined below) owed to an affiliate of the Cash Flow DIP Lender (as defined below). In sum, the Debtors request authority to, among other things, (i) borrow under the Cash Flow DIP Facility, (ii) grant the Cash Flow DIP Lender certain liens and superpriority claims to secure the obligations under the Cash Flow DIP Facility, (iii) use cash collateral, and (iv) provide adequate protection to the Prepetition Lenders (as defined below).

3. For the reasons stated below and in the above-referenced declarations, the Debtors request that this Court grant the relief requested herein.

JURISDICTION AND VENUE

4. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. The Debtors confirm their consent, pursuant to Bankruptcy Rule 7008 and Local Rule 9013-1(f), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
6. The statutory bases for the relief requested herein are sections 105(a), 361, 362, 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), 507 and 552 the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003(b), 6004(a), 6004(h), and 9014, and 9013-1, and Local Rules 2002-1, 4001-1, 4001-2 and 9013-1.

RELIEF REQUESTED

7. By this Motion, the Debtors seek entry of the Cash Flow DIP Orders:
 - (a) ***DIP Facility***: authorizing each of FGMC and Maverick, each in its capacity as a joint and several borrower and Debtor in the Chapter 11 Cases (each a “Borrower” and “Debtor” in the Chapter 11 Cases and together the “Borrowers” or the “Debtors”) to obtain postpetition financing under a senior secured, super priority term loan facility (the “Cash Flow DIP Facility”), which includes (i) \$22 million (of which \$11 million will be available on an interim basis) plus (ii) the Mortgage Loan Funding Amounts, plus (iii) the Pipeline Sale Transaction Funding Amounts that will be available as set forth in, and subject to the terms and conditions of that certain term sheet by and between the Debtors and the Cash Flow DIP Lender, substantially in the form attached hereto as **Exhibit B** (the “Cash Flow DIP Term Sheet” which shall be followed by a Secured Superpriority Debtor-In-Possession Term Loan Agreement, the “Cash Flow DIP Credit Agreement”, and the resulting new money loans, the “New Money DIP Loans” and related loan documentation (including the Cash Flow DIP Credit Agreement and the Cash Flow DIP Orders, the “Cash Flow DIP Documents”); and (iv) subject to entry of the Final Cash Flow DIP Order, a roll up facility consisting of the Prepetition Bridge Loan Obligations (as defined below) that are remaining after the Prepetition B2 FIE Financed Loan Obligations (as defined below) are refinanced by the DIP Repo Facility (such remaining Prepetition Bridge Loan Obligations, the “Roll-Up Obligations”), which Roll-Up Obligations shall be converted into a portion of the outstanding Cash Flow DIP Obligations.
 - (b) ***DIP Documents***: authorizing the Debtors to borrow under the Cash Flow DIP Credit Agreement and enter into any and all agreements, documents, instruments and amendments delivered or executed in connection therewith;
 - (c) ***Security and Priority***: authorizing the Debtors to grant, subject and subordinate to any Permitted Liens (as defined in the Cash Flow DIP Documents) and the Carve Out (as defined in the Cash Flow DIP Documents), senior liens and superpriority administrative expense status to the Cash Flow DIP Lender to secure the Cash Flow DIP Obligations (as defined in the Cash Flow DIP Documents), including continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on the Cash Flow DIP Collateral (as defined in the Cash Flow DIP Documents);

- (d) ***Adequate Protection***: approving of the form and manner of adequate protection as set forth herein and in the Cash Flow DIP Order;
- (e) ***Automatic Stay***: vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code and any other applicable stay (including Bankruptcy Rule 6004) to the extent necessary to implement and effectuate the terms and provisions of the Cash Flow DIP Documents;
- (f) ***Final Hearing***: scheduling the Final Hearing to consider the relief requested herein; and
- (g) ***Other Relief***: granting related relief.

BACKGROUND

8. On the date hereof (the “Petition Date”), the Debtors each commenced voluntary cases for relief under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in the chapter 11 cases.

9. Prior to the Petition Date, FGMC was a full service, non-bank mortgage lender, offering a full suite of residential mortgage options tailored to borrowers’ different financial situations. It was one of the leading independent mortgage companies in the United States that originated residential mortgages through a national platform. As described in more detail in the First Day Declaration, FGMC’s business included the origination, purchase, service, sale and/or securitization of residential real estate mortgage loans. However, just prior to the Petition Date, as a result of an extreme and unanticipated liquidity crisis and resultant inability to obtain additional capital, FGMC ceased all of its mortgage loan origination activity and separated nearly 80% of its workforce. The Debtors commenced these Chapter 11 Cases to evaluate their options, accommodate their customers, and maximize and preserve value for all stakeholders.

10. Additional information regarding the Debtors, including their business and the events leading to the commencement of these Chapter 11 Cases, is set forth in the First Day Declaration.

A. Summary of Terms of DIP Financing⁴

11. In accordance with Bankruptcy Rules 4001(b)–(d) and Local Rule 4001-2(a), the below chart summarizes the significant terms of the proposed Cash Flow DIP Orders and Cash Flow DIP Documents.

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
Borrowers Bankruptcy Rule 4001(c)(1)(B)	First Guaranty Mortgage Corporation	Cash Flow DIP Term Sheet at p. 1
Guarantors Bankruptcy Rule 4001(c)(1)(B)	Maverick II Holdings, LLC and each other direct and indirect subsidiary of FGMC that becomes a Debtor.	Cash Flow DIP Term Sheet at p. 1
DIP Lender Bankruptcy Rule 4001(c)(1)(B)	LVS II SPE XXXIV LLC, including any permitted assignees and successors ⁵	Cash Flow DIP Term Sheet at p. 1
DIP Facility Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(i)(B)	<p>The Cash Flow DIP Lender’s commitment shall consist of (a) a senior secured, superpriority multi-draw term loan facility, in the aggregate amount not to exceed the sum of (i) \$22,000,000 (the “<u>Operating Amount</u>”) plus (ii) the Mortgage Loan Funding Amounts, plus (iii) the Pipeline Sale Transaction Funding Amounts, plus (iv) subject to entry of the Final Cash Flow DIP Order, a roll up facility consisting of the Prepetition Bridge Loan Obligations that are remaining after the Prepetition B2 FIE Financed Loan Obligations are refinanced by the DIP Repo Facility (<i>i.e.</i>, the Roll-Up Obligations), which Roll-Up Obligations shall be converted into a portion of the outstanding Cash Flow DIP Obligations.</p> <p>“<u>Mortgage Loan Funding Amounts</u>” shall mean amounts required to fund (i) the amount (not to exceed \$16,000,000 in the aggregate) which comprises the excess, if any, of (A) the original principal balance of</p>	Cash Flow DIP Term Sheet at p. 1, 2

⁴ This summary is qualified in its entirety by reference to the applicable provisions of the Cash Flow DIP Credit Agreement. To the extent there exists any inconsistency between this summary and the provisions of the Cash Flow DIP Credit Agreement or the Cash Flow DIP Orders, the provisions of the Cash Flow DIP Credit Agreement or the Cash Flow DIP Orders, as applicable, shall control.

⁵ The Cash Flow DIP Lender is an indirect subsidiary of a private investment managed by Pacific Investment Management Company LLC. B2 FIE IV LLC, an affiliate of the DIP Lender, owns 100% of the equity interests of FGMC.

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	<p>each mortgage loan originated by the Borrower (not to exceed \$125 million in the aggregate) and sold to the Repo DIP Facility (as defined below) minus (B) the amount of funding provided by the Repo DIP Lender in respect of such originated loan, plus (ii) any mark to market losses incurred in connection with the Repo DIP Facility in an amount not to exceed \$3,600,000 in the aggregate, plus (iii) all professional fees incurred in connection with the Repo DIP Facility in an amount not to exceed \$600,000 in the aggregate, plus (iv) non-utilization fees and interest or pricing fees incurred under the Repo DIP Facility in amount not to exceed \$200,000, in each case, solely to the extent not satisfied first from the proceeds of DIP Repo Collateral.</p> <p>“<u>Pipeline Sale Transaction Funding Amounts</u>” shall mean amounts required to fund (i) a work fee in an amount acceptable to the Cash Flow DIP Lender in its sole discretion, with respect to a pipeline purchase facility transaction approved by the Cash Flow DIP Lender and consistent with the Approved Budget (the “<u>Pipeline Sale</u>”) and (ii) any mark to market losses incurred in connection with the Pipeline Sale in an amount not to exceed \$3,600,000.</p> <p>Up to \$11,000,000 out of the Operating Amount, plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts, during the interim period shall be made available to the DIP Borrower on an interim basis (subject to disbursement in accordance with the Approved DIP Budget (as defined below)) upon the date that the conditions precedent to the “Effective Date” under the Cash Flow DIP Facility have been satisfied, including entry of the Interim Cash Flow DIP Order.</p> <p>The remainder of the Cash Flow DIP Facility shall be made available to the DIP Borrower (subject to disbursement in accordance with the Approved DIP Budget) following the entry of the Final Cash Flow DIP Order and subject to the satisfaction of the conditions precedent to such borrowings</p>	
Borrowing Limits Bankruptcy Rule	As set forth above.	<i>Id.</i>

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
4001(c)(1)(B); Local Rule 4001-2(i)(A), (a)(iii)		
Budget Bankruptcy Rule 4001(c)(1)(B)	Approved Budget is appended to the Interim Cash Flow DIP Order.	Interim Cash Flow DIP Order at Exhibit B
Interest Rate Bankruptcy Rule 4001(c)(1)(B)	<u>Applicable Rate</u> : 11% per annum <u>Default Interest Rate</u> : Applicable Rate + 2.00% per annum Interest calculated on the basis of 360-day year and payable in kind monthly in arrears.	Cash Flow DIP Term Sheet at p. 3
Expenses and Fees Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(B), (M)	Upon entry of the Interim Cash Flow DIP Order and the Final Cash Flow DIP Order, as applicable, the Cash Flow DIP Lender shall receive, for the ratable benefit of the Cash Flow DIP Lender, a non-refundable closing fee (“ <u>DIP Closing Fees</u> ”) in the amount of 2.00% of the new money made available under the Cash Flow DIP Facility authorized by such order, which such DIP Closing Fee shall be payable in kind, which first payment shall be earned in full and payable in cash upon the closing date of the Cash Flow DIP Facility (the “ <u>Cash Flow DIP Closing Date</u> ”). No DIP Closing Fees shall be payable with respect to any Roll-Up Obligations.	Cash Flow DIP Term Sheet at p. 4
Maturity Date Bankruptcy Rule 4001(c)(1)(B), Local Rule 4001-2(a)(ii); Local Rule 4001-2(a)(i)(B), (M), (a)(ii)	The termination date (the “ <u>Termination Date</u> ”) of the Cash Flow DIP Facility means the earliest to occur of: (a) 150 days after the Petition Date (the “ <u>Maturity Date</u> ”); (b) 35 days after the Petition Date if a final order approving the Cash Flow DIP Facility is not entered, unless extended by the Borrowers and the Cash Flow DIP Lender (the “ <u>Final Cash Flow DIP Order Deadline</u> ”); (c) The effective date of an acceptable plan; (d) The date of consummation of the sale of all or substantially all of the assets of the Debtors; and	Cash Flow DIP Term Sheet at p. 4

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	<p>(e) The date of termination of the Commitments (including acceleration thereof).</p> <p>Upon the Termination Date, the Cash Flow DIP Lender is entitled to immediate payment of any and all amounts owing under the Cash Flow DIP Documents.</p>	
Security and Priority Bankruptcy Rule 4001(c)(1)(B)(i), 4001(c)(1)(B)(ii)	<p>Subject in each case to the Carve-Out, all obligations owing by the Debtors to the Cash Flow DIP Lender under the Cash Flow DIP Facility shall at all times be secured by liens granted:</p> <p>(a) to the Cash Flow DIP Lender, superpriority claims pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code, against the Debtors to secure the Cash Flow DIP Obligations on a joint and several basis, which shall be junior in all respects to the DIP Repo Superpriority Claims (as defined below) against the Debtors;</p> <p>(b) to the Cash Flow DIP Lender, liens, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, to secure the Cash Flow DIP Obligations, on the Cash Flow DIP Collateral (as defined below), including (i) a first-priority lien on the Debtors' unencumbered property, (ii) a first-priority priming lien on Prepetition Bridge Loan Collateral (as defined below), and (iii) junior liens on the DIP Repo Facility Backup Collateral and the Prepetition Loan Collateral (as both terms are defined below) other than Prepetition Bridge Loan Collateral (the "<u>Cash Flow DIP Liens</u>"); <i>provided</i> that, for the avoidance of doubt, the Cash Flow DIP Liens shall attach to the DIP Repo Facility Backup Collateral only to the extent that (i) the Transactions (as defined DIP Repo Facility Agreement) are recharacterized as other than sales or (ii) the Purchased Assets are repurchased by the Debtors; and</p> <p>(c) to the DIP Repo Guarantor, subject to satisfaction of the DIP Repo Guarantee Lien Condition (as defined below), junior liens - and security interests, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, on the Cash Flow DIP Collateral and pari passu with the Cash Flow DIP Liens, to secure amounts actually advanced by the DIP Repo Guarantor under the DIP Repo Guarantee made by it</p>	Interim Cash Flow DIP Order at ¶ 5, Recital O

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	<p>for the benefit of the DIP Repo Facility Purchasers (“<u>DIP Repo Guarantee Liens</u>”).</p> <p>All liens authorized and granted pursuant to the Interim Cash Flow DIP Order or the Final Cash Flow DIP Order, as applicable, in each case, entered by the Bankruptcy Court approving the Cash Flow DIP Facility shall be deemed effective and perfected as of the Petition Date, and no further filing, notice or act will be required to effect such perfection. The Cash Flow DIP Lender shall be permitted, but not required, to make any filings, deliver any notices or take any other acts as may be desirable under state law or other law in order to reflect the perfection and priority of the Cash Flow DIP Lender’s claims described herein.</p> <p>As referenced herein, “<u>DIP Repo Superpriority Claims</u>” means the first-priority liens and security interests granted to the DIP Repo Parties and secured by the DIP Repo Facility Backup Collateral, as such terms are defined in the DIP Repo Motion.⁶</p> <p>Subject to approval pursuant to the Interim DIP Repo Order, a portion of the proceeds of the DIP Repo Facility will be used to purchase the mortgage loans financed by the Prepetition Bridge Loans (as defined in the Interim DIP Repo Order, the “<u>B2 FIE Financed Loans</u>”) and repay the portion of the Prepetition Bridge Loans Obligations used to finance the B2 FIE Financed Loans (as defined in the Interim DIP Repo Order, the “<u>Prepetition B2 FIE Financed Loan Obligations</u>”).</p> <p>Notwithstanding anything to the contrary in the Interim Cash Flow DIP Order or any other order of the Court or any other document, in no event shall the Cash Flow DIP Facility be paid down (by mandatory or voluntary prepayment) while any portion of the DIP Repo Obligations (as defined in the Interim DIP Repo Order) remain outstanding; <i>provided</i>, for the</p>	

⁶ The “DIP Repo Motion” refers to the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Enter into Repurchase Agreement Facilities; (II) Authorizing the Debtors to Sell and Repurchase Mortgage Loans in the Ordinary Course of Business; (III) Granting Liens and Providing Super-Priority Administrative Expense Status; (IV) Modifying the Automatic Stay; (V) Scheduling an Interim Hearing to Approve the Proposed interim Order and a Final Hearing with Respect to the Relief Requested Herein; and (VI) Granting Related Relief*, filed contemporaneously herewith.

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	avoidance of doubt, that nothing in this sentence prohibits the repayment of the Prepetition B2 FIE Financed Loan Obligations.	
Covenants Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(H), (M)	Usual and customary for facilities of this type, as further set forth in the Cash Flow DIP Documents.	Cash Flow DIP Term Sheet at p. 13, 14
Events of Default Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(S)	Usual and customary for facilities of this type, as further set forth in the Cash Flow DIP Documents.	Cash Flow DIP Term Sheet at p. 16-18
Milestones Bankruptcy Rule 4001(c)(1)(B)(vi)	<p>Failure to satisfy any of the following milestones (each, a “<i>Milestone</i>”) by the date specified for such Milestone shall constitute an immediate event of default under the Cash Flow DIP Facility:</p> <p>(a) within four (4) business days after the Petition Date, the Interim DIP Order shall have been entered;</p> <p>(b) Within 30 days of the Petition Date, filing of a plan and disclosure statement in forms acceptable to the Cash Flow DIP Lender;</p> <p>(c) Within 60 days of the Petition Date, sale of all or substantially all of the Debtors’ MSR portfolio and receipt of all proceeds from servicing released sales, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(d) Within 90 days of the Petition Date, sale of all or substantially all of FGMC’s pipeline of loans, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(e) Within 90 days of the Petition Date, sale of all or substantially all of the repurchased loans and haircut unfunded loans as of the Petition Date, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(f) Within 90 days of the Petition Date, substantial cessation of all loan operations;</p>	Cash Flow DIP Term Sheet at p. 7-8

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	<p>(g) Within 35 days of the Petition Date, entry of the Final Cash Flow DIP Order in a form acceptable to the Cash Flow DIP Lender;</p> <p>(h) Within 50 days of the Petition Date, court approval of a disclosure statement, which order shall be in a form acceptable to the Cash Flow DIP Lender;</p> <p>(i) Within 110 days of the Petition Date, entry of a confirmation order, confirming a plan acceptable to the Cash Flow DIP Lender;</p> <p>(j) Within 120 days of the Petition Date, substantial plan consummation and occurrence of the effective date of such Acceptable Plan shall have occurred.</p>	
<p>Carve-Out Bankruptcy Rule 4001(b)(1)(B)(iii); Local Rule 4001-2(a)(i)(F), (M)</p>	<p>The “<u>Carve-Out</u>” means the sum of:</p> <p>(a) all fees required to be paid to the Clerk of this Court and to U.S. Trustee under section 1930(a) of title 28 of the United States Code and 31 U.S.C. § 3717 (collectively, the “<u>Clerk and UST Fees</u>”);</p> <p>(b) to the extent allowed by the Court (regardless of whether the order allowing such fees is entered before or after the Carve-Out Trigger Notice), accrued and unpaid fees and expenses (the “<u>Allowed Professional Fees</u>”), in an aggregate amount on a line item basis not exceeding the budgeted amounts for such Allowed Professional Fees reflected in the Approved DIP Budget, incurred by persons or firms retained by the Debtors pursuant to section 327, 328 or 363 of the Bankruptcy Code (the “<u>Debtor Professionals</u>”) and the Creditors’ Committee (if any) pursuant to section 328 or 1103 of the Bankruptcy Code (the “<u>Committee Professionals</u>” and, together with the Debtor Professionals, the “<u>Professional Persons</u>”) at any time before or on the date of delivery by the Cash Flow DIP Lender of a Carve-Out Trigger Notice (as defined below) (collectively, the “<u>Pre-Termination Amount</u>”). For purposes of the Carve-Out, Allowed Professional Fees shall exclude (a) any restructuring, sale, success or similar fee of any Professional Person and (b) fees and expenses of any third party professionals employed by any individual member of the Creditors’ Committee (if any));</p>	<p>Interim Cash Flow DIP Order at ¶ 9</p>

SUMMARY OF MATERIAL TERMS OF DIP FACILITY

(c) any accrued and unpaid postpetition fee and expense claims, without regard to when such fees and expenses accrued, related to the appointment of the Chief Restructuring Officer and the Operations Consultant, in each case, in accordance with the Approved DIP Budget, including any interim or final approval as set forth in any order of the Court approving the appointment of any Chief Restructuring Officer and the Operations Consultant or, if applicable, any procedures approved by the Court relating to the compensation of the Chief Restructuring Officer and the Operations Consultant; *provided, however*, that any Court-approved bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import shall be paid solely from the net proceeds of the Court approved transaction giving rise to such award;

(d) in the event of a conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, allowed fees and expenses incurred by a trustee and any professional retained by such trustee, in an aggregate amount not to exceed \$25,000; provided, however, no portion of the Carve-Out shall be utilized for the payment of professional fees and disbursements incurred in connection with any challenge to (i) the amount, extent, priority, validity, perfection or enforcement of the indebtedness of the Debtors owing to the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates, or (ii) liens or security interests in the collateral securing such indebtedness, including challenges to the perfection, priority or validity of the liens granted in favor of the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates with respect thereto;

(e) Allowed Professional Fees of Professional Persons incurred on and after the first business day following delivery by the Cash Flow DIP Lender of the Carve-Out Trigger Notice, subject to an aggregate cap of \$200,000 (collectively, the “Post Trigger Notice Carve-Out Fee Cap”).

Upon the occurrence and during the continuance of any Cash Flow DIP Event of Default (as defined

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	<p>below), the Cash Flow DIP Lender may deliver a written notice invoking the Post Trigger Notice Carve-Out Fee Cap (the “<u>Carve-Out Trigger Notice</u>”) to the Debtors, the Debtors’ lead restructuring counsel, the U.S. Trustee, and the lead counsel for the Creditors’ Committee (if any).</p> <p>Promptly following the entry of the Interim Cash Flow DIP Order, the Debtors shall establish a segregated account, which shall not be subject to control of the Cash Flow DIP Lender (the “<u>Carve-Out Account</u>”), but which shall be funded by the Cash Flow DIP or available funds at FGMC in accordance with the Approved DIP Budget and in no event from any Excluded Asset. Amounts funded into the Carve-Out Account in accordance with clause (e) below shall be held in trust to pay the Carve-Out.</p>	
<p>Prepayments Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(I)</p>	<p>Voluntary prepayments: the Debtors may, upon at least one business days’ notice, prepay in full or in part, the Cash Flow DIP Facility, without premium or penalty; provided, however, each such partial prepayment shall be in a minimum amount to be agreed. Once repaid, Cash Flow DIP Loans may not be re-borrowed.</p> <p>Mandatory prepayments: Subject to the Cash Flow DIP Orders, usual and customary for facilities of this type and acceptable to the Cash Flow DIP Lender, including, in an amount equal to (a) 100% of net insurance and condemnation proceeds (excluding business interruption insurance proceeds), (b) 100% of net cash proceeds from the issuance of post-petition indebtedness not permitted by the Cash Flow DIP Documents and (c) 100% of the net cash proceeds of any asset sales (other than DIP Repo Facility Backup Collateral) (without any reinvestment rights or de minimis dollar carveouts). At the election of the Cash Flow DIP Lender in its sole discretion, all or a portion of such mandatory prepayments may be declined and available to the Debtors to be used in accordance with the Approved DIP Budget.</p> <p>Subject to the Carve-Out, all optional prepayments and mandatory prepayments (within one business day of receipt thereof) shall be applied as follows: first, to</p>	<p>Cash Flow DIP Term Sheet at p. 12-13</p>

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	pay accrued and unpaid interest on, and expenses in respect of, the obligations under the Cash Flow DIP Facility, to the extent then due and payable; and second, to repay any principal amounts or other obligations which have been advanced and are outstanding under the Cash Flow DIP Facility.	
Conditions to Closing of DIP Facility Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(E)	Usual and customary for facilities of this type, as further set forth in the Cash Flow DIP Documents.	Cash Flow DIP Term Sheet at p. 14-16
Parties with an Interest in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)	Prepetition Lenders consisting of B2 FIE XI LLC, Flagstar Bank, FSB, and Customers Bank	Interim Cash Flow DIP Order at fn 4
Liens, Cash Payments or Adequate Protection Provided for Use of Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(iv)	<p>As adequate protection for, and equal in amount to, any diminution in the value of the interests of the Prepetition Lenders in the collateral described in the Prepetition Loan Facilities (the “<u>Prepetition Loan Collateral</u>”), each Prepetition Lender will receive, subject in each case to the Carve-Out, the following as adequate protection:</p> <p>(a) a superpriority administrative expense claim against each of the Debtors solely to the extent of any diminution in value of such Prepetition Lender’s Prepetition Loan Collateral, which shall be senior to all other administrative expense or other claims, but subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out.</p> <p>(b) a replacement security interest and lien on the same property of the Debtors on which a perfected, first-priority security interest and lien was held before the Petition Date pursuant to such Prepetition Lender’s Prepetition Loan Documents, subordinate only to (i) Liens permitted to be senior under such Prepetition Lender’s Prepetition Loan Documents, (ii) the Cash</p>	Interim Cash Flow DIP Order at ¶ 15

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	Flow DIP Liens, (iii) the DIP Repo Guarantee Liens, and (iv) the Carve-Out.	
Determination Regarding Prepetition Claims Bankruptcy Rule 4001(c)(1)(B)(iii)	Debtors to stipulate as to the validity, perfection and priority of the claims and liens of the Prepetition Bridge Lender.	Interim Cash Flow DIP Order at Recital F
Liens on Avoidance Actions Bankruptcy Rule 4001(c)(1)(B)(xi)	Subject to entry of the Final Cash Flow DIP Order, the Debtors would provide a lien on proceeds of avoidance actions in favor of the Cash Flow DIP Lender.	Interim Cash Flow DIP Order at ¶ 5(a)(ii)
Effect of Debtors' Stipulations on Third Parties Bankruptcy Rule 4001(c)(1)(B)(iii), (vii), (viii)	<p>The findings set forth in the Cash Flow DIP Orders and the Debtors' Stipulations shall be binding upon the Debtors, the Creditors' Committee and all other parties in interest in the Chapter 11 Cases and in any successor cases in all circumstances, subject to a "<u>Chapter 11 Challenge Period</u>" that means (i) with respect to parties-in-interest other than the Creditors' Committee, seventy-five (75) calendar days after entry of the Final Cash Flow DIP Order, and (ii) with respect to the Creditors' Committee, sixty (60) calendar days after the appointment of the Creditors' Committee.</p> <p>If a Creditors' Committee is appointed, the Creditors' Committee shall be subject to a budget not to exceed \$30,000 in connection with the investigation and prosecution of any challenge; <i>provided</i>, that any fees, expenses or costs incurred by the Creditors' Committee in excess of the Investigation Budget shall not constitute an allowable administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.</p>	Interim Cash Flow DIP Order at Recital F and ¶ 23, 24
Waiver or Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv); Local Rule 4001-2(a)(i)(S)	The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified as necessary to effectuate all of the terms and provisions of the Cash Flow DIP Orders, including, without limitation, to: (a) permit the Debtors to grant the applicable lien(s); (b) permit the Debtors to perform such acts as the Cash Flow DIP Lender may request, in its reasonable discretion, to assure the perfection and priority of the liens granted herein; (c) permit the Cash Flow DIP	Interim Cash Flow DIP Order at ¶ 16(c), 21

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
	Lender, to file, in its sole discretion as it deems necessary or advisable, such financing statements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the applicable liens; (d) permit the Debtors to incur all liabilities and obligations to the Cash Flow DIP Lender under the Cash Flow DIP Documents and the Cash Flow DIP Orders; (e) authorize the Debtors to pay, and the Cash Flow DIP Lender to retain and apply, payments made in accordance with the terms of the Cash Flow DIP Orders and the Cash Flow DIP Documents; and (f) permit the Debtors and Cash Flow DIP Lender to take any other actions necessary and appropriate to implement the terms of the Cash Flow DIP Orders and the Cash Flow DIP Documents, including, without limitation, the implementation of applicable reserves.	
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	Each Borrower and Guarantor shall indemnify the Cash Flow DIP Lender and its affiliates and their respective advisors, investment managers, employees, officers, directors, agents, subagents, and representatives in relation to the Cash Flow DIP Documents and the Cash Flow DIP Orders, except to the extent arising solely out of fraud or willful misconduct of the Cash Flow DIP Lender.	Cash Flow DIP Term Sheet at p. 18, 19
Section 506(c) Waiver and Section 552(b) Waiver Bankruptcy Rule 4001(c)(1)(B)(x)	Subject to entry of the Final Cash Flow DIP Order, the Debtors have agreed to waive claims against Cash Flow DIP Lender for surcharge of expenses pursuant to section 506(c) of the Bankruptcy Code and to waive claims under section 552(b)(1) of the Bankruptcy Code based upon the “balance of the equities”.	Interim Cash Flow DIP Order at Recital L and M
Any Provision That Limits the Court’s Power to Enter Future Orders Local Rule 4001-(a)(i)(C)	N/A	
Any Provision that Provides for the	N/A	

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
Funding of Non-Debtor Affiliates Local Rule 4001-(a)(i)(D)		
Any Provision that Provides for Postpetition Liens on Unencumbered Assets Local Rule 4001-(a)(i)(G)	The Cash Flow DIP Collateral includes a first-priority lien on the Debtors' unencumbered property.	Interim Cash Flow DIP Order at ¶ 5
In Jointly Administered Cases, any Provision Governing Joint Liability of the Debtors Local Rule 4001-(a)(i)(J)	Both Debtors are liable under the Cash Flow DIP Facility.	Cash Flow DIP Term Sheet at p. 1
Any Provision that Requires the Debtor to Pay an Agent or Lender's Expenses and Attorneys' Fees with no Notice or Review by the UST and Committee Local Rule 4001-(a)(i)(K)	N/A	
Any Provision that Prohibits the Use of Estate Funds to Investigate Liens and Claims of Prepetition Lenders	No portion of the Carve-Out, any cash collateral, any other Cash Flow DIP Collateral, or any proceeds of the Cash Flow DIP Facility shall be used for the payment of professional fees, disbursements, costs or expenses incurred by any person, including, without limitation, the Debtors, the Creditors' Committee, any trustee or other estate representative appointed in the Cases or any Successor Case, or any other party, for any of the	Interim Cash Flow DIP Order at ¶ 12

SUMMARY OF MATERIAL TERMS OF DIP FACILITY

<p>Local Rule 4001-(a)(i)(L)</p>	<p>following actions or activities without the written consent of the Cash Flow DIP Lender: (a) to seek authorization to obtain liens or security interests on any asset of the Debtors that are senior to, or on a parity with, the Cash Flow DIP Liens, the Cash Flow DIP Collateral, or the Cash Flow DIP Superpriority Claims; (b) to seek authorization to obtain claims against the Debtors or their property that are senior to, or <i>pari passu</i> with, the liens and claims identified in the preceding sub-clause (a); or (c) except as expressly set forth herein, directly or indirectly prepare, assert, join, commence, support, or prosecute any action for any claim, counterclaim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination, or any other relief against, or adverse to the interests of, the Cash Flow DIP Lender and any of its representatives with respect to any transaction, occurrence, omission, action, or other matter, including, without limitation, (i) any Avoidance Action, (ii) any “lender liability” claims and causes of action, (iii) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the Cash Flow DIP Liens, the Cash Flow DIP Superpriority Claims, or the Cash Flow DIP Obligations, (iv) any action seeking to invalidate, modify, reduce, expunge, disallow, set aside, avoid, or subordinate, in whole or in part, any of the obligations identified in the preceding clause (iii), (v) any action seeking to modify any of the rights, remedies, priorities, privileges, protections, and benefits granted to the parties hereunder or under any of the documents referred to herein, including claims, proceedings, or actions that might prevent, hinder or delay any of such parties’ assertions, enforcement, realizations or remedies on or against their collateral and rights herein or (vi) objecting to, contesting with, or interfering with, in any way, such parties’ enforcement or realization upon any of their collateral or rights, once a Cash Flow DIP Event of Default has occurred; <i>provided</i> that the Debtors shall be permitted to challenge the validity of any alleged Cash Flow DIP Event of Default.</p>	
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SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
Any Provisions Granting Cross-Collateralization Local Rule 4001-2(a)(i)(N)	N/A	
Any Provisions Deeming Prepetition Debt to be Postpetition Debt Local Rule 4001-(a)(i)(O)	The portion of the Prepetition Bridge Obligations related to mortgage loans financed by the Bridge Lender shall be refinanced by the Repo DIP facility to be provided by Barclays Bank PLC (the “ <u>Repo DIP Facility</u> ”). Upon entry of the Final Cash Flow DIP Order, certain of the obligations under the Prepetition Bridge Loan Agreement (as defined below) shall be rolled-up and converted into a portion of the outstanding Cash Flow DIP Obligations under the Cash Flow DIP Facility, immediately junior in priority to the Cash Flow DIP Facility (the “ <u>Roll-Up Obligations</u> ”).	Interim Cash Flow DIP Order at p. 2, Recital O
Any Provisions Priming Secured Liens Without Consent of Lienholder Local Rule 4001-(a)(i)(P)	N/A	
Any Provisions Binding the Estate to Validity, Perfection or Amount of Secured Debt Local Rule 4001-2(a)(i)(Q)	The findings set forth in the Cash Flow DIP Orders and the Debtors’ Stipulations shall be binding upon the Debtors, the Creditors’ Committee and all other parties in interest in the Chapter 11 Cases and in any successor cases in all circumstances, subject to the Chapter 11 Challenge Period.	Interim Cash Flow DIP Order at Recital F and ¶ 23, 24
Provisions that Immediately Approve All Terms and Conditions of the Underlying Loan Agreement	The Motion seeks authorization and approval of the Cash Flow DIP Documents.	Interim Cash Flow DIP Order at ¶ 1

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
Local Rule 4001-2(a)(i)(R)		
Provisions Limiting What Parties in Interest May Raise at Emergency Hearings Local Rule 4001-2(a)(i)(T)	N/A	
Provisions that Grant Liens on Avoidance Actions Local Rule 4001-2(a)(i)(U)	Addressed above.	
Provisions that Immediately Waive the Debtor's Rights under Section 506(c) Local Rule 4001-2(a)(i)(V)	Surcharge waiver subject to entry of Final Cash Flow DIP Order.	Interim Cash Flow DIP Order at Recital L
Provisions that Affect the Court's Power to Consider the Equities of the Case under Section 552(b)(1) Local Rule 4001-2(a)(i)(W)	Equities of the case waiver subject to entry of Final Cash Flow DIP Order.	Interim Cash Flow DIP Order at Recital L
Provisions that Immediately Shield the Lender from the Equitable Doctrine of Marshalling Local Rule 4001-2(a)(i)(X)	Marshaling waiver subject to entry of Final Cash Flow DIP Order.	Interim Cash Flow DIP Order at Recital M

SUMMARY OF MATERIAL TERMS OF DIP FACILITY		
Budget Local Rule 4001-2(a)(iii)	The Debtors believe that the Budget will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period covered by the Budget.	Interim Cash Flow DIP Order at Exhibit B

B. The Debtors' Prepetition Indebtedness

i The Prepetition Repo Facilities

12. As is customary in the industry, the Debtors finance their mortgage loan origination platforms through asset-backed secured lending facilities. Certain of the Debtors' secured lending facilities are structured as master repurchase agreements. The Debtors, through FGMC, have three (3) active master repurchase facilities with the following financial institutions: (i) Customers Bank, (ii) Texas Capital Bank, National Association, and (iii) J.V.B. Financial Group, LLC, as successor by merger to C&Co./PrinceRidge LLC (each a "Prepetition Repo Buyer" and, collectively, the "Prepetition Repo Buyers"), pursuant to the following agreements:

- (a) Second Amended and Restated Master Repurchase Agreement, dated as of October 9, 2019 (as amended, restated, supplemented or otherwise modified from time to time), by and between FGMC and Customers Bank;
- (b) Mortgage Warehouse Agreement, dated as of August 14, 2020 (as amended, restated, supplemented or otherwise modified from time to time), by and between FGMC and Texas Capital Bank, National Association; and
- (c) Master Repurchase Agreement, dated as of October 25, 2012 (as amended, restated, supplemented or otherwise modified from time to time), by and between FGMC and J.V.B Financial Group, LLC, as successor by merger to C&Co./PrinceRidge LLC (each a "Prepetition Repo Facility" and, collectively, the "Prepetition Repo Facilities").

13. Pursuant to the terms of the related Prepetition Repo Facilities, the Debtors sell newly originated mortgage loans to the related counterparty to finance the origination of such mortgage loans, and typically repurchase such mortgage loans from the related Prepetition Repo Buyer within a certain time period following origination. The Debtors generally obtain advances of less than 100% of the principal balance of such mortgage loans from the related Prepetition

Repo Buyer, which requires the Debtors to use working capital to fund the remaining equity portion of the principal balance of the mortgage loans, which is often referred to as the haircut.

ii Other Prepetition Warehouse Financing Facilities

14. Certain of the Debtors' warehouse financing facilities are structured as secured loan agreements. The Debtors, through FGMC, have two (2) active secured loan warehouse facilities with the following financial institutions: (i) Customers Bank, and (ii) Flagstar Bank, FSB (each a "Prepetition Lender") and, collectively, with the Prepetition Bridge Lender (as defined below), the "Prepetition Lenders"), pursuant to the following agreements:

- (a) Amended and Restated Loan Agreement, dated as of July 17, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Customers Loan Agreement"), by and between FGMC and Customers Bank; and
- (b) Mortgage Warehouse Loan and Security Agreement, dated as of June 30, 2017 (as amended, restated, supplemented or otherwise modified from time to time, the "Flagstar Loan Agreement", together with the Customers Loan Agreement, each a "Prepetition Loan Facility" and, collectively with the Prepetition Bridge Loans, the "Prepetition Loan Facilities"), by and between FGMC and Flagstar Bank, FSB.

15. Pursuant to the terms of these Prepetition Loan Facilities, the Debtors pledge mortgage loans, cash, and related collateral to secure advances to finance the originations of such mortgage loans. The Debtors obtain advances of less than 100% of the principal balance of the mortgage loans under the Prepetition Loan Facilities, which requires the Debtors to use working capital to fund the remaining portion of the principal balance of the mortgage loans.

16. In addition, a portion of FGMC's obligations under the Customers Loan Agreement, not to exceed \$25 Million, is subject to a full recourse guarantee pursuant to that certain Guaranty and Suretyship Agreement, dated as of September 30, 2020 (as amended, restated, supplemented or otherwise modified from time to time), by LVS II Offshore, L.P., in favor of Customers Bank.

iii. Prepetition Bridge Financing

17. Pursuant to that certain Second Amended and Restated Secured Promissory Note, executed by FGMC, as borrower, and in favor of B2 FIE XI LLC, as lender, ("Prepetition Bridge Lender") (as amended, restated, supplemented or otherwise modified from time to time, the

“Prepetition Bridge Loan Agreement”), extended certain loans and other financial accommodations to the Debtors (the “Prepetition Bridge Loans”). The Prepetition Bridge Lender is an affiliate of the Cash Flow DIP Lender.

18. The Prepetition Bridge Lender is owed on account of the Prepetition Bridge Loans the principal amount of \$18,350,771 (such obligations, together with all interest, fees, reimbursement obligations, indemnification obligations and all other “Obligations” under and as defined in the Prepetition Bridge Loan Agreement, the “Prepetition Bridge Loan Obligations”).

19. Pursuant to the Prepetition Bridge Loan Agreement, the Debtors pledged to the Prepetition Bridge Lender a senior secured lien on substantially all of its personal property assets (the “Prepetition Bridge Loan Liens”), including all proceeds thereof, whether then owned and existing or thereafter acquired or arising (the “Prepetition Bridge Loan Collateral”).

20. The Debtors seek to roll-up a portion of the Prepetition Bridge Loan Obligations into the Cash Flow DIP Facility. The remaining Bridge Loan Obligations will be refinanced as requested by the DIP Repo Motion.

C. The Debtors Need for Postpetition Financing

21. An immediate and critical need exists to obtain the Cash Flow DIP Facility and to use cash collateral in order to permit, among other things, the continued operation of the Debtors’ businesses in the ordinary course, to administer and preserve the value of their estates, to satisfy administrative expenses, and to satisfy other working capital and operational needs. The Debtors also have an existing pipeline of mortgage loans that requires funding in order for the Debtors to satisfy their obligations to prospective borrowers.

22. The Cash Flow DIP Facility will provide the Debtors with up to \$22 million in new money borrowing capacity (of which, \$11 million will be available on an interim basis) to ensure the Debtors will have sufficient liquidity for operations and other administrative obligations. Further, the Cash Flow DIP Facility will include additional amounts necessary to fund any shortfalls in the Debtors’ existing pipeline of mortgage loans -- the Mortgage Loan Funding Amounts, plus transaction costs and related expenses associated with a potential sale of the

Debtors' loans to a third party to come -- the Pipeline Sale Transaction Funding Amounts. As part of the Cash Flow DIP Facility and in consideration of the new money advances contemplated thereunder, the Debtors also seek authority, subject to entry of the Final Cash Flow DIP Order, to roll-up certain Prepetition Bridge Loan Obligations (as defined below) owed to an affiliate of the Cash Flow DIP Lender (as defined below).

23. In the absence of the availability of the Cash Flow DIP Facility in accordance with the terms of the Cash Flow DIP Documents, the continued operation of the Debtors' business would not be possible. The access of the Debtors to sufficient working capital and liquidity through the Cash Flow DIP Facility and the use of cash collateral is necessary and vital to avoid serious and irreparable harm to the Debtors and to achieve an orderly wind down of the Debtors' businesses.

D. The Debtors' Efforts to Obtain Postpetition Financing

24. As further detailed in the declarations in support of the Motion, the Debtors have been impacted by the series of macroeconomic challenges, including a steep rise in interest rates. The combination of continued losses related to the Debtor's lower origination volumes, and volatile daily margin calls on hedge positions has led to drastic reductions in the Debtors' unrestricted cash and initiated a liquidity crisis. The Debtors and their professionals have worked collaboratively to secure debtor in possession financing. The Debtors and their professionals approached multiple potential sources of debtor-in-possession financing, including commercial banks and other financial institutions. No party offered potential financing on terms more favorable than the Cash Flow DIP Facility.

25. Given the unique and extensive nature of the Debtors' capital requirements, in the absence of the availability of the Cash Flow DIP Facility, the Debtors' continued operations would not be possible and serious and irreparable harm to the Debtors, their estate, and their creditors would occur. Thus, the ability of the Debtors to preserve and maintain the value of their assets and maximize the return for creditors requires the availability of capital from the Cash Flow DIP Facility.

RELIEF REQUESTED SHOULD BE GRANTED

A. Entry into the Cash Flow DIP Facility is an Exercise of the Debtors' Sound Business Judgment

26. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority financing under certain circumstances discussed in detail below. Courts grant debtors considerable deference in acting in accordance with their business judgment in obtaining postpetition secured credit, so long as the agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g., In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) (“[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender.”); *In re Barbara K. Enters., Inc.*, No. 08-11474 (MG), 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor’s business judgment “so long as a request for financing does not ‘leverage the bankruptcy process’ and unfairly cede control of the reorganization to one party in interest”); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of postpetition financing requires, among other things, an exercise of “sound and reasonable business judgment”); *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility because such facility “reflect[ed] sound and prudent business judgment”); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (“[C]ases consistently reflect that the court’s discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor’s] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”).

27. Bankruptcy courts generally will not second-guess a debtor’s business decisions when those decisions involve “a business judgment made in good faith, upon a reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code.” *In re Curlew Valley Assocs.*, 14 B.R. 506, 513-514 (Bankr. D. Utah. Oct. 8, 1981) (noting that courts should not second guess a debtor’s business decision when that decision involves “a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor’s] authority under the [Bankruptcy]

Code”). To determine whether the business judgment test is met, “the court ‘is required to examine whether a reasonable business person would make a similar decision under similar circumstances.’” *In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (Bankr. D. Del. Aug. 15, 2007) (citation omitted).

28. In determining whether the Debtors have exercised sound business judgment in entering into the Cash Flow DIP Facility, the Court should consider the economic terms of the financing under the totality of circumstances. *See* Hr’g Tr. at 734-35:24, *In re Lyondell Chem. Co.*, No. 09-10023 (Bankr. S.D.N.Y. Feb. 27, 2009) (recognizing that “the terms that are now available for DIP financing in the current economic environment aren’t as desirable” as they once were previously); *In re Elingsen McLean Oil Co., Inc.*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing that a debtor may have to enter into “hard” bargains to acquire funds for its reorganization). Moreover, the Court may appropriately take into consideration noneconomic benefits to the Debtors offered under the proposed postpetition facility. For example, in *In re ION Media Networks, Inc.*, the Bankruptcy Court for the Southern District of New York held that:

Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic terms. Relevant features of the financing must be evaluated, including non-economic elements such as the timing and certainty of closing, the impact on creditor constituencies and the likelihood of a successful reorganization. This is particularly true in a bankruptcy setting where cooperation and established allegiances with creditor groups can be a vital part of building support for a restructuring that ultimately may lead to a confirmable reorganization plan. That which helps foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.

No. 09-13125 (JMP), 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009).

29. The Debtors’ decision to enter into the Cash Flow DIP Facility is an exercise of their sound business judgment. The Cash Flow DIP Facility is the best financing option available under present circumstances and the Debtors have satisfied the legal requirements to incur the obligations under the Cash Flow DIP Facility on the terms and conditions set forth in the Cash

Flow DIP Documents. The Debtors believe that the Cash Flow DIP Documents contain terms that are fair, reasonable, and in the best interest of the Debtors and their estates. Accordingly, the Debtors respectfully submit that they should be authorized to enter into the Cash Flow DIP Documents and to obtain access to the Cash Flow DIP Facility.

B. Debtors Should Be Authorized to Grant Liens and Superpriority Claims

30. The Debtors propose to obtain financing under the Cash Flow DIP Facility by providing security interests and liens as set forth in the Cash Flow DIP Documents and described above. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to incur secured or superpriority debt under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that:

If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

31. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate “by a good faith effort that credit was not available” to the debtor on an unsecured or administrative expense basis. *In re Crouse Grp., Inc.*, 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (finding that secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon a showing that unsecured credit cannot be obtained). “The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” *Bray v. Shenandoah Fed. Savs. & Loan Ass’n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584

(S.D.N.Y. 2001) (finding that superpriority administrative expenses should be authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be willing to extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988); *see also In re Snowshoe Co.*, 789 F.2d at 1088 (finding that credit was unavailable absent a senior priming lien because the debtor had made unsuccessful contact with other financial institutions in the relevant geographic area); *In re Stanley Hotel, Inc.*, 15 B.R. 660, 663 (D. Colo. 1981) (finding that the fact that two national banks refused to grant unsecured loans was sufficient to support the conclusion that the requirements of section 364 were met); *In re Ames Dep’t Stores*, 115 B.R. at 40 (approving financing facility and finding that debtor made reasonable efforts to satisfy the requirements of section 364(c) by approaching four lending institutions, two of which refused to provide financing, and selecting the most favorable of the two offers it received).

32. Courts have articulated a three-part test to determine whether a debtor is entitled to enter into financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code (i.e., by allowing an administrative claim);
- the credit transaction is necessary to preserve the assets of the estate; and
- the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

See In re Aqua Assocs., 123 B.R. 192, 195–96 (Bankr. E.D. Pa. 1991); *In re Ames Dep’t Stores*, 115 B.R. at 37–40; *In re St. Mary Hosp.*, 86 B.R. 393, 401–02 (Bankr. E.D. Pa. 1988); *Crouse Grp.*, 71 B.R. at 549.

33. In the event that a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides that a court “may authorize the obtaining of credit or the incurring of debt (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the

Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien.” 11 U.S.C. § 364(c).

34. As described above and in the declarations in support of the Motion, the Debtors are unable to obtain credit without the protections afforded by section 364(c) of the Bankruptcy Code. Thus, the Debtors determined that the Cash Flow DIP Facility, to the extent that such financing is necessary, provides the best opportunity available to the Debtors under the circumstances to fund the Chapter 11 Cases. Therefore, approving superpriority claims and liens on property of the Debtors’ estates in favor of the Cash Flow DIP Lender, as necessary, is reasonable and appropriate.

C. Debtors Should Be Authorized to Use Cash Collateral

35. For the reasons set forth herein and as described in the declarations in support of the Motion, the Debtors require the use of Cash Collateral of the Prepetition Lenders and the Prepetition Repo Buyers in accordance with the Budget for working capital for general corporate purposes and to fund the Chapter 11 Cases. Section 363(c) of the Bankruptcy Code governs a debtor’s use of a secured creditor’s cash collateral. Section 363(c) provides, in pertinent part, that:

The trustee may not use, sell, or lease cash collateral . . . unless—
 (A) each entity that has an interest in such cash collateral consents; or
 (B) the court, after notice and a hearing, authorizes such use, sale, or lease
 in accordance with the provisions of this section [363].

11 U.S.C. § 363(c)(2).

36. Further, section 363(e) of the Bankruptcy Code provides that “on request of an entity that has an interest in property . . . proposed to be used, sold or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest.” 11 U.S.C. § 363(e). Section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont’l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996) (*en banc*). While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as

granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Satcon Tech. Corp.*, No. 12-12869 (KG), 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012); *In re N.J. Affordable Homes Corp.*, No. 05-60442 (DHS), 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *see also In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) (citing 2 Collier on Bankruptcy ¶ 361.01[1] at 361–66 (15th ed. 1993) (explaining that adequate protection can take many forms and “must be determined based upon equitable considerations arising from the particular facts of each proceeding”).

37. Here, the Debtors have agreed to provide the Prepetition Lenders with adequate protection in the form of postpetition liens and superpriority claims as set forth above, which the Debtors believe is sufficient to cover any potential diminution in value. The Cash Flow DIP Facility and use of cash collateral are necessary to allow the Debtors to continue the operation of their businesses and execute an orderly wind down of their businesses, which will preserve and maximize the value of the Debtors and their estates for the benefit of all stakeholders, including the Prepetition Lenders. Accordingly, the Court should authorize the Debtors to use the Cash Collateral under section 363(c)(2) of the Bankruptcy Code.

D. The Carve-Out is Appropriate

38. The Carve-Out shall be senior to all liens and claims securing the Cash Flow DIP Facility, the adequate protection liens and claims and all other forms of adequate protections, liens, or claims securing the Cash Flow DIP Obligations or the other secured obligations.

39. Without the Carve-Out, the Debtors’ estates may be deprived of possible rights and powers if the services for which professionals may be compensated is restricted. *See In re Ames Dep’t Stores*, 115 B.R. at 38 (observing that courts insist on carve-outs for professionals representing parties in interest because “[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced”). Additionally, the Carve-Out protects against administrative insolvency during the course of these cases by ensuring that assets remain

for the payment of U.S. Trustee fees and professional fees, notwithstanding the grant of superpriority claims and replacement liens as part of the proposed adequate protection.

E. The Roll-Up is Appropriate

40. The proposed Interim Cash Flow DIP Order includes the approval of the Roll-Up DIP Loan, which has the effect of refinancing certain of the Prepetition Bridge Obligations. The Roll-Up DIP Loan is fair, equitable, and in the best interest of the Debtors' estates; further, the Debtors' acceptance of the Roll-Up DIP Loan is a sound exercise of the Debtors' business judgment.

41. Courts in this district have regularly approved roll-ups made pursuant to debtor-in-possession financing, including on an interim basis, in recognition of the fact that such terms are often needed for chapter 11 debtors to secure favorable postpetition financing. *See, e.g., In re True Religion Apparel, Inc.*, No. 20-10941 (CSS) (Bankr. D. Del. Apr. 15, 2020) [D.I. 78] (authorizing a DIP facility comprising (among other things) \$1,700,000 in new money to be provided following the entry of an interim DIP order, \$6,700,000 of new money to be provided following the entry of the final DIP order and a rollup of approximately \$45 million in prepetition obligations pursuant to interim order); *In re APC Automotive Techs. Intermediate Hldgs., LLC*, Case No. 20- 11466 (CSS) (Bankr. D. Del. June 4, 2020) (authorizing a full roll-up of approximately \$90 million of an asset-based lending (ABL) facility upon entry of an interim order); *In re Blackhawk Mining LLC*, Case No. 19-11595 (LSS) (Bankr. D. Del. Aug. 13, 2019) (authorizing an approximately \$240 million DIP that included a roll-up of \$70 million in prepetition term loan debt and up to \$82 million of prepetition ABL debt pursuant to interim order); *In re ATD Corp.*, Case No. 18-12221 (KJC) (Bankr. D. Del. Oct. 26, 2018) (authorizing an approximately \$1.23 billion DIP which included a full roll-up of the prepetition ABL outstanding principal of \$639 million pursuant to interim order); *In re Remington Outdoor Co., Inc.*, No. 18-10684 (BLS) [Bank. D. Del. Apr. 16, 2018] [D.I. 177] (authorizing the roll-up of prepetition loans provided by an insider of the debtor on an interim basis, applying the business judgment standard); *In re Bon-Ton Stores, Inc.*, Case

No. 18-10248 (MFW) (Bankr. D. Del. Feb. 6, 2018) (authorizing full roll-up of all \$489 million outstanding prepetition revolving obligations pursuant to interim order).

42. The Roll-Up DIP Loan is appropriate in these Chapter 11 Cases for several reasons. First, the Cash Flow DIP Lender provided the Prepetition Bridge Financing as a bridge loan to cover operational costs of the Debtors while the Debtors searched for alternative financing. The Debtors were not able to procure alternative financing and, as such, the Debtors and the Cash Flow DIP Lender agreed to the terms of the Cash Flow DIP Facility. The Cash Flow DIP Lender would not otherwise extend credit to the Debtors without the roll up provisions included in the Cash Flow DIP Documents. Accordingly, the Roll-Up DIP Loan is an appropriate exercise of the Debtors' business judgment and should be approved.

F. The Debtors Should Be Authorized to Pay Fees Required by the Cash Flow DIP Documents to the Extent that the Cash Flow DIP Facility is Consummated

43. As specified under the Cash Flow DIP Documents, the Debtors have agreed, subject to Court approval, to pay certain fees and other obligations to the Cash Flow DIP Lender. The fees and other obligations under the Cash Flow DIP Documents were negotiated in good faith and at arm's length and represent the most favorable terms to the Debtors on which the Cash Flow DIP Lender would agree to make the Cash Flow DIP Facility available. The Debtors considered the fees when determining in their sound business judgment whether entry into the Cash Flow DIP Facility constituted the best path forward for the Debtors, and the Debtors determined that paying these fees in order to obtain the financing under the Cash Flow DIP Facility is in the best interests of the Debtors' estates. Accordingly, the Court should authorize the Debtors to pay the fees under the Cash Flow DIP Facility.

G. The Cash Flow DIP Lender Should Be Deemed A Good Faith Lender Under Section 364(e)

44. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority

of the debtor to obtain such loans or to grant such liens is later reversed or modified on appeal.

Section 364(e) provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

45. Here, and as explained in the declarations in support of the Motion, the Cash Flow DIP Documents are the result of (i) the Debtors' reasonable judgment that the Cash Flow DIP Lender provided the best (and only) postpetition financing available under the circumstances and (b) extended arms' length, good-faith negotiations between the Debtors and the Cash Flow DIP Lender. Under the circumstances, the terms and conditions of the Cash Flow DIP Documents are fair and reasonable, and the proceeds of the Cash Flow DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code, in accordance with the Cash Flow DIP Orders and the Cash Flow DIP Documents and in accordance with the Budget (subject to the permitted variances). Accordingly, the Court should find that the Cash Flow DIP Lender is a "good faith" lender within the meaning of section 364(e) of the Bankruptcy Code and that the Cash Flow DIP Lender thus is entitled to all of the protections afforded by that section.

H. Modification of Automatic Stay is Warranted

46. The relief requested herein contemplates a modification and vacation of the automatic stay to permit the Debtors to, among other things, (a) grant the security interests, liens, and superpriority claims described above and to perform such acts as may be requested to assure the perfection and priority of such security interests and liens; and (b) implement the terms of the Cash Flow DIP Orders, including payment of all amounts referred to in the Cash Flow DIP Documents.

Stay modifications of this kind are ordinary and standard features of postpetition financing facilities and, in the Debtors' business judgment, are appropriate under the present circumstances. Accordingly, the Debtors request that the Court modify the automatic stay solely to the extent contemplated by the Cash Flow DIP Credit Agreement and the Cash Flow DIP Orders.

I. Interim Approval Should Be Granted

47. Bankruptcy Rules 4001(b)(2) and (c)(2) each provide that, with respect to motions for authorization to use cash collateral, and motions for authority to obtain credit, respectively:

The court may commence a final hearing on a motion . . . no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a [preliminary] hearing before such 14-day period expires, but the court may authorize . . . [relief] only . . . necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

48. Similarly, to the extent the Debtors are seeking authority to use, sell, or otherwise incur an obligation regarding property of their estates, Bankruptcy Rule 6003(b) provides that the Court may only grant immediate relief to the extent it is necessary to avoid immediate and irreparable harm.

49. Generally, courts find "immediate and irreparable harm" exists where loss of the business threatens ability to reorganize. *See Ames*, 115 B.R. at 36 n.2. Granting the relief requested on an interim basis is left to the Court's discretion as informed by the facts of the case. In examining requests for interim relief, courts apply the same business judgment standard applicable to other business decisions, and a debtor should be entitled to borrow those amounts that it believes prudent in the operation of its business. *See In re Trans World Airlines, Inc.*, 163 B.R. at 974; *Ames*, 115 B.R. at 40. After the 14-day period, the request for financing is not limited to those amounts necessary to prevent the destruction of the debtor's business, and the debtor is entitled to borrow those amounts that it believes are prudent to the operation of its business. *Ames*, 115 B.R. at 36.

50. The Debtors seek expedited approval of the relief requested, in light of the immediate and irreparable harm that the Debtors' estates will incur unless they obtain the financing and use of cash collateral necessary to sustain their businesses. Absent sufficient funds, the

Debtors' businesses and assets will quickly erode to the detriment of the Debtors' estates and creditors. For the reasons set forth above, the Debtors submit that immediate access to Cash Flow DIP Facility is necessary to preserve the value of the Debtors' estates for the benefit of their creditors and other parties in interest.

RESERVATION OF RIGHTS

51. Except as may be provided in the Cash Flow DIP Orders entered by the Court approving the Cash Flow DIP Facility, nothing contained herein is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors or any liens against the Debtors' property, (b) an agreement or obligation to pay any claims, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, (e) an approval, assumption, or rejection of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code, (f) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to the Cash Flow DIP Orders once entered. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Cash Flow DIP Orders is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently. Nothing contained in the Cash Flow DIP Orders will be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

WAIVER OF ANY APPLICABLE STAY

52. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in this Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that the Court waive the 14-day

stay imposed by Bankruptcy Rule 6004(h), to the extent applicable, as the exigent nature of the relief sought herein justifies immediate relief.

REQUEST FOR FINAL HEARING

53. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for consideration of entry of the Final Cash Flow DIP Order.

54. The Debtors request that they be authorized to serve a copy of the signed Interim Cash Flow DIP Order, which fixes the time and date for the filing of objections, if any, by first class mail upon the notice parties listed below. The Debtors further request that the Court consider such notice of the Final Hearing to be sufficient notice under Bankruptcy Rule 4001(c)(2).

NOTICE

55. The Debtors will provide notice of this motion to: (a) the Office of the U.S. Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the United States Attorney's Office for the District of Delaware; (d) the Internal Revenue Service; (e) counsel to the Cash Flow DIP Lender, and (f) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(b).

NO PRIOR REQUEST

56. No prior request for the relief sought in this motion has been made to this or any other court.

CONCLUSION

WHEREFORE the Debtors respectfully request entry of the Cash Flow DIP Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 30, 2022

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Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT A

Interim Cash Flow DIP Order

EXHIBIT B

Cash Flow DIP Term Sheet

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

In re:
FIRST GUARANTY MORTGAGE
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10584 (CTG)

(Jointly Administered)

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION OPERATIONAL CASH FLOW FINANCING;
(II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL;
(III) GRANTING LIENS AND PROVIDING SUPER-PRIORITY
ADMINISTRATIVE EXPENSE STATUS; (IV) GRANTING ADEQUATE
PROTECTION; (V) SCHEDULING A FINAL HEARING; (VI) MODIFYING
THE AUTOMATIC STAY; AND (VII) GRANTING RELATED RELIEF**

Upon the motion, dated June 30, 2022 (the “Cash Flow DIP Motion”), of First Guaranty Mortgage Corporation (“FGMC”) and Maverick II Holdings, LLC (“Maverick”), the debtors and debtors in possession (together, the “Debtors”) in the above-captioned chapter 11 cases (the “Cases”), seeking entry of an order (this “Interim Cash Flow DIP Order”) pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506, 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6003, 6004, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 2002-1, 4001-1, 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), *inter alia*:

- (i) authorizing, pursuant to sections 105(a), 363(b), 364(c), and 364(d) of the Bankruptcy Code, the Debtors to execute, deliver, perform under and enter into transactions under:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors’ mailing address is 5400 Tennyson Parkway, Suite 450, Plano, TX 75024.

- (a) that certain Senior Secured Superpriority Debtor-in-Possession Term Loan and Security Agreement, to be dated on or about the DIP Closing Date,² the form of which is attached as Exhibit A to this Interim Cash Flow DIP Order (as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Cash Flow DIP Credit Agreement,” and all obligations or liabilities with respect to the Cash Flow DIP Credit Agreement, the “Cash Flow DIP Obligations”), among (i) FGMC, as borrower, (ii) Maverick, as “Holdings” (and a guarantor) and (iii) LVS II SPE XXXIV LLC, as lender (the “Cash Flow DIP Lender”), which shall consist of (a) a senior secured, superpriority multi-draw term loan facility, in the aggregate amount not to exceed \$22,000,000 (the “Operating Amount”) plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts (each as defined in the Cash Flow DIP Credit Agreement) (the “Cash Flow DIP Facility”) and, (b) subject to entry of the Final Cash Flow DIP Order (as defined below), a roll up facility consisting of the Prepetition Bridge Loan Obligations (as defined below) that are remaining after the Prepetition B2 FIE Financed Loan Obligations (as defined below) are refinanced by the DIP Repo Facility (such remaining Prepetition Bridge Loan Obligations, the “Roll-Up Obligations”), which Roll-Up Obligations shall be converted into a portion of the outstanding Cash Flow DIP Obligations; and
- (b) all other documents related thereto, including a custodial agreement related to the loan files for the B2 FIE Financed Loans (as defined below), (collectively with the Cash Flow DIP Credit Agreement, the “Cash Flow DIP Documents”).
- (ii) granting, subject to the Carve-Out (as defined below) the priorities identified herein:
- (a) to the Cash Flow DIP Lender, superpriority claims pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code, against the Debtors to secure the Cash Flow DIP Obligations on a joint and several basis, which shall be junior in all respects to the DIP Repo Superpriority Claim (as defined below);
- (b) to the Cash Flow DIP Lender, the Cash Flow DIP Liens (as defined below), pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, to secure the Cash Flow DIP Obligations, on the Cash Flow DIP Collateral (as defined below), including (i) a first-priority lien on the Debtors’ unencumbered property, (ii) a first-priority priming lien on Prepetition Bridge Loan Collateral (as defined below), and (iii) junior liens on the DIP Repo Facility Backup Collateral and the Prepetition Loan Collateral (as

² For purposes herein, the “DIP Closing Date” means the date on which the Cash Flow DIP Facility is entered into and becomes effective, which shall occur on the date that this Interim Cash Flow DIP Order is entered or as soon as practicable thereafter.

both terms are defined below) other than Prepetition Bridge Loan Collateral; and

- (c) to the DIP Repo Guarantor, subject to satisfaction of the DIP Repo Guarantee Lien Condition (as defined below), first-priority priming liens and security interests, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, on the Cash Flow DIP Collateral and *pari passu* with the Cash Flow DIP Liens, to secure amounts actually advanced by the DIP Repo Guarantor under the DIP Repo Guarantee made by it for the benefit of the DIP Repo Facility Purchasers;³
- (iii) authorizing the Debtors, pursuant to sections 361, 362 and 363 of the Bankruptcy Code:
 - (a) to use the Prepetition Loan Collateral (as defined below) (including cash collateral, which for the avoidance of doubt shall not include the DIP Repo Facility Backup Collateral or any other Excluded Asset (as both terms are defined below)); and
 - (b) to provide adequate protection, subject to the Carve-Out and the priorities identified herein, to the Prepetition Lenders.
- (iv) upon entry of an Order approving Cash Flow DIP Facility on a final basis (the “Final Cash Flow DIP Order”), authorizing the Debtors to waive:
 - (a) any Debtors’ right to surcharge collateral pursuant to section 506(c) of the Bankruptcy Code or otherwise;
 - (b) the “equities of the case” exception pursuant to section 552(b) of the Bankruptcy Code; and
 - (c) the equitable doctrine of marshaling or similar doctrines;

³ For purposes herein:

- a. The “DIP Repo Facility” has the meaning ascribed to it in the [DIP Motion] (the “DIP Repo Motion”).
- b. The “DIP Repo Agent” has the meaning ascribed to it in the DIP Repo Motion.
- c. The “DIP Repo Parties” has the meaning ascribed to it in the DIP Repo Motion.
- d. The “DIP Repo Facility Purchasers” means the buyers from time to time under the DIP Repo Facility, together with the DIP Repo Agent acting on their behalf.
- e. “DIP Repo Superpriority Claims” means the “DIP Superpriority Claims,” as defined in the Interim DIP Repo Order.
- f. The “DIP Repo Guarantee” means that certain Limited Recourse Guarantee, to be dated on or about the DIP Closing Date, attached as Exhibit C to the Motion (as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof), by and among the DIP Repo Agent and [Bravo Fund II, L.P.], as guarantor (the “DIP Repo Guarantor”), pursuant to which the DIP Repo Guarantor has agreed to provide a limited guaranty of FGMC’s obligations under the DIP Repo Facility.
- g. The “Prepetition Lenders” means B2 FIE XI LLC, Flagstar Bank, FSB (“Flagstar”), and Customers Bank (“Customers”).
- h. The “Prepetition Repo Facility Purchasers” has the meaning ascribed to it in the DIP Repo Motion.

- (v) authorizing the Debtors to use the proceeds of the Cash Flow DIP Facility, in accordance with this Interim Cash Flow DIP Order and the Cash Flow DIP Documents;
- (vi) modifying the automatic stay to the extent set forth herein and in the Cash Flow DIP Documents; and
- (vii) scheduling a final hearing (the “Final Hearing”) to consider final approval of the Cash Flow DIP Documents as set forth in the Motion.

The United States Bankruptcy Court for the District of Delaware (the “Court”) having considered the Cash Flow DIP Motion, the exhibits attached thereto, the declarations in support of the Cash Flow DIP Motion, the Cash Flow DIP Documents; and the Interim Hearing having been held by this Court on July 1, 2022; and pursuant to Bankruptcy Rule 4001 and Local Rule 4001-2, due and sufficient notice of the Cash Flow DIP Motion and the relief sought at the Interim Hearing having been given under the particular circumstances by the Debtors; this Court having considered the Cash Flow DIP Motion and all pleadings related thereto, including the record made by the Debtors at the Interim Hearing; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

**BASED UPON THE PLEADINGS AND THE RECORD, THE COURT MAKES
THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:⁴**

A. Petition Date. On June 30, 2022 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

B. Joint Administration. The Court entered an order approving the joint administration of the Cases.

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

C. Debtors in Possession. The Debtors have continued in the management and operation of their businesses and properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

D. Jurisdiction and Venue. This Court has core jurisdiction over the Cases, the Cash Flow DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue for the Cases and proceedings on the Cash Flow DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The Court may enter a final order consistent with Article III of the United States Constitution. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 364(c), 364(d)(1), 364(e), 503, 506, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004, 9013 and 9014, and Local Rules 2002-1, 4001-1, 4001-2 and 9013-1.

E. Committee Formation. As of the date hereof, the United States Trustee for the District of Delaware (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in the Cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”).

F. Debtors’ Stipulations. After consultation with their attorneys and financial advisors, the Debtors, subject to the limitations thereon contained in Paragraph [23] of this Interim Cash Flow DIP Order, on their behalf and on behalf of their estates, admit, acknowledge, agree, and stipulate as follows:

(a) *Prepetition Bridge Loans.* Pursuant to that certain Second Amended and Restated Secured Promissory Note, dated as of June 29, 2022, executed by FGMC, as borrower, and in favor of B2 FIE XI LLC, as lender, (“Prepetition Bridge Lender”) (as amended, restated, supplemented or otherwise modified from time to time, the “Prepetition Bridge Loan Agreement”), extended certain loans and other financial accommodations to the Debtors (the “Prepetition Bridge Loans”). The Prepetition Bridge Loan Agreement and any other agreements and documents executed or delivered in connection therewith or pursuant thereto, each as may be amended, restated, supplemented or otherwise modified from time to time are collectively referred to herein

as the “Prepetition Bridge Loan Documents.”

(b) *Prepetition Bridge Loan Obligations*. As of the Petition Date:

(i) The Prepetition Bridge Lender is owed on account of the Prepetition Bridge Loans the principal amount of \$18,350,771 (such obligations, together with all interest, fees, reimbursement obligations, indemnification obligations and all other “Obligations” under and as defined in the Prepetition Bridge Loan Agreement, the “Prepetition Bridge Loan Obligations”).

(ii) The Debtors are absolutely and unconditionally obligated to the Prepetition Bridge Lender in respect of the Prepetition Bridge Loan Obligations under the Prepetition Bridge Loan Agreement.

(c) *Prepetition Bridge Loan Liens and Prepetition Bridge Loan Collateral*. As more fully set forth in the Prepetition Bridge Loan Documents:

(i) Pursuant to the Prepetition Bridge Loan Agreement, the Debtors pledged to the Prepetition Bridge Lender a senior secured lien on substantially all of its personal property assets (the “Prepetition Bridge Loan Liens”), including all proceeds thereof, whether then owned and existing or thereafter acquired or arising (the “Prepetition Bridge Loan Collateral”).⁵

(d) *Validity, Perfection and Priority of Prepetition Bridge Loan Liens and Prepetition Bridge Loan Obligations*. The Debtors acknowledge and agree that as of the Petition Date: (a) the Prepetition Bridge Loan Liens on the Prepetition Bridge Loan Collateral are (i) valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Bridge Lenders for fair consideration and reasonably equivalent value and (ii) senior in priority over any and all other liens on the Prepetition Bridge Loan Collateral other than any other liens that are valid, properly perfected (before the Petition Date or in accordance with section 546 of the Bankruptcy Code), non-avoidable, and senior in priority as a matter of law (“Prepetition Prior Liens”);⁶ (b) the Prepetition Bridge Loan Obligations constitute legal, valid, binding and non-avoidable obligations of the Debtors enforceable in accordance with the terms of the Prepetition Bridge Loan Documents; (c) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Bridge Loan Liens or Prepetition Bridge Loan Obligations exist, and no portion of the Prepetition Bridge Loan Liens or Prepetition Bridge Loan

⁵ For purposes of this Order, the “Prepetition Loan Collateral” shall mean the following: (i) the Prepetition Bridge Loan Collateral; (ii) the collateral granted to Flagstar pursuant to that certain Mortgage Warehousing Loan and Security Agreement dated as of June 30, 2017, between FGMC, as borrower, and Flagstar, and any other agreements and documents executed or delivered in connection therewith or pursuant thereto; and (iii) the collateral granted to Customers pursuant to that certain Amended and Restated Loan Agreement dated as of July 17, 2019, between FGMC, as borrower, and Customers, and any other agreements and documents executed or delivered in connection therewith or pursuant thereto.

⁶ Nothing herein shall constitute a finding or ruling by this Court that any asserted Prepetition Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable.

Obligations (or any payment made in respect of any thereof) is subject to any challenge or defense, including, without limitation, avoidance, disallowance, disgorgement, recharacterization or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or other applicable law; (d) any payments made on account of the Prepetition Bridge Loan Obligations before the Petition Date were (1) payments out of the Prepetition Bridge Loan Collateral and/or (2) made in the ordinary course of business and in exchange for reasonably equivalent value and did not diminish any property otherwise available for distribution to unsecured creditors; and (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under chapter 5 of the Bankruptcy Code or actions for recovery or disgorgement, against the Prepetition Bridge Lender, or any of its Related Parties,⁷ arising out of, based upon or related to their respective obligations under the Prepetition Bridge Loan Documents. For the avoidance of doubt, the Debtors acknowledge and agree that as of the Petition Date, the Prepetition Bridge Lenders have perfected, first-priority (subject only to applicable Prepetition Prior Liens) liens on the Prepetition Bridge Loan Collateral

(e) *Release of Claims.* The Debtors shall be deemed to have forever waived, discharged and released each of the Prepetition Bridge Lender and each of their respective Related Parties⁸ (collectively, the “Prepetition Bridge Lender Releasees”) from any and all “claims” (as defined in the Bankruptcy Code), counterclaims, causes of action (including causes of action in the nature of “lender liability”), defenses, setoff, recoupment, other offset rights and other rights of disgorgement or recovery against any and all of the Prepetition Bridge Lender Releasees, whether arising at law or in equity, relating to and/or otherwise in connection with the Prepetition Bridge Loan Liens, the Prepetition Bridge Loan Obligations, the Prepetition Bridge Loan Documents or the debtor-creditor relationship between any of the Prepetition Bridge Lender, on the one hand, and the Debtors, on the other hand, including, without limitation, (a) any recharacterization, subordination, avoidance, disallowance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law, municipal law or foreign law and (b) any right or basis to challenge or object to the amount, validity, or enforceability of the Prepetition Bridge Loan Obligations or any payments or other transfers made on account of the Prepetition Bridge Loan Obligations, or the validity, enforceability, priority, or non-avoidability of the Prepetition Bridge Loan Liens securing the Prepetition Bridge Loan Obligations, including any right or basis to seek any disgorgement or recovery of payments of cash or any other distributions or transfers previously received by any of the Prepetition Bridge Lender Releasees.

(f) *Cash Collateral.* All of the Debtors’ cash, including any cash in deposit accounts of the Debtor, wherever located, and any proceeds of the sale of the Prepetition Bridge Loan Collateral (including, without limitation, any proceeds from the Bankruptcy Sale (as defined below)) constitutes Cash Collateral of the Prepetition Bridge Lender.

⁸ For purposes of this Order, “Related Party” means, with respect to any specified person (as defined in the Bankruptcy Code), such person’s affiliates (as defined in the Bankruptcy Code) and the respective directors, officers, employees, agents, investment managers, subagents, representatives, and advisors (including attorneys, accountants and experts) of such person and such person’s affiliates. For the avoidance of doubt, the affiliates of the Prepetition Bridge Lender and Cash Flow DIP Lender include Pacific Investment Management Company LLC, B2 FIE IV LLC, LVS II Offshore, L.P., LVS II Holdings, LP, and Bravo II Guarantor I LLC.

G. Findings Regarding Corporate Authority. The Debtors have all requisite corporate power and authority to execute and deliver the Cash Flow DIP Documents to which they are parties to and to perform their obligations thereunder.

H. Adequate Notice of Interim Hearing. On June 30, 2022 the Debtors filed the Cash Flow DIP Motion with this Court, pursuant to Bankruptcy Rules 2002, 4001, 9013 and 9014, and represent that they provided notice of the Cash Flow DIP Motion and the Interim Hearing to the following parties and/or their respective counsel as follows: (i) the U.S. Trustee, (ii) the Debtors' [twenty (20)] largest unsecured creditors on a consolidated basis (excluding insiders), (iii) counsel to the Prepetition Bridge Lender, (iv) respective counsel for each of the Prepetition Repo Facility Purchasers, (v) counsel to Flagstar, (vi) counsel to Customers, (vii) counsel to the Cash Flow DIP Lender, (viii) counsel to the DIP Repo Lender, and (ix) any other party entitled to notice pursuant to Local Rule 9013-1(m). The notice given by the Debtors of the Cash Flow DIP Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b), (c) and (d) and 9013 and the applicable Local Rules.

I. Findings Regarding Postpetition Financing.

(a) *Good Cause.* Good and sufficient cause has been shown for the entry of this Interim Cash Flow DIP Order.

(b) *Necessity of Cash Flow DIP Facility.* An immediate and critical need exists to obtain the Cash Flow DIP Facility and to use cash collateral in order to permit, among other things, the continued operation of the Debtors' businesses in the ordinary course, to administer and preserve the value of their estates, to maintain business relationships and to satisfy other working capital and operational needs. In the absence of the availability of funds in accordance with the terms of the Cash Flow DIP Documents and this Interim Cash Flow DIP Order, the continued

operation of the Debtors' business would not be possible. The access of the Debtors to sufficient working capital and liquidity through the Cash Flow DIP Facility and the use of cash collateral is necessary and vital to avoid serious and irreparable harm to the Debtors and to achieve a successful reorganization. Consummation of the transactions contemplated by the Cash Flow DIP Documents and this Interim Cash Flow DIP Order is therefore in the best interests of the Debtors' estates.

(c) *No Financing Available on More Favorable Terms.* Given their financial condition and capital structure, and despite their diligent efforts, the Debtors are unable to reasonably obtain from other sources sufficient postpetition liquidity, and the Cash Flow DIP Facility is the only such operational financing facility available at this time. The Debtors have also been unable to obtain secured credit from other sources (i) having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a), and 507(b) of the Bankruptcy Code; (ii) secured only by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (iii) secured solely by a junior lien on property of the Debtors and their estates that is already subject to a lien. A loan facility in the amount provided by the Cash Flow DIP Documents is not otherwise available to the Debtors without granting the Cash Flow DIP Lender superpriority claims and superpriority priming liens and security interests, pursuant to sections 364(c)(1), (2), (3), and 364(d) of the Bankruptcy Code, as provided in this Interim Cash Flow DIP Order and the Cash Flow DIP Documents. After considering the advantages and disadvantages of the proposed Cash Flow DIP Facility, the Debtors have concluded, in the exercise of their prudent business judgment, that moving forward with the proposed Cash Flow DIP Facility is the best financing alternative reasonably available. The Cash Flow DIP Facility will permit the Debtors to operate their businesses in the ordinary course. Additionally, the terms of the Cash Flow DIP Facility are fair

and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

(d) *Willingness to Provide Liquidity.* The Cash Flow DIP Lender has indicated a willingness to engage in the transactions contemplated by the Cash Flow DIP Documents and this Interim Cash Flow DIP Order in reliance on, among other things, (i) approval by the Court of the terms and conditions of the Cash Flow DIP Documents with respect to the Cash Flow DIP Obligations, and (ii) entry of findings of the Court that (A) the Cash Flow DIP Facility and the other financial accommodations pursuant to the Cash Flow DIP Documents are essential to the Debtors' estates and are being extended in good faith, and (B) the Cash Flow DIP Superpriority Claims and the Cash Flow DIP Liens (each as defined below) will have the protections provided for in section 364(e) of the Bankruptcy Code.

(e) *Good Faith.* The Cash Flow DIP Documents have been negotiated in good faith and at arm's length among the Debtors, the Cash Flow DIP Lender, and their respective representatives. All of the Cash Flow DIP Obligations arising under, in respect of, or in connection with the Cash Flow DIP Facility and Cash Flow DIP Documents shall be deemed to have been extended by the Cash Flow DIP Lender in accordance with the Cash Flow DIP Documents and in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and shall therefore be entitled to the full protection of section 364(e) of the Bankruptcy Code and the terms, conditions, benefits and privileges of this Interim Cash Flow DIP Order regardless of whether this Interim Cash Flow DIP Order is subsequently reversed, vacated, modified or otherwise no longer in full force and effect or the Cases are subsequently converted or dismissed.

J. Adequate Protection. The Prepetition Lenders are entitled, pursuant to sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of their interests in the Prepetition Loan Collateral for, and equal in amount to, any diminution in the value of the Prepetition Lenders' interests in the Prepetition Loan Collateral pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. As adequate protection, the Prepetition Lenders shall be granted, as set forth herein, superpriority administrative claims and adequate protection liens for, and in an amount equal to, any Diminution in Value (as defined below) of the Prepetition Lenders' interests in the Prepetition Loan Collateral, but subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out (collectively, the "Forms of Adequate Protection"). Based on the Cash Flow DIP Motion and on the record presented to the Court, the Forms of Adequate Protection are fair and reasonable and reflect the Debtors' prudent exercise of business judgment.

K. Consideration. The Debtors will receive and have received fair consideration and reasonably equivalent value in exchange for access to the Cash Flow DIP Facility and all other financial accommodations provided under the Cash Flow DIP Facility, the Cash Flow DIP Documents, and this Interim Cash Flow DIP Order. The terms of the Cash Flow DIP Facility pursuant to the Cash Flow DIP Documents and the use of the Cash Flow DIP Collateral (including the cash collateral) pursuant to this Interim Cash Flow DIP Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment and constitute reasonably equivalent value and fair consideration.

L. Sections 506(c) and 552(b) of the Bankruptcy Code. The Cash Flow DIP Lender and Prepetition Lenders each shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code. Because of the agreement of the Cash Flow DIP Lender and Prepetition

Lenders, as the case may be, to subordinate the Cash Flow DIP Liens, the Cash Flow DIP Superpriority Claims, the Adequate Protection Liens and the 507(b) Claims (each as defined below) to the payment of certain administrative expenses of the Debtors' estates pursuant to the Carve-Out, the Cash Flow DIP Lender and the Prepetition Lenders are each entitled to a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code subject to entry of the Final Cash Flow DIP Order such that the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Cash Flow DIP Lender or the Prepetition Lenders with respect to proceeds, products, offspring or profits of any of the Cash Flow DIP Collateral (as defined below) and/or Prepetition Loan Collateral, as applicable. Similarly, upon entry of the Final Cash Flow DIP Order, each of the Cash Flow DIP Lender and Prepetition Lenders are entitled to a waiver of section 506(c) of the Bankruptcy Code.

M. No Marshaling/Application of Proceeds. Subject to and upon entry of the Final Cash Flow DIP Order, neither the Cash Flow DIP Lender nor the Prepetition Bridge Lender shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any obligations, liens or collateral acknowledged or approved pursuant to this Interim Cash Flow DIP Order or the Final Cash Flow DIP Order.

N. Immediate Entry. The Debtors have requested immediate entry of this Interim Cash Flow DIP Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Bankruptcy Rule 4001-2. Absent the granting of the relief set forth in this Interim Cash Flow DIP Order, the Debtors will be immediately and irreparably harmed. Entry of this Interim Cash Flow DIP Order is in the best interests of the Debtors and their estates and creditors because it will, among other things, allow the Debtors to continue to operate in the ordinary course of their businesses and thereby maximize the value of their estates.

O. DIP Repo Facility. On the Petition Date, the Debtors also filed the DIP Repo Motion, seeking, among other things, the entry of an Order granting the relief requested therein on an interim basis (the “Interim DIP Repo Order”). Subject to approval pursuant to the Interim DIP Repo Order, a portion of the proceeds of the DIP Repo Facility will be used to purchase the mortgage loans financed by the Prepetition Bridge Loans (as defined in the Interim DIP Repo Order, the “B2 FIE Financed Loans”) and repay the portion of the Prepetition Bridge Loans Obligations used to finance the B2 FIE Financed Loans (as defined in the Interim DIP Repo Order, the “Prepetition B2 FIE Financed Loan Obligations”). Notwithstanding anything to the contrary in this Interim Cash Flow DIP Order or any other order of the Court or any other document, in no event shall the Cash Flow DIP Facility be paid down (by mandatory or voluntary prepayment) while any portion of the DIP Repo Obligations (as defined in the Interim DIP Repo Order) remain outstanding; *provided*, for the avoidance of doubt, that nothing in this sentence prohibits the repayment of the Prepetition B2 FIE Financed Loan Obligations.

Based upon the foregoing findings and conclusions, the Cash Flow DIP Motion and the record before the Court with respect to the Cash Flow DIP Motion, and good and sufficient cause appearing therefore, **IT IS HEREBY ORDERED** that:

1. Motion Granted/Interim Financing Approved. The Cash Flow DIP Motion is granted on an interim basis. The Debtors are hereby authorized to enter into the Cash Flow DIP Documents, and the Cash Flow DIP Documents are hereby approved as described further below. All objections to the Cash Flow DIP Motion and to this Interim Cash Flow DIP Order to the extent not withdrawn, waived, settled or resolved are hereby denied and overruled on the merits.
2. Effectiveness. Subject to the terms hereof, this Interim Cash Flow DIP Order shall become immediately effective and enforceable *nunc pro tunc* to the Petition Date, upon the date

this Interim Cash Flow DIP Order is signed by the Court and entered on the docket in the Cases (the “Interim Cash Flow DIP Order Entry Date”), and there shall be no stay of execution or effectiveness of this Interim Cash Flow DIP Order.

3. Authorization of the Cash Flow DIP Facility

(a) Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are immediately authorized and empowered to (i) enter into and perform their obligations under the Cash Flow DIP Credit Agreement, (ii) execute and deliver all other Cash Flow DIP Documents required or advisable to effect the Cash Flow DIP Facility, and (iii) take all actions which may be necessary or advisable for the performance by the Debtors under the Cash Flow DIP Documents. The Debtors are hereby authorized on an interim basis to borrow up to the aggregate principal amount of \$11,000,000 million out of the Operating Amount, plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts, all of which shall be used by the Debtors as permitted by the Cash Flow DIP Documents, including, without limitation, subject to the Approved Budget (as defined below).

(b) In furtherance of the foregoing and without further approval of this Court, the Debtors are authorized and empowered to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all related fees and expenses, that the Cash Flow DIP Lender may reasonably determine is required or necessary for the Debtors’ performance of their obligations under the Cash Flow DIP Facility, including, without limitation:

(i) the execution, delivery, and performance of the Cash Flow DIP Documents, including, without limitation, the Cash Flow DIP Credit Agreement and any security and pledge agreements contemplated thereby;

(ii) the execution, delivery and performance of one or more amendments, waivers, consents or other modifications to and under the Cash Flow DIP Documents, in each case in such form as the Debtors and other required parties may agree;

(iii) the non-refundable payment or reimbursement of the reasonable and documented fees, costs and expenses referred to in the Cash Flow DIP Documents, including the fees and expenses of the Cash Flow DIP Lender, and costs and expenses payable under the Cash Flow DIP Documents; and

(iv) the performance of all other acts required under or in connection with the Cash Flow DIP Documents.

4. Cash Flow DIP Obligations. Upon execution of the Cash Flow DIP Documents, the Cash Flow DIP Documents and Cash Flow DIP Obligations shall constitute valid, binding and non-avoidable obligations of the Debtors enforceable against each person or entity party to the Cash Flow DIP Documents (a “Cash Flow DIP Party”) in accordance with the terms thereof and the terms of this Interim Cash Flow DIP Order, and any of their successors and assigns, including any trustee appointed in the Cases or in any case under chapter 7 of the Bankruptcy Code upon conversion of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the “Successor Cases”). No obligation, payment, transfer or grant of security hereunder or under the Cash Flow DIP Documents shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable law (including under sections 502(d), 544, 547, or 550 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, disallowance (whether

equitable or otherwise), impairment or any other challenges under the Bankruptcy Code or any other applicable foreign or domestic law or regulation by any person or entity.

5. Security for the Cash Flow DIP Obligations.

(a) Effective immediately upon entry of this Interim Cash Flow DIP Order, the Court hereby grants the following valid, binding, enforceable, non-avoidable, automatically and properly perfected postpetition senior priming security interests and liens (collectively, the “Cash Flow DIP Liens”) to the Cash Flow DIP Lender, in each case to secure the Debtors’ obligations under the Cash Flow DIP Documents: a lien and security interest, pursuant to section 364(c) and section 364(d) of the Bankruptcy Code, upon all property identified in (i), (ii) and (iii) below and subject to the relevant priorities described below and in the Interim DIP Repo Order (in each case, other than Excluded Assets (as defined below)) (collectively, the “Cash Flow DIP Collateral”). The Cash Flow DIP Liens on the Cash Flow DIP Collateral shall be senior in all respects to the security interests in, and liens on, the Cash Flow DIP Collateral and subject only to (A) the Carve-Out, (B) valid, perfected and non-avoidable liens (other than liens of the Prepetition Bridge Loan Lender, which shall be primed) on Cash Flow DIP Collateral that are in existence on the Petition Date, solely to the extent such liens are senior in priority to the Cash Flow DIP Liens on Cash Flow DIP Collateral, (C) valid and non-avoidable liens on Cash Flow DIP Collateral that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code solely to the extent such liens are senior in priority to the Cash Flow DIP Liens on Cash Flow DIP Collateral, and (D) as to the DIP Repo Facility Backup Collateral (as defined below) only, the lien of the DIP Repo Agent in such collateral.

(i) Priming Lien on Prepetition Bridge Loan Collateral. Pursuant to section 364(d) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-

Out, a valid, binding, continuing, enforceable, fully perfected, senior priming lien on, and security interest in, the Prepetition Bridge Loan Collateral.

(ii) Senior Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully perfected, first priority lien on, and security interest in, all tangible and intangible prepetition and postpetition property in which any of the Debtors has an interest, whether existing on or after the Petition Date or thereafter acquired, that is not subject to a valid, perfected, non-avoidable and enforceable lien or security interest in existence on or as of the Petition Date (collectively, the “Unencumbered Property”), including, without limitation, (i) any cash of the Debtors, (subject to the limitations on the Carve-Out Account set forth herein) and any investment of such cash (*provided* that such cash shall not include any cash that constitutes DIP Repo Collateral), inventory, accounts receivable, other rights to payment whether arising before or on the Petition Date, including without limitation the warehouse related cash accounts at FGMC, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, equity interests, and any claims and causes of the Debtors; (ii) any commercial tort claims and causes of action of any of the Debtors and any claims or causes of action against any directors or officers of the Debtors as well as any proceeds of, or property recovered in connection with, any successful claims and causes of action against any directors or officers of the Debtors; (iii) upon entry of the Final Cash Flow DIP Order, proceeds of the Debtors’ claims and causes of action arising under chapter 5 of the Bankruptcy Code (collectively, the “Avoidance Actions”); and (iv) the proceeds of all of

the foregoing; *provided* that the Unencumbered Property shall exclude the Excluded Assets, to the extent set forth in the definition thereof; and

(iii) Junior Liens on Prepetition Loan Collateral and DIP Repo Backup Collateral. Pursuant to section 364(c)(3) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully perfected, junior lien on, and security interest in (a) the Prepetition Loan Collateral (other than the Prepetition Bridge Loan Collateral), which security interests and liens in favor of the Cash Flow DIP Lender shall be immediately junior to the Prepetition Lenders and (b) the DIP Repo Facility Backup Collateral,⁹ which security interests and liens in favor of the Cash Flow DIP Lender shall be immediately junior to the DIP Repo Lender; *provided* that, for the avoidance of doubt, the Cash Flow DIP Liens shall attach to the DIP Repo Facility Backup Collateral only to the extent that (i) the Transactions (as defined DIP Repo Facility Agreement) are recharacterized as other than sales or (ii) the Purchased Assets are repurchased by the Debtors.

(b) The Cash Flow DIP Liens shall be effective immediately upon the Interim Cash Flow DIP Order Entry Date.

(c) The Cash Flow DIP Liens are granted on the Cash Flow DIP Collateral *nunc pro tunc* to the Petition Date without the necessity of the execution by the Debtors (or recordation or other filing or notice) of security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents, or the possession or control by the applicable agents or Cash Flow DIP Lender. As set forth below in Paragraph [20] of this Interim Cash Flow DIP Order, the Cash Flow DIP Lender may, but shall not be obligated to, execute,

⁹ As set forth in the Interim DIP Repo Order, the term “DIP Repo Facility Backup Collateral” means the Purchased Assets (as defined in the DIP Repo Facility Agreement).

record, file, or notice such security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents with respect to the Cash Flow DIP Liens, or possess or control the Cash Flow DIP Collateral, and the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to implement the foregoing.

6. Cash Flow DIP Superpriority Claims. The Cash Flow DIP Lender is hereby granted superpriority administrative expense claims (the “Cash Flow DIP Superpriority Claims”) pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code against each of the Debtors to secure such Cash Flow DIP Obligations. The Cash Flow DIP Superpriority Claims shall be senior to all other administrative expense or other claims, including those arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 546(c), 546(d), 726, 1113, and 1114 of the Bankruptcy Code. Notwithstanding the foregoing, the Cash Flow DIP Superpriority Claims shall be subject and subordinate in all respects to the Carve-Out and the DIP Repo Superpriority Claims and, pending entry of the Final Cash Flow DIP Order, shall not be payable from the proceeds of Avoidance Actions.

7. Security for the DIP Repo Guarantor.

(a) In order to provide credit support on behalf of the Debtors and to induce the DIP Repo Parties to extend credit under the DIP Repo Facility, the DIP Repo Guarantor agreed to guarantee the obligations of FGMC under the DIP Repo Facility up to the DIP Repo Guarantee Limit. The provision of the DIP Repo Guarantee was a material inducement to the DIP Repo Agent and the DIP Repo Facility Purchasers extending postpetition warehouse financing to the Debtors pursuant to the DIP Repo Facility. Additionally, absent the provision of the DIP Repo Guarantee, the DIP Repo Facility Purchasers would have provided a lower advance rate under the

DIP Repo Facility, which in turn would have increased the funding need of the Debtors under the Cash Flow DIP Facility on a dollar-for-dollar basis.

(b) Effective immediately upon entry of this Interim Cash Flow DIP Order, the Court hereby grants the following valid, binding, enforceable, non-avoidable, automatically and properly perfected postpetition security interests and liens (collectively, the “DIP Repo Guarantee Liens”) to the DIP Repo Guarantor, to secure amounts actually advanced by the DIP Repo Guarantor under the DIP Repo Guarantee for the benefit of the DIP Repo Facility Purchasers: a contingent first-priority lien and security interest, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, on the Cash Flow DIP Collateral, which shall arise only upon the full and indefeasible payment and satisfaction of the obligations under the DIP Repo Facility (the “DIP Repo Guarantee Lien Condition”). The DIP Repo Guarantee Liens shall be *pari passu* with the Cash Flow DIP Liens.

(c) The DIP Repo Guarantee Liens are granted on the Cash Flow DIP Collateral *nunc pro tunc* to the Petition Date without the necessity of the execution by the Debtors (or recordation or other filing or notice) of security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents, or the possession or control by the applicable agents or any other Cash Flow DIP Party. As set forth below in Paragraph [20] of this Interim Cash Flow DIP Order, the DIP Repo Guarantor may, but shall not be obligated to, execute, record, file, or notice such security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents with respect to the DIP Repo Guarantee Liens, or possess or control the Cash Flow DIP Collateral, and the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to implement the foregoing.

8. Excluded Assets. Notwithstanding anything to the contrary in this Interim Cash Flow DIP Order or the Cash Flow DIP Documents, the Cash Flow DIP Collateral shall not include (i) any leasehold interest of a Debtor to the extent the granting of liens on such interest would, after giving effect to the Bankruptcy Code or this Interim Cash Flow DIP Order, nonetheless result in the abandonment, invalidation or unenforceability of any right, title or interest under any lease governing such leasehold interest or a breach or termination of such lease pursuant to its terms, (ii) any escrow, fiduciary, or trust account (including funds held in such accounts unless and until released or distributed to the Debtors), (iii) the Debtors' intellectual property that constitutes "intent to use" trademarks, to the extent the assignment of the creation or a lien thereon would violate applicable non-bankruptcy law unless such violation is excused or permitted under applicable bankruptcy law, (iv) any amount in excess of 65% of the voting equity interest in any non-U.S. subsidiary of a Debtor, (v) the Carve-Out Account (as defined below) (including funds held in the Carve-Out Account), and (vi) the proceeds of any of the assets identified in the foregoing clauses (i) and (vi) until released or distributed to the Debtors, (the assets described in the foregoing clauses (i) through (vi), subject to the foregoing proviso, the "Excluded Assets").

9. Carve-Out.

(a) As used in this Interim Cash Flow DIP Order, the "Carve-Out" shall be comprised of the following components:

- (i) Clerk and U.S. Trustee Fees. All fees required to be paid to the Clerk of this Court and to U.S. Trustee under section 1930(a) of title 28 of the United States Code and 31 U.S.C. § 3717 (collectively, the "Clerk and UST Fees").
- (ii) Allowed Professional Fees Incurred Prior to a Carve-Out Trigger Notice. To the extent allowed by the Court (regardless of whether the order allowing such fees is entered before or after the Carve-Out Trigger Notice), accrued and unpaid fees and expenses (the "Allowed Professional Fees"), in an aggregate amount on a line item basis not exceeding the budgeted amounts for such Allowed Professional Fees reflected in the Approved DIP Budget, incurred by persons or firms retained by the

Debtors pursuant to section 327, 328 or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee (if any) pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the date of delivery by the Cash Flow DIP Lender of a Carve-Out Trigger Notice (as defined below) (collectively, the “Pre-Termination Amount”). For purposes of the Carve-Out, Allowed Professional Fees shall exclude (a) any restructuring, sale, success or similar fee of any Professional Person and (b) fees and expenses of any third party professionals employed by any individual member of the Creditors’ Committee (if any).

- (iii) any accrued and unpaid postpetition fee and expense claims, without regard to when such fees and expenses accrued, related to the appointment of the Chief Restructuring Officer and the Operations Consultant, in each case, in accordance with the Approved DIP Budget, including any interim or final approval as set forth in any order of the Court approving the appointment of any Chief Restructuring Officer and the Operations Consultant or, if applicable, any procedures approved by the Court relating to the compensation of the Chief Restructuring Officer and the Operations Consultant; *provided, however*, that any Court-approved bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import shall be paid solely from the net proceeds of the Court approved transaction giving rise to such award;
- (iv) Chapter 7 Trustee. In the event of a conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, allowed fees and expenses incurred by a trustee and any professional retained by such trustee, in an aggregate amount not to exceed \$25,000; provided, however, no portion of the Carve-Out shall be utilized for the payment of professional fees and disbursements incurred in connection with any challenge to (i) the amount, extent, priority, validity, perfection or enforcement of the indebtedness of the Debtors owing to the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates, or (ii) liens or security interests in the collateral securing such indebtedness, including challenges to the perfection, priority or validity of the liens granted in favor of the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates with respect thereto;
- (v) Allowed Professional Fees Incurred After a Carve-Out Trigger Notice. Allowed Professional Fees of Professional Persons incurred on and after the first business day following delivery by the Cash Flow DIP Lender of the Carve-Out Trigger Notice, subject to an aggregate cap of \$200,000 (collectively, the “Post Trigger Notice Carve-Out Fee Cap”).
- (b) Carve-Out Trigger Notice. Upon the occurrence and during the continuance of any

Cash Flow DIP Event of Default (as defined below), the Cash Flow DIP Lender may deliver a written notice invoking the Post Trigger Notice Carve-Out Fee Cap (the “Carve-Out Trigger

Notice”) to the Debtors, the Debtors’ lead restructuring counsel, the U.S. Trustee, and the lead counsel for the Creditors’ Committee (if any). The Carve-Out Trigger Notice may be delivered by email (or any other means permitted under the Cash Flow DIP Documents).

(c) Delivery of Fee Statements. For purposes of determining the Pre-Termination Amount, no later than five (5) business days after the delivery of a Carve-Out Trigger Notice, each Professional Person shall deliver a statement (each, a “Fee Statement”) to the Debtors setting forth a good-faith estimate of the amount of fees and expenses incurred and unpaid prior to the date of the Carve-Out Trigger Notice.

(d) Carve-Out Account. Promptly following the entry of this Interim Cash Flow DIP Order, the Debtors shall establish a segregated account, which shall not be subject to control of the Cash Flow DIP Lender (the “Carve-Out Account”), but which shall be funded by the Cash Flow DIP or available funds at FGMC in accordance with the Approved DIP Budget and in no event from any Excluded Asset. Amounts funded into the Carve-Out Account in accordance with clause (e) below shall be held in trust to pay the Carve-Out. Following delivery of a Carve-Out Trigger Notice, all Allowed Professional Fees of Professional Persons shall be paid to the applicable Professional Person first from the Carve-Out Account in accordance with the order or orders of the Court allowing such Allowed Professional Fees. Notwithstanding anything to the contrary in this or any other Court order, the Carve-Out Account and the amounts on deposit in the Carve-Out Account shall be available and used only to satisfy obligations of Professional Persons benefitting from the Carve-Out. The failure of the Carve-Out Account to satisfy Professional Fees in full shall not affect the priority of the Carve-Out. The Cash Flow DIP Collateral shall include the Debtors’ reversionary interest in funds held in the Carve-Out Account, if any, after all Allowed Professional

Fees that are subject to the Carve-Out have been paid in full pursuant to a final order not subject to appeal.

(e) Carve-Out Funding After a Carve-Out Trigger Notice. The following provisions with respect to the Carve-Out Account shall apply only upon delivery of a Carve-Out Trigger Notice:

(i) On the date of the Carve-Out Trigger Notice, the Carve-Out Trigger Notice shall be deemed to constitute a demand to the Debtors to utilize all cash on hand at FGMC or from the Cash Flow DIP and in no event from any Excluded Asset (the “Cash On Hand”) as of such date to fund the Carve-Out Account in an amount equal to (A) the unpaid Clerk and UST Fees, (B) the Chapter 7 Trustee Fee Cap, (C) the Pre-Termination Amount (determined based upon the Fee Statements submitted to the Debtors in accordance with clause (c) above), (D) the Post Trigger Notice Carve-Out Fee Cap, (collectively, the “Aggregate Unfunded Amount”) to be held in trust to pay all amounts included in the Carve-Out.

(ii) On or after the date of a Carve-Out Trigger Notice, no Cash Flow DIP Party, including the Cash Flow DIP Lender, shall foreclose on or sweep cash of the Debtors (including cash received as a result of the sale or other disposition of any assets and cash provided pursuant to the Cash Flow DIP Facility) until the Carve-Out Account has been fully funded with the Aggregate Unfunded Amount.

(iii) All funds in the Carve-Out Account shall be used first to pay the obligations set forth in the definition of the Carve-Out set forth above until paid in full. All payments and reimbursements made from the Carve-Out Account shall permanently reduce the Carve-Out on a dollar-for-dollar basis.

(f) Payment of Compensation. Following delivery of a Carve-Out Trigger Notice, the Debtors shall be permitted to pay fees and expenses allowed and payable by order of the Court (that has not been vacated or stayed, unless the stay has been vacated) under sections 330 and 331 of the Bankruptcy Code, as the same may be due and payable from the Carve-Out Account.

10. Fees and Expenses. The Debtors are authorized and directed to pay any and all reasonable and documented fees and expenses described in this Paragraph no later than ten (10) days after receipt (via electronic mail) by (i) the Debtors, (ii) counsel for the Debtors, (iii) the U.S. Trustee, and (iv) counsel for the Creditors’ Committee (if any) (collectively, the “Fee Notice”

Parties”), of an invoice (which need not contain any itemized details as to the relevant fees and expenses), in connection with the Cases, whether incurred before, on or after the Petition Date and whether or not the transactions contemplated hereby are consummated. The Debtors shall indefeasibly pay or reimburse the Cash Flow DIP Lender for its respective reasonable fees and out-of-pocket costs, expenses and charges, including, but not limited to, the reasonable fees, costs, and expenses of Greenberg Traurig, LLP, as counsel to the Cash Flow DIP Lender, and any other advisors or professionals retained by the Cash Flow DIP Lender. For the avoidance of doubt, none of the fees, costs and expenses of the Cash Flow DIP Lender shall be subject to Court approval or U.S. Trustee guidelines, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court. Such fees and expenses shall not be subject to any offset, defense, claim, counterclaim or diminution of any type, kind or nature whatsoever. All fees, costs and expenses payable under the Cash Flow DIP Documents to the Cash Flow DIP Lender shall be included and constitute part of the Cash Flow DIP Obligations and be secured by the Cash Flow DIP Liens. For the avoidance of doubt, the Debtors shall be responsible to pay, subject to the procedures outlined in this Paragraph, all reasonable and documented fees and expenses incurred by the Cash Flow DIP Lender in connection with any action taken in the Cases, including, but not limited to, acting as a plan sponsor pursuant to any chapter 11 plan for the Debtors. Further, the upfront fee payable by the Debtors pursuant to section 3.04(b) of the Cash Flow DIP Credit Agreement, which is deemed fully earned and nonrefundable on the Interim Cash Flow DIP Order Entry Date, shall be payable pursuant to the terms of the Cash Flow DIP Documents.

11. No Direct Obligation to Pay Professional Fees. The Cash Flow DIP Lender shall not be responsible for payment or reimbursement of any fees or disbursement of any Professional

Person, or the Clerk and UST Fees, incurred in connection with these Cases, any Successor Cases or otherwise. Nothing in this Interim Cash Flow DIP Order or otherwise shall be construed: (a) to obligate the Cash Flow DIP Lender in any way to pay compensation to, or reimburse the expenses of, any Professional Person, or the Clerk and UST Fees, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement; (b) as consent to the allowance of any fees and expenses of Professional Persons; or (c) to affect the rights of the Cash Flow DIP Lender, or any other party in interest, to object to the allowance and payment of such fees and expenses.

12. Restrictions on Use of Proceeds of Cash Flow DIP Facility. No portion of the Carve-Out, any cash collateral, any other Cash Flow DIP Collateral, or any proceeds of the Cash Flow DIP Facility shall be used for the payment of professional fees, disbursements, costs or expenses incurred by any person, including, without limitation, the Debtors, the Creditors' Committee, any trustee or other estate representative appointed in the Cases or any Successor Case, or any other party, for any of the following actions or activities without the written consent of the Cash Flow DIP Lender: (a) to seek authorization to obtain liens or security interests on any asset of the Debtors that are senior to, or on a parity with, the Cash Flow DIP Liens, the Cash Flow DIP Collateral, or the Cash Flow DIP Superpriority Claims; (b) to seek authorization to obtain claims against the Debtors or their property that are senior to, or *pari passu* with, the liens and claims identified in the preceding sub-clause (a); or (c) except as expressly set forth herein, directly or indirectly prepare, assert, join, commence, support, or prosecute any action for any claim, counterclaim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination, or any other relief against, or adverse to the interests of, the Cash Flow DIP Lender and any of its representatives with respect to any transaction,

occurrence, omission, action, or other matter, including, without limitation, (i) any Avoidance Action, (ii) any “lender liability” claims and causes of action, (iii) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the Cash Flow DIP Liens, the Cash Flow DIP Superpriority Claims, or the Cash Flow DIP Obligations, (iv) any action seeking to invalidate, modify, reduce, expunge, disallow, set aside, avoid, or subordinate, in whole or in part, any of the obligations identified in the preceding clause (iii), (v) any action seeking to modify any of the rights, remedies, priorities, privileges, protections, and benefits granted to the parties hereunder or under any of the documents referred to herein, including claims, proceedings, or actions that might prevent, hinder or delay any of such parties’ assertions, enforcement, realizations or remedies on or against their collateral and rights herein or (vi) objecting to, contesting with, or interfering with, in any way, such parties’ enforcement or realization upon any of their collateral or rights, once a Cash Flow DIP Event of Default has occurred; *provided* that the Debtors shall be permitted to challenge the validity of any alleged Cash Flow DIP Event of Default.

13. Limitation of Liability. The Cash Flow DIP Lender shall have no liability to any third party relating to the Cash Flow DIP Documents and the Debtors’ use of the liquidity provided thereunder and shall not, by virtue of entering into the transactions contemplated by the Cash Flow DIP Facility or otherwise complying with the Cash Flow DIP Documents or this Interim Cash Flow DIP Order, be deemed to be in control of the operations of the Debtors, or to owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates. The Debtors shall, and are hereby authorized to, indemnify and hold harmless the Cash Flow DIP Lender and its affiliates and representatives from and against all losses, liabilities, claims, damages, penalties, actions, judgments, suits, expenses or disbursements of any nature whatsoever arising out of or

relating to the Cash Flow DIP Documents or this Interim Cash Flow DIP Order, including the syndication of any obligations thereunder, and the Debtors' use of the liquidity provided thereunder; *provided, however*, that the foregoing indemnity shall not apply to any actions of any indemnified parties determined in a final non-appealable judgment to constitute fraud or willful misconduct. This indemnification shall survive and continue for the benefit of all such persons or entities.

14. No Obligation to Extend Credit. The Cash Flow DIP Lender shall have no obligation to make any loan or advance under the Cash Flow DIP Documents, unless all of the conditions precedent in the Cash Flow DIP Credit Agreement have been satisfied in full or waived by the Cash Flow DIP Lender in its sole discretion.

15. Adequate Protection of the Prepetition Lenders. Subject to the Carve-Out in all respects, to the extent there is a postpetition diminution in value of the Prepetition Loan Collateral (including cash collateral), resulting from the use, sale, or lease by the Debtors of the Prepetition Loan Collateral (including cash collateral), the granting of the Cash Flow DIP Superpriority Claims, the granting of the Cash Flow DIP Liens and to the Carve-Out, and the imposition or enforcement of the automatic stay of section 362(a) of the Bankruptcy Code (collectively, the "Diminution in Value"), the Prepetition Lenders are hereby granted, subject to the terms and conditions set forth below, the following Forms of Adequate Protection:

(a) Adequate Protection Liens. Pursuant to sections 361 and 363(e) of the Bankruptcy Code, the Prepetition Lenders are hereby granted a perfected, first-priority security interest and lien on (the "Adequate Protection Liens") the same property of the Debtors on which the Prepetition Lenders had a perfected, first-priority security interest and lien prior to the Petition Date, whether arising prepetition or postpetition, which liens and security interests shall be

subordinate only to (i) Liens permitted to be senior under such Prepetition Lender's loan documents, (ii) the Cash Flow DIP Liens, (iii) the DIP Repo Guarantee Liens, and (iv) the Carve-Out.

(b) Prepetition Lenders Superpriority Claim. Pursuant to sections 361 and 364(c)(1) of the Bankruptcy Code, the Prepetition Lenders are hereby granted a superpriority administrative expense claim (the "Prepetition Lenders Superpriority Claim") against each of the Debtors solely to the extent of any Diminution in Value of the Prepetition Loan Collateral, as provided for in section 507(b) of the Bankruptcy Code, which administrative expense claim in the Cases or any Successor Cases shall be senior to all other administrative expense or other claims, including those arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code; *provided* that such Prepetition Lenders Superpriority Claim shall be subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out. Notwithstanding the foregoing, the Prepetition Lenders Superpriority Claim shall not be payable from the proceeds of Avoidance Actions, pending entry of the Final Cash Flow DIP Order.

(c) Reporting. As additional adequate protection, the Debtors shall prepare and deliver to the Prepetition Lenders any documents provided to the Cash Flow DIP Lender and/or the DIP Repo Agent for reporting purposes under the Cash Flow DIP Facility and/or the DIP Repo Facility.

(d) Sufficiency of Adequate Protection. The Prepetition Lenders are adequately protected by the Forms of Adequate Protection set forth herein and through the Cash Flow DIP Facility. The Cash Flow DIP Facility is necessary to allow the Debtors to continue the operation of their businesses, maintain their value as a going concern and achieve a successful reorganization, which will preserve and maximize the value of the Debtors and their estates for the

benefit of the Debtors and all their stakeholders, including the Prepetition Lenders. The grant of the Cash Flow DIP Liens accordingly will not cause a diminution in the value of the Prepetition Lenders' interest in the Prepetition Loan Collateral. The grant of the DIP Repo Guarantee Liens benefits the Prepetition Lenders because absent provision of the DIP Repo Guarantee, the advance rates under the DIP Repo Facility would have been lower, which would have necessitated commensurately higher borrowings under the Cash Flow DIP Facility. Accordingly, the DIP Repo Guarantee Liens are contingent priming liens (contingent upon funding actual amounts under the DIP Repo Guarantee and the full and indefeasible payment and satisfaction of the obligations of the Debtors under the DIP Repo Facility) instead of actual priming liens in respect of additional borrowings under the Cash Flow DIP Facility. Additionally, the Forms of Adequate Protection are consistent with the Bankruptcy Code. The Court therefore finds that the foregoing adequate protection is reasonable and sufficient to protect the interests of the Prepetition Lenders.

16. Events of Default.

(a) Unless further extended or waived by written agreement among the Debtors and the Cash Flow DIP Lender, the occurrence of any of the following events shall constitute an event of default (each a "Cash Flow DIP Event of Default"): (i) the failure of the Debtors to perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order; (ii) the consent of the Debtors to the standing of any party, including the Creditors' Committee, to pursue any claim or cause of action against any of the Released Parties (as defined below) that belongs to the Debtors or their estates, including, without limitation, any Challenge (as defined below); (iii) commencement of a Challenge (as defined below) by any party, including the Debtors or the Creditors' Committee;

and (iv) an “Event of Default” as defined under the Cash Flow DIP Documents shall have occurred and is continuing, unless waived pursuant to the Cash Flow DIP Documents.

(b) Upon the occurrence and during the continuation of a Cash Flow DIP Event of Default, the Cash Flow DIP Lender may (i) deliver a notice of Cash Flow DIP Event of Default; (ii) declare the principal of and accrued interest, fees, expenses and other amounts under the Cash Flow DIP Documents to be due and payable; (iii) place an administrative hold on any deposit account or securities account that constitutes Cash Flow DIP Collateral, including the Controlled Account (as defined in the Cash Flow DIP Documents), subject to funding of the Carve-Out Account; and (iv) upon five (5) business days’ written notice to the Debtors (the “Cash Flow DIP Forbearance Period”), exercise all other rights and remedies available to the Cash Flow DIP Lender; *provided, however*, that, with respect to any Cash Flow DIP Event of Default for the failure to pay all obligations under the Cash Flow DIP Documents in full in cash by the maturity date as set forth in the Cash Flow DIP Credit Agreement (the “Cash Flow DIP Maturity Date”), the Cash Flow DIP Lender may exercise all rights and remedies immediately upon the occurrence of said default.

(c) Notwithstanding anything herein to the contrary, (i) if a Cash Flow DIP Event of Default exists at the end of the Cash Flow DIP Forbearance Period, then the Cash Flow DIP Lender shall be permitted to immediately exercise all of its other rights and remedies under the Cash Flow DIP Documents and (ii) the Cash Flow DIP Lender shall not be required to permit any funding or other financial accommodation under the Cash Flow DIP Documents during the Cash Flow DIP Forbearance Period unless and until the foregoing conditions shall have been satisfied during such period. The automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary, without the need for any further order of the Court, to permit

the Cash Flow DIP Lender to exercise all rights and remedies under the Cash Flow DIP Documents and under this Interim Cash Flow DIP Order, in accordance with the terms of this Interim Cash Flow DIP Order.

17. Amendments, Consents, Waivers and Modifications. The Debtors and the Cash Flow DIP Lender are authorized, subject to the Cash Flow DIP Documents, to implement, in accordance with the terms of the respective Cash Flow DIP Documents, any amendments, waivers, consents or other modifications to or under the Cash Flow DIP Documents without the need for further notice and hearing or any order of this Court; *provided, however*, that, without the consent of this Court after notice and a hearing, no such amendments, consents, waivers or modifications shall (i) shorten the maturity date as set forth in the Cash Flow DIP Credit Agreement, (ii) increase the commitments thereunder or the rate of interest payable under the Cash Flow DIP Documents (other than imposition of the default rate) or (iii) amend the “Events of Default” or covenants in the Cash Flow DIP Documents to be materially more restrictive to the Debtors than those set forth in the form of Cash Flow DIP Credit Agreement as of the Interim Cash Flow DIP Order Entry Date.

18. Rights of Access and Information. Without limiting the rights of access and information afforded the Cash Flow DIP Parties under the Cash Flow DIP Documents, the Debtors shall be, and hereby are, required to afford representatives, agents and/or employees of the Cash Flow DIP Lender reasonable access to: (a) the Debtors’ premises, (b) knowledgeable officers of the Debtors, (c) the Debtors’ books and records, and (d) the Debtors’ properties and other collateral of any Debtor against whom such parties are granted Cash Flow DIP Liens under this Interim Cash Flow DIP Order, and the Debtors shall reasonably cooperate, consult with, and provide to such persons all such information as may be reasonably requested.

19. DIP Budget.

(a) Attached hereto as Exhibit B is an initial cash flow forecast (the “Initial DIP Budget”) setting forth all line-item and cumulative receipts and operating disbursements on a weekly basis for the period beginning as of the week of the Closing Date through and including the thirteenth (13th) week after such week. The Initial DIP Budget shall be deemed the “Approved DIP Budget” for all purposes of the Cash Flow DIP Documents until superseded by any Updated DIP Budget (as defined below) that subsequently is consented to by the Cash Flow DIP Lender

(b) On or before 5:00 p.m. New York City time on Thursday of each week, the Debtors shall deliver (a) a supplement to the Initial DIP Budget (or the previously supplemented Approved DIP Budget, as the case may be), covering the subsequent 13-week period that commences with the week immediately following the date of delivery of the supplemental budget (and which, for the avoidance of doubt, cannot modify previous weeks), consistent with the form and level of detail set forth in the Initial DIP Budget and otherwise in form and substance reasonably acceptable to, and consented to by, the Cash Flow DIP Lender in its discretion (each such supplemental budget, an “Updated DIP Budget”), (b) an actual consolidated cash flow of the Debtors for the week preceding the first week of such Updated DIP Budget, showing line item variances between actual results and projected results (if applicable) for such week from the most recent Approved DIP Budget delivered pursuant to clause (a), in each case in a form reasonably acceptable to the Cash Flow DIP Lender which (I) shall be prepared on a consolidated basis for the Debtors, approved and certified by the Chief Restructuring Officer of the Debtors, as being accurate in all material respects (or in the case of the projections, as being projections believed to be reasonable at the time furnished, prepared in good faith based on assumptions believed to be reasonable at the time furnished), and (II) shall (A) show, in the case of clause (a), projected cash receipts and projected

cash disbursements, (B) include for such period, in the case of clauses (a) and (b), a summary of collections, disbursements, outstanding checks and interest payments, (C) in the case of clause (b), include a line item variance report setting forth (x) actual results against anticipated results under the Approved DIP Budget for the week in regard to which such accompanying cash flow forecast is being delivered, reported in the aggregate (highlighting key line items) as of the end of such period, (y) variances in dollar amounts and percentages, and (z) a written explanation for all line item variances of greater than 10% for the applicable week, and (D) such other information as the Cash Flow DIP Lender may reasonably request (such items described in this clause (b), the “Variance Report”).

(c) Upon (and subject to) the approval of any such Updated DIP Budget by the Cash Flow DIP Lender in its sole discretion, such Updated DIP Budget shall constitute the then-approved Approved DIP Budget.

(d) As of the Friday after the second calendar week ending after the Petition Date and on each Friday thereafter (each a “Testing Date” and, as to the first three Testing Dates, the period between the Petition Date to the Testing Date and, as to subsequent Testing Dates, the four weeks prior to the Testing Date, a “Testing Period”), the Debtors shall not permit (i) the amount of receipts in any line item during such Testing Period to be less than 90% of the amount of receipts for such line item as set forth in the Approved DIP Budget for such Testing Period or (ii) the amount of disbursements (for the avoidance of doubt, excluding professional fees, which must be no more than 100% of the amount set forth in the Approved DIP Budget for such Testing Period) in any line item during such Testing Period to be greater than 110% of the amount of disbursements for such line item as set forth in the Approved DIP Budget for such Testing Period; provided, however, that for purposes of testing the relevant line items in the Approved DIP Budget are the

following: “Asset Sales/Recoveries,” “Total Operating Disbursements” (calculated without giving effect to “Professional Fees”), and “Professional Fees.”

20. Automatic Perfection of Cash Flow DIP Liens and DIP Repo Guarantee Liens.

(a) This Interim Cash Flow DIP Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the Cash Flow DIP Liens and DIP Repo Guarantee Liens without the necessity of filing or recording financing statements, intellectual property filings, mortgages, notices of lien or similar instruments in any jurisdiction, taking possession of or control over any assets or taking any other action to validate or perfect (in accordance with applicable non-bankruptcy law) the Cash Flow DIP Liens or DIP Repo Guarantee Liens or to entitle the Cash Flow DIP Lender or DIP Repo Guarantor to its respective priorities granted herein.

(b) Notwithstanding the foregoing, each of the Cash Flow DIP Lender and DIP Repo Guarantor is hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over (including pursuant to a deposit account control agreement) or take any other action in order to validate and perfect the liens and security interests granted to the Cash Flow DIP Lender or DIP Repo Guarantor hereunder, in each case, without the necessity to pay any mortgage recording fee or similar fee or tax. Whether or not the Cash Flow DIP Lender or DIP Repo Guarantor chooses to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over or otherwise confirm perfection of the liens and security interests granted to them hereunder, such liens and security interests shall be and hereby are deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, whether in these Cases or any Successor Case. The Debtors shall, if requested, execute and deliver to the Cash Flow DIP

Lender or DIP Repo Guarantor, as applicable, all such agreements, financing statements, instruments and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request to more fully evidence, confirm, validate, perfect, preserve and enforce the Cash Flow DIP Liens or DIP Repo Guarantee Liens, as applicable. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(c) The Debtors are authorized to execute and deliver promptly upon demand by the Cash Flow DIP Lender or DIP Repo Guarantor all such financing statements, mortgages, notices and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request. The Debtors are authorized to, and shall, execute and deliver to the Cash Flow DIP Lender or DIP Repo Guarantor such agreements, financing statements, mortgages, instruments and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request to evidence, confirm, validate or perfect the Cash Flow DIP Liens or DIP Repo Guarantee Liens, and the failure by the Debtors to execute or deliver any documentation relating to the Cash Flow DIP Liens or DIP Repo Guarantee Liens shall in no way affect the validity, enforceability, non-avoidability, perfection, or priority of such liens.

(d) In lieu of obtaining such documentation or instruments, a certified copy of the Interim Cash Flow DIP Order may be filed by the Cash Flow DIP Lender and DIP Repo Guarantor with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby directed to accept such certified copy of this Interim Cash Flow DIP Order for filing and recording.

21. Automatic Stay Modified. The automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary, without the need for

any further order of the Court, to permit the Cash Flow DIP Lender to exercise all rights and remedies under this Interim Cash Flow DIP Order or the Cash Flow DIP Documents.

22. Proofs of Claim. The Cash Flow DIP Lender shall not be required to file proofs of claim in the Cases, and the Debtors' stipulations in this Interim Cash Flow DIP Order or the Final Cash Flow DIP Order shall be deemed to constitute a timely filed proof of claim. Any order entered by the Court in connection with the establishment of a bar date for any claim (including, without limitation, administrative claims) in the Cases or any Successor Cases shall not apply to the Cash Flow DIP Lender.

23. Challenge Period/Investigation Budget.

(a) Notwithstanding any other provisions of this Interim Cash Flow DIP Order, the Creditors' Committee and any other party-in-interest (other than the Debtors) are permitted to investigate and commence, prior to the expiration of the Chapter 11 Challenge Period,¹⁰ an adversary proceeding or contested matter, as required by the applicable Bankruptcy Rules, to seek to obtain standing to, and if standing is obtained, to do any of the following: (each, a "Challenge")

(i) challenge the Debtors' Stipulations contained herein, or any other stipulations or findings contained in this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order with respect to the Cash Flow DIP Liens or Cash Flow DIP Obligations, or the Prepetition Loan Liens or Prepetition Loan Obligations, including, without limitation, any challenge to the validity, priority or enforceability thereof, including, without limitation, whether in nature of a setoff, counterclaim, or defense; (ii) assert any claim or cause of action, including a Released Claim (as defined below) against the Released Parties (as defined below); *provided*, that if a Creditors' Committee is

¹⁰ For purposes of this Order, "Chapter 11 Challenge Period" means (i) with respect to parties-in-interest other than the Creditors' Committee, seventy-five (45) calendar days after entry of the Final Cash Flow DIP Order, and (ii) with respect to the Creditors' Committee, sixty (60) calendar days after the appointment of the Creditors' Committee.

appointed, the Creditors' Committee shall be subject to the Investigation Budget (as defined below) in accordance with Paragraph 23(b). If any of the Cases are converted to a case under chapter 7 of the Bankruptcy Code prior to the latest date by which the Chapter 11 Challenge Period would end pursuant to this Paragraph, then any chapter 7 trustee appointed in such converted case shall have a maximum of ten (10) calendar days (the "Chapter 7 Challenge Period") and, together with the Chapter 11 Challenge Period, the "Challenge Period") after the date that the Case is converted to bring any such Challenge. Except to the extent asserted in a Challenge filed during the Challenge Period, the expiration of such Challenge Period (to the extent not otherwise waived or barred), shall mean that (i) any and all Challenges or potential challenges shall be deemed to be forever waived and barred; (ii) all of the agreements, waivers, releases, affirmations, acknowledgements and stipulations contained in this Interim Cash Flow DIP Order and any Final Cash Flow DIP Order shall be irrevocably and forever binding on the Debtors, the Creditors' Committee and all parties-in-interest and any and all successors-in-interest as to any of the foregoing, including any chapter 7 trustee, without further action by any party or the Court and all such parties shall be deemed to have absolutely and unconditionally released, waived, and forever discharged and acquitted the Cash Flow DIP Lender, the Prepetition Bridge Lender, and each of their respective Related Parties (the "Released Parties") from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, debts, accounts, contracts, liabilities, actions and causes of action (collectively, the "Released Claims") of any kind, nature or description, whether known or unknown, foreseen or unforeseen or liquidated or unliquidated, arising in law or equity or upon contract or tort or under any state or federal law or otherwise, including, without limitation, any claims for recharacterization, subordination, or substantive consolidation, arising out of or relating to (as

applicable) the Cash Flow DIP Facility or the Prepetition Loan Obligations, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that any of the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Cash Flow DIP Order, whether such Released Claims are matured or unmatured or known or unknown; and (iii) all of the Cash Flow DIP Obligations and/or Prepetition Loan Obligations, as the case may be, shall be deemed allowed on a final basis and the Cash Flow DIP Liens and/or Prepetition Loan Liens shall be deemed to constitute valid, binding and enforceable encumbrances, and not subject to avoidance pursuant to the Bankruptcy Code or applicable non-bankruptcy law. Notwithstanding anything to the contrary herein: (x) if any Challenge is timely commenced, the stipulations contained in this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order shall nonetheless remain binding on all other parties-in-interest and preclusive except to the extent that such stipulations are expressly and successfully challenged in such Challenge; and (y) the Released Parties reserve all of their rights to contest on any grounds any Challenge. Nothing in this Interim Cash Flow DIP Order vests or confers on any person, including, without limitation, the Creditors' Committee or any other statutory committee that may be appointed in these Cases, standing or authority to directly or indirectly support or pursue any cause of action, claim, defense, or other right belonging to the Debtors or their estates.

(b) Investigation Budget. If a Creditors' Committee is appointed, the Creditors' Committee shall be subject to a budget not to exceed \$30,000 in connection with the investigation and prosecution of any Challenge (the "Investigation Budget"); *provided*, that any fees, expenses

or costs incurred by the Creditors' Committee in excess of the Investigation Budget shall not constitute an allowable administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

24. No Third Party Rights. Except as explicitly provided for herein (including the release of Released Claims against the Released Parties), this Interim Cash Flow DIP Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect or incidental beneficiary.

25. Prohibition on Additional Liens. Except as expressly provided in the Cash Flow DIP Documents, this Interim Cash Flow DIP Order, or the DIP Repo Order, the Debtors shall be enjoined and prohibited from, at any time during the Cases until such time as the Cash Flow DIP Obligations have been indefeasibly paid in full in cash, granting liens on or security interests in the Cash Flow DIP Collateral, the Prepetition Loan Collateral, or any portion thereof to any other entities, pursuant to section 364(d) of the Bankruptcy Code or otherwise, which liens are senior to or *pari passu* with the Cash Flow DIP Liens other than the Carve-Out, unless and until all Cash Flow DIP Obligations are indefeasibly paid in full in cash.

26. No Waiver. This Interim Cash Flow DIP Order shall not be construed in any way as a waiver or relinquishment of any rights that the Cash Flow DIP Lender may have to bring or be heard on any matter brought before the Court. Similarly, the failure of the Cash Flow DIP Lender to seek relief or otherwise exercise its rights and remedies under this Interim Cash Flow DIP Order, the Cash Flow DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the Cash Flow DIP Lender.

27. Discharge Waiver. The Debtors expressly stipulate, and the Court finds and adjudicates, that none of the obligations, liens or superpriority claims granted or approved by this Interim Cash Flow DIP Order shall be discharged by the entry of an order confirming any plan of reorganization, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations, as applicable, have been indefeasibly paid in full in cash on or before the effective date of a confirmed plan of reorganization.

28. Interim Cash Flow DIP Order Controls. In the event of any inconsistency between the terms and conditions of the Cash Flow DIP Documents and this Interim Cash Flow DIP Order, the provisions of this Interim Cash Flow DIP Order shall govern and control solely to the extent of the inconsistency.

29. Survival. The provisions of this Interim Cash Flow DIP Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in the Cases; (b) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Case; or (d) pursuant to which the Court abstains from hearing the Cases or any Successor Case. The terms and provisions of this Interim Cash Flow DIP Order, including the claims, liens, security interests and other protections granted pursuant to this Interim Cash Flow DIP Order, notwithstanding the entry of any such order, shall continue in the Cases, in any Successor Case, or following dismissal of any of the Cases or any Successor Case, and shall maintain their priority as provided in this Interim Cash Flow DIP Order until all obligations related thereto have been paid in full.

30. Preservation of Rights Under this Interim Cash Flow DIP Order.

(a) Without in any way limiting the preceding Paragraph, if an order dismissing the Cases under sections 305 or 1112 of the Bankruptcy Code or otherwise is at any time entered, the

Debtors shall request that such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the liens and superpriority claims granted pursuant to this Interim Cash Flow DIP Order shall continue in full force and effect, shall maintain their priority as provided in this Interim Cash Flow DIP Order and shall, notwithstanding such dismissal, remain binding on all parties in interest until all obligations pertaining thereto shall have been indefeasibly paid in full in cash (with interest) and the related commitments shall have been terminated in accordance with their terms and (ii) the Court shall retain non-exclusive jurisdiction, notwithstanding such dismissal, for the purposes of enforcing such claims and obligations.

(b) If any or all of the provisions of this Interim Cash Flow DIP Order are hereafter reversed, stayed, modified or vacated, such reversal, stay, modification or vacation shall not affect (i) the validity and enforceability of any obligations incurred prior to the actual receipt by the affected parties of written notice of the effective date of such reversal, stay, modification or vacation and (ii) the validity and enforceability of the liens and superpriority claims authorized or created hereby. Notwithstanding any such reversal, stay, modification or vacation, the obligations incurred by the Debtors hereunder and under the applicable documents, prior to the actual receipt of written notice of the effective date of such reversal, stay, modification or vacation, shall be governed in all respects by the original provisions of this Interim Cash Flow DIP Order, and the parties shall be entitled to all the rights, remedies, privileges and benefits of sections 363(m) and 364(e) of the Bankruptcy Code, this Interim Cash Flow DIP Order and pursuant to the applicable documents.

31. Rights Under Sections 363(k) and 1129(b). Unless otherwise ordered by the Court for cause, the Cash Flow DIP Lender shall have the right to credit-bid the full amount of the Cash Flow DIP Obligations in any sale or disposition of the Cash Flow DIP Collateral as provided for

in section 363(k) of the Bankruptcy Code, in accordance with the terms of the Cash Flow DIP Documents, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(k) and/or section 1129(b) of the Bankruptcy Code or otherwise because, among other things, the denial of such rights would result in the Cash Flow DIP Obligations not receiving the indubitable equivalent of their claims.

32. No Consent. No action, inaction or acquiescence by the Cash Flow DIP Lender, including funding the Debtors' ongoing operations under this Interim Cash Flow DIP Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the Cash Flow DIP Lender to a charge against the Cash Flow DIP Collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code.

33. Binding Effect; Successors and Assigns. The Cash Flow DIP Documents and the provisions of this Interim Cash Flow DIP Order, including all findings herein, shall be binding upon all parties in interest in the Cases, including, without limitation, the Cash Flow DIP Lender, the Creditors' Committee or any trustee or examiner appointed in these Cases, and the Debtors, and their respective successors and assigns (including any trustee or fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estate of the Debtors) whether in these Cases, in any Successor Cases, or upon any dismissal of any such chapter 11 or chapter 7 case, and shall inure to the benefit of the Cash Flow DIP Lender and the Debtors and their respective successors and assigns.

34. No Duty to Monitor Compliance. The Cash Flow DIP Lender shall not (i) have any obligation with respect to any Debtor's use of cash collateral or the use of proceeds of the Cash Flow DIP Facility; (ii) be obligated to ensure or monitor any Debtor's compliance with any financial covenants, formula, or other terms and conditions of the Cash Flow DIP Documents; or

(iii) be obligated to pay any expenses incurred or authorized to be incurred pursuant to the Cash Flow DIP Documents.

35. Final Hearing. The Final Hearing is scheduled for [●], 2022, at [●] a.m. (prevailing Eastern Time) before this Court. Any objections by creditors or other parties-in-interest to any provisions of this Interim Cash Flow DIP Order shall be deemed waived unless timely filed and served in accordance with this Paragraph. The Debtors shall promptly serve a notice of entry of this Interim Cash Flow DIP Order and the Final Hearing, together with a copy of this Interim Cash Flow DIP Order, by first class mail, postage prepaid, or overnight mail upon the Notice Parties. The notice of the entry of this Interim Cash Flow DIP Order and the Final Hearing shall state that objections to the entry of the Final Order shall be filed with this Court by no later than [●] p.m. (prevailing Eastern Time) on [●], 2022 (the “Objection Deadline”), with copies to: (i) proposed counsel for the Debtors; (ii) counsel for the Cash Flow DIP Lender Greenberg Traurig, LLP (Attn: Nancy Peterman (PetermanN@gtlaw.com), John D. Elrod (ElrodJ@gtlaw.com), Joseph Davis (DavisJ@gtlaw.com), and Danny Duerdoth (duerdothD@gtlaw.com), (iii) the Office of the United States Trustee for the District of Delaware, Attn: Benjamin Hackman; and (v) counsel to the Committee, if any.

36. Retention of Jurisdiction. This Court has and shall retain jurisdiction to enforce this Interim Cash Flow DIP Order according to its terms to the fullest extent permitted by law.

Exhibit A to Interim Cash Flow DIP Order

Cash Flow DIP Credit Agreement

[To Be Submitted]

Exhibit B to the Interim Cash Flow DIP Order

Initial DIP Budget

DIP Budget

Week Ending:	3-Jul-22	10-Jul-22	17-Jul-22	24-Jul-22	31-Jul-22	7-Aug-22	14-Aug-22	21-Aug-22	28-Aug-22	4-Sep-22	11-Sep-22	18-Sep-22	25-Sep-22	Cumulative
Week Number:	1	2	3	4	5	6	7	8	9	10	11	12	13	
Asset Sales/Recoveries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3.3	\$ -	\$ -	\$ -	\$ 2.4	\$ -	\$ -	\$ 5.6
Operating Disbursements	(0.1)	(1.5)	(3.5)	(1.5)	(0.6)	(3.0)	(0.4)	(1.2)	(0.4)	(2.4)	(0.3)	(0.6)	(0.3)	(15.7)
Professional Fees	-	-	-	-	(6.9)	-	-	-	-	(4.3)	-	-	-	(11.2)
Net Cash Flow	(0.1)	(1.5)	(3.5)	(1.5)	(7.5)	(3.0)	2.9	(1.2)	(0.4)	(6.7)	2.1	(0.6)	(0.3)	(21.3)
Cash Rollforward														
Beginning Balance	\$ 4.3	\$ 15.2	\$ 13.7	\$ 10.1	\$ 8.6	\$ 12.1	\$ 9.1	\$ 12.0	\$ 10.9	\$ 10.5	\$ 3.8	\$ 5.9	\$ 5.2	\$ 4.3
Net Cash Flow	(0.1)	(1.5)	(3.5)	(1.5)	(7.5)	(3.0)	2.9	(1.2)	(0.4)	(6.7)	2.1	(0.6)	(0.3)	(21.3)
Borrowings/(Repayments)	11.0	-	-	-	11.0	-	-	-	-	-	-	-	-	22.0
Ending Balance/(Funding Need)	\$ 15.2	\$ 13.7	\$ 10.1	\$ 8.6	\$ 12.1	\$ 9.1	\$ 12.0	\$ 10.9	\$ 10.5	\$ 3.8	\$ 5.9	\$ 5.2	\$ 5.0	\$ 5.0

HIGHLY CONFIDENTIAL – NOT TO BE DISTRIBUTED

Confidential Settlement Communication, Not For Distribution or Discovery
Pursuant to Federal Rule of Evidence 408

[The following is intended to summarize certain basic terms of the proposed Cash Flow DIP Facility and related accommodations. It is not intended as a definitive list of all of the Cash Flow DIP Lender's requirements or conditions in connection with the proposed arrangements. This indicative non-binding term sheet does not constitute a commitment to provide the proposed Cash Flow DIP Facility or other accommodations on these or any other terms or a binding obligation of any sort. These summary indicative terms and conditions are confidential and should be treated as such and should not be discussed with any other party, except for the DIP Borrower and its advisors.]

Summary of Cash Flow DIP Financing Terms

<u>Borrower:</u>	First Guaranty Mortgage Corporation (“ FGMC ” or the “ DIP Borrower ”).
<u>Guarantors:</u>	Each direct and indirect subsidiary of FGMC, including any such subsidiary filing petitions for relief under the Bankruptcy Code (together with FGMC, collectively, the “ Debtors ”), as debtors and debtors-in-possession under the Bankruptcy Code in the Cases shall guaranty repayment of the Cash Flow DIP Facility (defined below).
<u>Venue</u>	The Debtors will file the Cases in the United States Bankruptcy Court for the District of Delaware (the “ Bankruptcy Court ”). The date of the filing of the Cases will be referred to as the “ Petition Date .”
<u>Cash Flow DIP Lender:</u>	LVS II SPE XXXIV LLC (including any permitted assignees and successors, the “ Cash Flow DIP Lender ”)
<u>Cash Flow DIP Facility/Availability:</u>	The Cash Flow DIP Lender's commitment shall consist of (a) a senior secured, superpriority multi-draw term loan facility, in the aggregate amount not to exceed the sum of (i) \$22,000,000 (the “ Operating Amount ”) plus (ii) the Mortgage Loan Funding Amounts (as defined below), plus (iii) the Pipeline Sale Transaction Funding Amounts (as defined below) and (b) subject to entry of the Final Cash Flow DIP Order (as defined below), a roll up facility consisting of the Roll-Up Obligations (defined below), which would be made available as debtor-in-possession financing (the “ Cash Flow DIP Facility ” and the loans made thereunder, the “ Cash Flow DIP Loans ”) to be provided by the Cash Flow DIP Lender to the DIP Borrower, as debtor-in-possession, in the Cases.

	<p>“Mortgage Loan Funding Amounts” shall mean amounts required to fund (i) the amount (not to exceed \$16,000,000 in the aggregate) which comprises the excess, if any, of (A) the original principal balance of each mortgage loan originated by the Borrower (not to exceed \$125 million in the aggregate) and sold to the Repo DIP Facility minus (B) the amount of funding provided by the Repo DIP Lender in respect of such originated loan, plus (ii) any mark to market losses incurred in connection with the Repo DIP Facility in an amount not to exceed \$3,600,000 in the aggregate, plus (iii) all professional fees incurred in connection with the Repo DIP Facility in an amount not to exceed \$600,000 in the aggregate, plus (iv) non-utilization fees and interest or pricing fees incurred under the Repo DIP Facility in amount not to exceed \$200,000, in each case, solely to the extent not satisfied first from the proceeds of DIP Repo Collateral.</p> <p>“Pipeline Sale Transaction Funding Amounts” shall mean amounts required to fund (i) a work fee, in an amount acceptable to the Cash Flow DIP Lender in its sole discretion, with respect to a pipeline purchase facility transaction approved by the Cash Flow DIP Lender and consistent with the Approved Budget (the “<i>Pipeline Sale</i>”) and (ii) any mark to market losses incurred in connection with the Pipeline Sale in an amount not to exceed \$3,600,000.</p> <p>Up to \$11,000,000 out of the Operating Amount, plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts, during the interim period shall be made available to the DIP Borrower on an interim basis (subject to disbursement in accordance with the Approved DIP Budget (as defined below)) upon the date that the conditions precedent to the “Effective Date” under the Cash Flow DIP Facility have been satisfied, including entry of the Interim Cash Flow DIP Order.</p> <p>The remainder of the Cash Flow DIP Facility shall be made available to the DIP Borrower (subject to disbursement in accordance with the Approved DIP Budget) following the entry of the Final Cash Flow DIP Order and subject to the satisfaction of the conditions precedent to such borrowings.</p>
<p><u>Purposes:</u></p>	<p>The Cash Flow DIP Facility shall be available for the following purposes, in each case in accordance with the terms of the then-Approved DIP Budget:</p> <p>(a) to fund the Debtors’ working capital requirements, operating expenses, and other line items in accordance with the terms of the Approved DIP Budget (subject to agreed variances)</p>

	<p>including the reasonable fees and expenses of the Debtors' professionals;</p> <p>(b) [reserved];</p> <p>(c) following the entry of the Final Cash Flow DIP Order, to fund the Roll-Up Obligations (as defined below) following payment of the Cash Flow DIP Obligations (as defined in the Cash Flow DIP Motion);</p> <p>(d) to pay fees and expenses of the Cash Flow DIP Lender related to the Cash Flow DIP Facility and the Cases, including, without limitation, reasonable out of pocket fees of attorneys and other professional advisors of the Cash Flow DIP Lender, including, without limitation, Greenberg Traurig, LLP, and any financial advisor that may be retained by the Cash Flow DIP Lender.</p> <p>No proceeds of the Cash Flow DIP Facility shall be transferred to, or used by, any entity other than the DIP Borrower, except as permitted under the Approved DIP Budget, and the Interim Cash Flow DIP Order or Final Cash Flow DIP Order, as applicable. No portion of the Cash Flow DIP Facility or the Carve-Out (as defined below) shall be used to assert any claim, cause of action or objection against the Cash Flow DIP Lender or any its affiliates or any of their respective employees, officers, directors, advisors, investment managers, agents and subagents, including, without limitation, to challenge any claim or lien of the Bridge Lender or the priority, validity or enforceability of the Prepetition Bridge Loan Documents, and/or challenging any prepetition payment or transfer to the Bridge Lender or its affiliates.</p> <p>No proceeds of the Cash Flow DIP Facility consisting of Mortgage Loan Funding Amounts shall be used for any purpose other than (a) funding mortgage loan closings and (b) fees, guarantees, professional fees, interest and hedging fees, hedging losses and expenses incurred, in each case, pursuant to the Repo DIP Facility.</p> <p>No proceeds of the Cash Flow DIP Facility consisting of Pipeline Sale Transaction Funding Amounts shall be used for any purpose other than to fund the Pipeline Sale.</p>
<u>Roll-Up</u>	<p>The portion of the Prepetition Bridge Obligations related to mortgage loans financed by the Bridge Lender shall be refinanced by the Repo DIP facility to be provided by Barclays Bank PLC (the "Repo DIP Facility"). Upon entry of the Final Cash Flow DIP Order, all of the Prepetition Bridge Obligations remaining after such refinancing shall be rolled-up and converted into a portion of the</p>

	outstanding Cash Flow DIP Obligations under the Cash Flow DIP Facility (the “ Roll-Up Obligations ”).
<u>Prepetition Loan Documents:</u>	<p>(a) that certain Amended and Restated Loan Agreement dated as of July 17, 2019, between FGMC and Customers Bancorp, Inc. (“Customers”) (as the same may have been amended, restated, supplemented, or otherwise modified from time to time before the date hereof);</p> <p>(b) that certain Mortgage Warehousing Loan and Security Agreement dated as of June 30, 2017, between FGMC and Flagstar Bank, FSB (“Flagstar”) (as the same may have been amended, restated, supplemented, or otherwise modified from time to time before the date hereof); and</p> <p>(c) that certain Second Amended and Restated Secured Promissory Note dated as of June 29, 2022, between FGMC and B2 FIE XI LLC (“Bridge Lender”; and together with Customers, and Flagstar, each, a “Prepetition Lender” and, collectively, the “Prepetition Lenders”) (as the same may have been amended, restated, supplemented, or otherwise modified from time to time before the date hereof).</p> <p>(each of the foregoing, together with the other agreements, documents, notes and instruments entered into in connection with the same, the “Prepetition Loan Documents”). The Collateral (as defined in the Prepetition Loan Documents) subject to the liens of the Prepetition Lenders shall be referred to herein as the “Prepetition Loan Collateral.”</p>
<u>Interest Rate:</u>	The Cash Flow DIP Obligations shall bear interest at the rate of 11.0% per annum (plus an additional 2.0% per annum upon the occurrence and during the continuance of an event of default). Interest shall be payable in kind monthly in arrears and on the Termination Date.
<u>Fees:</u>	Upon entry of the Interim Cash Flow DIP Order and the Final Cash Flow DIP Order, as applicable, the Cash Flow DIP Lender shall receive, for the ratable benefit of each Cash Flow DIP Lender, a non-refundable closing fee (“ DIP Closing Fees ”) in the amount of 2.00% of the new money made available under the Cash Flow DIP Facility authorized by such order, which such DIP Closing Fee shall be payable in kind, which first payment shall be earned in full and payable in cash upon the closing date of the Cash Flow DIP Facility

	(the “ Cash Flow DIP Closing Date ”). No DIP Closing Fees shall be payable with respect to any Roll-Up Obligations.
<u>Maturity:</u>	<p>The termination date (the “Termination Date”) of the Cash Flow DIP Facility means the earliest to occur of:</p> <ul style="list-style-type: none"> (a) 150 days after the Petition Date (the “Maturity Date”). (b) 35 days after the Petition Date if a final order approving the Cash Flow DIP Loan is not entered, unless extended by the DIP Borrower and the Cash Flow DIP Lender (the “Final Cash Flow DIP Order Deadline”). (c) The effective date of an acceptable plan;. (d) The date of consummation of the sale of all or substantially all of the assets of the Debtors. (e) The date of termination of the Commitments (including as a remedy from an event of default). <p>Upon the Termination Date, the Cash Flow DIP Lender is entitled to immediate payment of any and all amounts owing under the Cash Flow DIP Documents.</p>
<u>DIP Budget; Reporting:</u>	<p>The Debtors have prepared and delivered a cash flow forecast, in form and substance acceptable to, and consented to by, the Cash Flow DIP Lender (attached hereto as <u>Exhibit A</u>, the “Initial DIP Budget”), setting forth all line-item and cumulative receipts and operating disbursements on a weekly basis for the period beginning as of the week of the Closing Date through and including the thirteenth (13th) week after such week. The Initial DIP Budget shall be deemed the “Approved DIP Budget” for all purposes of the Cash Flow DIP Documents until superseded by any Updated DIP Budget (as defined below) that subsequently is consented to by the Cash Flow DIP Lender.</p> <p>On or before 5:00 p.m. New York City time on Thursday of each week, the Debtors shall deliver (a) a supplement to the Initial DIP Budget (or the previously supplemented Approved DIP Budget, as the case may be), covering the subsequent 13-week period that commences with the week immediately following the date of delivery of the supplemental budget (and which, for the avoidance of doubt, cannot modify previous weeks), consistent with the form and level of detail set forth in the Initial DIP Budget and otherwise in form and substance reasonably acceptable to, and consented to by, the Cash Flow DIP Lender in its discretion (each such supplemental budget, an “Updated DIP Budget”), (b) an actual</p>

	<p>consolidated cash flow of the Debtors for the week preceding the first week of such Updated DIP Budget, showing line item variances between actual results and projected results (if applicable) for such week from the most recent Approved DIP Budget delivered pursuant to clause (a), in each case in a form reasonably acceptable to the Cash Flow DIP Lender which (I) shall be prepared on a consolidated basis for the Debtors, approved and certified by the Chief Restructuring Officer of the Debtors, as being accurate in all material respects (or in the case of the projections, as being projections believed to be reasonable at the time furnished, prepared in good faith based on assumptions believed to be reasonable at the time furnished), and (II) shall (A) show, in the case of clause (a), projected cash receipts and projected cash disbursements, (B) include for such period, in the case of clauses (a) and (b), a summary of collections, disbursements, outstanding checks and interest payments, (C) in the case of clause (b), include a line item variance report setting forth (x) actual results against anticipated results under the Approved DIP Budget for the week in regard to which such accompanying cash flow forecast is being delivered, reported in the aggregate (highlighting key line items) as of the end of such period, (y) variances in dollar amounts and percentages, and (z) a written explanation for all line item variances of greater than 10% for the applicable week, and (D) such other information as the Cash Flow DIP Lender may reasonably request (such items described in this clause (b), the “Variance Report”).</p> <p>Upon (and subject to) the approval of any such Updated DIP Budget by the Cash Flow DIP Lender in its sole discretion, such Updated DIP Budget shall constitute the then-approved Approved DIP Budget. To the extent that a proposed Updated DIP Budget is not approved by the Cash Flow DIP Lender, the Initial Budget or last approved Updated DIP Budget shall remain in full force and effect.</p> <p>As of the Friday after the second calendar week ending after the Petition Date and on each Friday thereafter (each a “Testing Date” and, as to the first three Testing Dates, the period between the Petition Date to the Testing Date and, as to subsequent Testing Dates, the four weeks prior to the Testing Date, a “Testing Period”), the Debtors shall not permit (i) the amount of receipts in any line item during such Testing Period to be less than 90% of the amount of receipts for such line item as set forth in the Approved DIP Budget for such Testing Period or (ii) the amount of disbursements (for the avoidance of doubt, excluding professional fees, which must be no more than 100% of the amount set forth in the Approved DIP Budget for such Testing Period) in any line item during such Testing Period to be greater than 110% of the amount of</p>
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	<p>disbursements for such line item as set forth in the Approved DIP Budget for such Testing Period; provided, however, that for purposes of testing the relevant line items in the Approved DIP Budget are the following: “Asset Sales/Recoveries” and “Total Operating Disbursements” (calculated without giving effect to “Professional Fees”), and “Professional Fees” (the “<i>Budget Compliance Covenant</i>”).</p> <p>The Debtors shall (i) require their attorneys and advisors to have a weekly call with advisors and attorneys of the DIP Lender, at a time to be mutually agreed, (ii) require senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer (as defined below), and the Operations Consultant (defined below) to have calls with the DIP Lender each Monday, Wednesday, and Friday of each week (and more frequently if an Event of Default has occurred and is continuing), (iii) upon the request of the Cash Flow DIP Lender, from time to time conduct Cash Flow DIP Lender presentations by senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer, and the Operations Consultant regarding any plans, sale, and the marketing process and the other business and affairs of the Debtors, and (iv) allow the Cash Flow DIP Lender to have direct access to senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer, and the Operations Consultant from time to time in its discretion to discuss the plan, sale, and the marketing process and the other business and affairs of the Debtors.</p>
<p><u>Chief Restructuring Officer and Operations Consultant:</u></p>	<p>(a) The board of directors of FGMC (the “<i>Board</i>”) and each Debtor shall be required to appoint and retain a representative of FTI Consulting (which person shall be acceptable to the Cash Flow DIP Lender (Tanya Meerovich of FTI Consulting is acknowledged as acceptable for this role) and employed on terms and conditions acceptable to the Cash Flow DIP Lender), as a “chief restructuring officer” of each Debtor to handle, subject to the approval and supervision of the Board, all matters related to the Debtors’ finances (including disbursements), budgetary matters, restructuring matters, plan matters, sale matters and the chapter 11 cases generally (the “<i>Chief Restructuring Officer</i>”). The Chief Restructuring Officer shall not be replaced or removed or have its duties changed, in each case, without the prior written consent of Cash Flow DIP Lender. The Chief Restructuring Officer shall use such other representatives of FTI Consulting to assist in performing the duties delegated to the Chief Restructuring Officer and such representatives shall be retained as temporary employees of the Debtors. The Chief Restructuring Officer shall (i) be at all times retained by the Debtors, (ii) prepare each Approved DIP Budget and variance</p>

	<p>reports and any other projections and cash flow forecasts of the Debtors, (iii) assist the Debtors in all aspects of their financial affairs, budgeting and reporting requirements under the Cash Flow DIP Facility and (iv) perform any such actions or other actions as are typically performed determined by a chief restructuring officer. The Chief Restructuring Officer shall report to the Board.</p> <p>(b) The Board and each Debtor shall be required to appoint and retain an operations consultant (who shall be acceptable to Cash Flow DIP Lender) on terms and conditions acceptable to the Cash Flow DIP Lender in its sole discretion), as an “operations consultant” of each Debtor to consult on matters related to the Debtors’ ongoing operations during the Cases (the “Operations Consultant”). The Operations Consultant shall not be permitted to be replaced or removed or have its duties changed, in each case, without the prior consent of Cash Flow DIP Lender. The Operations Consultant shall (i) be at all times retained by the Debtors and (ii) consult with the Debtors in all aspects of their operations. The Operations Consultant shall report to the Chief Restructuring Officer.</p>
<p><u>Milestones:</u></p>	<p>Failure to satisfy any of the following milestones (each, a “Milestone”) by the date specified for such Milestone shall constitute an immediate event of default under the Cash Flow DIP Facility:</p> <p>(a) Within 4 business days after the Petition Date, the entry of the Interim Cash Flow DIP Order;</p> <p>(b) Within 30 days of the Petition Date, filing of a plan and disclosure statement in forms acceptable to the Cash Flow DIP Lender;</p> <p>(c) Within 60 days of the Petition Date, sale of all or substantially all of the Debtors’ MSR portfolio and receipt of all proceeds from servicing released sales, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(d) Within 90 days of the Petition Date, sale of all or substantially all of FGMC’s pipeline of loans, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(e) Within 90 days of the Petition Date, sale of all or substantially all of the repurchased loans and haircut unfunded loans as of the Petition Date, which sales shall be acceptable to the Cash Flow DIP Lender;</p> <p>(f) Within 90 days of the Petition Date, substantial cessation of all loan operations;</p> <p>(g) Within 35 days of the Petition Date, entry of the Final Cash Flow DIP Order in a form acceptable to the Cash Flow DIP Lender;</p>

	<p>(h) Within 50 days of the Petition Date, court approval of a disclosure statement, which order shall be in a form acceptable to the Cash Flow DIP Lender;</p> <p>(i) Within 110 days of the Petition Date, entry of a confirmation order, confirming a plan acceptable to the Cash Flow DIP Lender;</p> <p>(j) Within 120 days of the Petition Date, substantial plan consummation and occurrence of the plan's effective date.</p>
<u>Security and Priority:</u>	As set forth in the Interim Cash Flow DIP Order
<u>Carve-Out:</u>	<p>The "<i>Carve-Out</i>" means the sum of:</p> <p>(a) all unpaid fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code;</p> <p>(b) to the extent allowed by the Bankruptcy Court (regardless of whether the order allowing such fees is entered before or after the Carve-Out Notice is received) and in an aggregate amount on a line item basis not exceeding the budgeted amounts for such unpaid professional fees and disbursements as reflected in the Approved DIP Budget, (i) as of the date of delivery of the Carve-Out Notice (as defined below), all accrued and unpaid fees and expenses incurred by persons or firms retained by (A) the Debtors pursuant to sections 327, 328 or 363 of the Bankruptcy Code (the "<i>Debtors' Professionals</i>"), or (B) any statutory unsecured creditors' committee appointed in the Cases pursuant to section 1103 of the Bankruptcy Code (the "<i>Committee</i>" and its professionals retained as set forth herein, the "<i>Committee's Professionals</i>" and with the Debtors' Professionals, the "<i>Professionals</i>") and (ii) after the delivery of a Carve-Out Notice, all unpaid fees and expenses incurred by the Professionals in an aggregate amount not to exceed \$200,000;</p> <p>(c) any accrued and unpaid postpetition fee and expense claims, without regard to when such fees and expenses accrued, related to the appointment of the Chief Restructuring Officer and the Operations Consultant, in each case, in accordance with the Approved DIP Budget, including any interim or final approval as set forth in any order of the Court approving the appointment of any Chief Restructuring Officer and the Operations Consultant or, if applicable, any procedures approved by the Court relating</p>

	<p>to the compensation of the Chief Restructuring Officer and the Operations Consultant; <u>provided, however</u>, that any Court-approved bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import shall be paid solely from the net proceeds of the Court approved transaction giving rise to such award;</p> <p>(d) in the event of a conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, allowed fees and expenses incurred by a trustee and any professional retained by such trustee, in an aggregate amount not to exceed \$25,000; <u>provided, however</u>, no portion of the Carve-Out shall be utilized for the payment of professional fees and disbursements incurred in connection with any challenge to (i) the amount, extent, priority, validity, perfection or enforcement of the indebtedness of the Debtors owing to the Cash Flow DIP Lender or the Bridge Lender or any of its affiliates, or (ii) liens or security interests in the collateral securing such indebtedness, including challenges to the perfection, priority or validity of the liens granted in favor of the Cash Flow DIP Lender or the Bridge Lender or any of its affiliates with respect thereto.</p> <p>The Carve-Out and the Cash Flow DIP Loans may not be used to investigate or challenge the validity, perfection, priority, extent, or enforceability of the Cash Flow DIP Facility, or the liens or security interests securing the Cash Flow DIP Facility, or assert any claims against the lenders or agents under the Prepetition Loan Documents; provided that any Committee's Professional may incur up to \$30,000 to investigate the liens and claims under the Prepetition Loan Documents or any other challenges to the Debtors' stipulations in favor of the Bridge Lenders.</p> <p>Any funding of the Carve-Out shall constitute advances under the Cash Flow DIP Facility secured by the Cash Flow DIP Collateral and shall be otherwise entitled to the protections granted under the Interim Cash Flow DIP Order, the Final Cash Flow DIP Order, the Bankruptcy Code and applicable law. The Carve-Out shall not reduce the amounts payable to the Cash Flow DIP Lender under the Cash Flow DIP Facility. All amounts owed to Debtors' Professionals and the Committee's Professionals under the Carve-Out must be allowed by order of the Bankruptcy Court. Nothing herein shall be construed to impair the ability of any party to object to any of the fees, expenses, reimbursement or compensation described in clause (b). The Debtors shall be authorized to fund a</p>
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	<p>reserve equal to the Carve-Out on a weekly basis consistent with the Approved Budget.</p> <p>For purposes of the foregoing, “<i>Carve-Out Notice</i>” shall mean a written notice delivered by the Cash Flow DIP Lender to the Debtors and their counsel, the Office of the United States Trustee, and counsel to the Committee, which notice may be delivered following the occurrence and during the continuance of an Event of Default.</p>
<u>Adequate Protection:</u>	<p>As adequate protection for, and equal in amount to, any diminution in the value of the interests of the Prepetition Lenders in the Prepetition Loan Collateral, each Prepetition Lender will receive, subject in each case to the Carve-Out, the following as adequate protection:</p> <p>(a) a superpriority administrative expense claim against each of the Debtors solely to the extent of any diminution in value of such Prepetition Lender’s Prepetition Loan Collateral, which shall be senior to all other administrative expense or other claims, but subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out.</p> <p>(b) a replacement security interest and lien on the same property of the Debtors on which a perfected, first-priority security interest and lien was held before the Petition Date pursuant to such Prepetition Lender’s Prepetition Loan Documents, subordinate only to (i) Liens permitted to be senior under such Prepetition Lender’s Prepetition Loan Documents, (ii) the Cash Flow DIP Liens, (iii) the DIP Repo Guarantee Liens, and (iv) the Carve-Out.</p>
<u>Releases and Stipulations</u>	<p>Subject to the right of other parties in interest with standing, the Debtors shall (i) stipulate to the amount, validity, enforceability, perfection and unavoidability of the prepetition obligations and the liens of the Bridge Lender upon the Prepetition Bridge Loan Collateral, (ii) acknowledge that no affirmative claims exist with respect to the Bridge Lender, B2 FIE IV LLC, LVS II Offshore, L.P., LVS II Holdings, LP, and Bravo II Guarantor I LLC, and each of their respective affiliates, advisors, investment managers, employees, officers, directors, agents, subagents, and representatives, in each case, with respect to any matters, and (iii) release and waive any such claims, including affirmative causes of action and objections to claims, with respect to the Bridge Lender, B2 FIE IV LLC, LVS II Offshore, L.P., LVS II Holdings, LP, and Bravo II Guarantor I LLC, and each of their respective affiliates, advisors, investment managers, employees, officers,</p>

	<p>directors, agents, subagents, and representatives, in each case. The Final Cash Flow DIP Order shall also prohibit the assertion of claims under section 506(c) of the Bankruptcy Code against the Cash Flow DIP Lender and provide that the Cash Flow DIP Lender and its counsel, advisors and consultants shall be entitled to the benefit a “good faith” finding pursuant to section 364(e) of the Bankruptcy Code.</p> <p>Pursuant to section 363(k) of the Bankruptcy Code, the Cash Flow DIP Lender shall have the exclusive right to credit bid the Cash Flow DIP Obligations with respect to any bulk or piecemeal sale of all or any portion of the Cash Flow DIP Collateral.</p>
<p><u>Remedies:</u></p>	<p>Upon the occurrence of an Event of Default, the Cash Flow DIP Lender shall have customary remedies, including, without limitation: (i) delivering a notice of an Event of Default; (ii) charging the default rate of interest on the Cash Flow DIP Facility and other outstanding obligations; (iii) terminating all commitments under the Cash Flow DIP Facility; and (iv) exercising, upon five (5) business days’ prior written notice to the Debtors, their rights to realize on any or all Cash Flow DIP Collateral without the necessity of obtaining any further relief or order from the Bankruptcy Court. Upon five (5) business days’ written notice from the Cash Flow DIP Lender, in its sole and absolute discretion, following an Event of Default, the automatic stay of section 362 of the Bankruptcy Code shall be terminated without further order of the Bankruptcy Court, without the need for filing any motion for relief from the automatic stay or any other pleading, for the limited purpose of permitting the Cash Flow DIP Lender to do any of the following: (i) foreclose on the Collateral; (ii) accelerate all loans and other outstanding obligations under the Cash Flow DIP Facility; and (iii) declare the principal of and accrued interest, premiums, fees and expenses constituting the obligations under the Cash Flow DIP Facility to be due and payable. Section 362 relief from the stay in favor of the Cash Flow DIP Lender shall be embodied in any order approving the Cash Flow DIP Facility and the use of cash collateral.</p> <p>The Bankruptcy Court shall retain exclusive jurisdiction with respect to all matters relating to the exercise of rights and remedies under the Cash Flow DIP Documents, the Interim Cash Flow DIP Order, the Final Cash Flow DIP Order and with respect to the Cash Flow DIP Collateral. The only issue as to which the Debtors may seek Bankruptcy Court intervention at any hearing seeking to delay or prevent the Cash Flow DIP Lender from exercising remedies</p>

	shall be whether an Event of Default has, in fact, occurred and is continuing.
<u>Mandatory Prepayments:</u>	<p>Subject to the Cash Flow DIP Orders, usual and customary for facilities of this type and acceptable to the Cash Flow DIP Lender, including, in an amount equal to (a) 100% of net insurance and condemnation proceeds (excluding business interruption insurance proceeds), (b) 100% of net cash proceeds from the issuance of post-petition indebtedness not permitted by the Cash Flow DIP Documents and (c) 100% of the net cash proceeds of any asset sales (other than DIP Repo Collateral) (without any reinvestment rights or de minimis dollar carveouts). At the election of the Cash Flow DIP Lender in its sole discretion, all or a portion of such mandatory prepayments may be declined and available to the Debtors to be used in accordance with the Approved DIP Budget.</p> <p>Subject to the Carve-Out, all optional prepayments and mandatory prepayments (within one business day of receipt thereof) shall be applied as follows: first, to pay accrued and unpaid interest on, and expenses in respect of, the obligations under the Cash Flow DIP Facility, to the extent then due and payable; and second, to repay any principal amounts or other obligations which have been advanced and are outstanding under the Cash Flow DIP Facility.</p>
<u>Optional Prepayments:</u>	The Debtors may, upon at least one business days' notice, prepay in full or in part, the Cash Flow DIP Facility, without premium or penalty; <u>provided, however</u> , each such partial prepayment shall be in a minimum amount to be agreed. Once repaid, Cash Flow DIP Loans may not be re-borrowed.
<u>Representations and Warranties:</u>	Usual and customary for facilities of this nature and others to be reasonably specified by the Cash Flow DIP Lender.
<u>Affirmative and Negative Covenants:</u>	<p>Usual and customary for facilities of this type and acceptable to the Cash Flow DIP Lender, and to include covenants that: (i) no leases or executory contracts may be assumed or rejected without the prior written consent of the Cash Flow DIP Lender in its reasonable discretion, and (ii) advance copies of all material pleadings and/or filings in the Cases to be made by the Debtors shall be provided to the Cash Flow DIP Lender prior to filing. Additional covenants include, without limitation:</p> <p>(a) due organization and authorization, enforceability, financial condition, no material adverse changes;</p>

	<p>(b) perfection and priority of liens securing the Cash Flow DIP Facility, amount of prepetition debt, amount and nature of existing debt, and effectiveness of borrowing orders;</p> <p>(c) prohibitions against the Debtors using any cash or the proceeds of any Cash Flow DIP Loans in a manner or for a purpose other than in accordance with the Cash Flow DIP Facility and Approved DIP Budget, subject to the Budget Compliance Covenant;</p> <p>(d) continued retention of the Chief Restructuring Officer, the Operations Consultant, Darien Oien, Thomas Ramm;</p> <p>(e) timely delivery of the Approved DIP Budget and variance reports;</p> <p>(f) delivery of monthly financial statements, reports, accountants' letters, projections, officers' certificates;</p> <p>(g) delivery of reporting and other information reasonably requested by the Cash Flow DIP Lender (including information required to be delivered pursuant to the Cases and such other reporting as set forth herein);</p> <p>(h) provision of regular updates as determined by the Cash Flow DIP Lender in its sole discretion, as to prospective purchasers' receipt of marketing materials, and the receipt by the Debtors of indications of interest and other documentation from potential purchasers thereon;</p> <p>(i) maintenance of existence;</p> <p>(j) maintenance of properties, notices of default, litigation and other material events;</p> <p>(k) payment of taxes; compliance with laws, receipt of governmental approvals, environmental compliance, licenses and certifications;</p> <p>(l) maintenance of books and records;</p> <p>(m) naming of the Cash Flow DIP Lender as additional insureds on all insurance policies; and</p> <p>(n) compliance with the Budget Compliance Covenant.</p>
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	Unless waived by the Cash Flow DIP Lender, breach of any of the foregoing shall be an Event of Default.
<u>Conditions Precedent to the Cash Flow DIP Facility:</u>	<p>The Cash Flow DIP Documents will contain the following conditions precedent to the Cash Flow DIP Facility:</p> <ul style="list-style-type: none"> (a) The form and substance of the first day orders shall be reasonably satisfactory to the Cash Flow DIP Lender. (b) The preparation, authorization and execution of the agreements with respect to the Cash Flow DIP Facility and the Repo DIP Facility (which shall include refinancing of mortgage loans funded by Bridge Lender before the Petition Date), in form and substance reasonably satisfactory to the Cash Flow DIP Lender. (c) No later than four business days after the Petition Date, the Bankruptcy Court shall have entered the Interim Cash Flow DIP Order, in form and substance reasonably satisfactory to the Cash Flow DIP Lender. (d) All premiums, fees and documented out of pocket fees and expenses (including reasonable and documented fees and expenses of counsel and financial advisors) required to be paid to the Cash Flow DIP Lender on or before the Cash Flow DIP Closing Date for which invoices have been presented shall have been paid. (e) [reserved]. (f) [reserved]. (g) The Cash Flow DIP Lender shall have a valid and perfected lien on and security interest in the Cash Flow DIP Collateral with the priority described herein. (h) No default or event of default shall exist under the Cash Flow DIP Documents. (i) The representations and warranties of the Debtors under the Cash Flow DIP Documents shall be true and correct in all material respects after giving effect to such funding. (j) The Debtors shall have established a cash management system for the Cases reasonably satisfactory to the Cash Flow DIP Lender.

	<p>(k) The retention by the Debtors of the Chief Restructuring Officer on the Petition Date and the Operations Consultant who shall have been retained prior to the Petition Date.</p> <p>(l) The Cash Flow DIP Lender shall have received a certificate from the Debtors' insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to the Cash Flow DIP Documents is in full force and effect and that the Cash Flow DIP Lender has been named as additional insured and/or lenders loss payee thereunder to the extent required under the Cash Flow DIP Documents.</p>
<u>Conditions Precedent to Each Borrowing:</u>	<p>In advance of the Closing Date and any Initial Borrowing or Subsequent Borrowing, the following conditions precedent shall have been satisfied:</p> <p>(a) No default or event of default shall exist under the Cash Flow DIP Documents.</p> <p>(b) The making of a Cash Flow DIP Loan shall not violate any requirement of law and shall not be enjoined, temporarily, preliminarily or permanently.</p> <p>(c) The Cash Flow DIP Lender shall have received a borrowing notice, substantially in the form as attached to the Cash Flow DIP Term Loan Agreement.</p> <p>(d) The Cash Flow DIP Orders (and in the case of Interim Cash Flow DIP Order only) shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed in any manner adverse in any material respect to the Cash Flow DIP Lender without the consent of the Cash Flow DIP Lender.</p>
<u>Events of Default:</u>	<p>Usual and customary for facilities of this nature and others to be reasonably specified by the Cash Flow DIP Lender, including, without limitation:</p> <p>(a) failure to make any payment of principal, interest or fees when due;</p> <p>(b) representations and warranties that were materially incorrect when made;</p> <p>(c) failure to observe or perform certain covenants;</p>

	<p>(d) failure to observe or perform any other covenant, condition, or agreement in the Cash Flow DIP Documents, subject to a cure period;</p> <p>(e) failure to satisfy or stay execution of judgments above \$50,000;</p> <p>(f) default in other agreements relating to postpetition indebtedness (including the Repo DIP Facility Documents);</p> <p>(g) any material provision of any Cash Flow DIP Document shall cease to be in full force and effect, or cease to create a valid and perfected lien;</p> <p>(h) certain events involving ERISA;</p> <p>(i) a change in control;</p> <p>(j) dismissal of the Cases (other than in connection with a transfer of venue of the Cases, so long as there remains a pending proceeding in the Bankruptcy Court under the Bankruptcy Code with respect to each Debtor) or conversion of the Cases into cases under chapter 7 of the Bankruptcy Code;</p> <p>(k) a trustee, receiver or examiner shall have been appointed in one or more of the Cases;</p> <p>(l) granting of relief from any stay of proceeding (including the automatic stay) so as to allow a third-party to proceed against any material asset of the Debtors, except as the Cash Flow DIP Lender may reasonably approve;</p> <p>(m) entry of an order granting any superpriority claim which is senior to or pari passu with the Cash Flow DIP Lender's claims under the Cash Flow DIP Facility without the prior consent of the Cash Flow DIP Lender or as otherwise provided in the Cash Flow DIP Orders (other than as described under the caption "Priority" above);</p> <p>(n) entry of an order staying, reversing, vacating or otherwise modifying, without the prior written consent of the Cash Flow DIP Lender, the Cash Flow DIP Facility, the Interim Cash Flow DIP Order or the Final Cash Flow DIP Order, other than in connection with a transfer of venue of the</p>
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	<p>Cases, and such order is not stayed or reversed within two business days after entry thereof;</p> <p>(o) Payment of, or granting adequate protection with respect to, prepetition debt (other than as contemplated by the Cash Flow DIP Orders) in a manner that requires cash expenditures in excess of \$50,000 either (i) not contemplated by the Approved DIP Budget or (ii) would have a material adverse effect on the Cash Flow DIP Collateral (as reasonably determined by the Cash Flow DIP Lender), in each case, unless otherwise agreed by the Cash Flow DIP Lender;</p> <p>(p) cessation of liens or superpriority claims granted with respect to the Cash Flow DIP Collateral to be valid, perfected and enforceable in all respects with the priority described herein;</p> <p>(q) failure to satisfy any Milestone;</p> <p>(r) (i) the removal or attempted removal by the Debtors, or replacement or attempted replacement by the Debtors of the Chief Restructuring Officer as an officer of any Debtor, (ii) the dissolution or attempted dissolution of the position of the Chief Restructuring Officer as an officer of any Debtor, or the change or derogation or attempted change or derogation of the duties thereof, or (iii) the hindering or other circumvention or attempted hindering or other circumvention of the duties of the Chief Restructuring Officer;</p> <p>(s) (i) absent the consent of the Cash Flow DIP Lender, the removal or attempted removal by the Debtors, or replacement or attempted replacement by the Debtors of the Operations Consultant to the Debtors, or (ii) the hindering or other circumvention or attempted hindering or other circumvention of the duties of the Operations Consultant;</p> <p>(t) appointment of a responsible officer or examiner with enlarged powers relating to the operation of the business of any of the Debtors;</p> <p>(u) obtaining additional financing or granting liens not permitted under the Cash Flow DIP Facility (unless the Cash Flow DIP Facility is indefeasibly paid in full in cash) or using cash collateral without the consent of Cash Flow DIP Lender or seeking to reduce, set-off or subordinate Cash</p>
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	<p>Flow DIP Obligations or related liens;</p> <p>(v) the entry of an order granting automatic stay relief to a third party allowing them to foreclose on any asset worth more than \$50,000; and</p> <p>(w) a Debtor or any subsidiary becomes adverse in any lawsuit to the Cash Flow DIP Lender.</p> <p>Unless waived by the Cash Flow DIP Lender, breach of any of the foregoing shall be an Event of Default.</p>
<u>Expense Reimbursement:</u>	<p>Each Debtor shall jointly and severally be obligated to pay all reasonable and documented out-of-pocket costs and expenses of the Cash Flow DIP Lender, including all reasonable and documented counsel to the Cash Flow DIP Lender in connection with (i) the discussion, negotiation, preparation, execution and delivery of any documents in connection with the Cash Flow DIP Facility, including the Cash Flow DIP Documents and the funding of all Cash Flow DIP Loans, the administration of the Cash Flow DIP Facility and any amendment, modification or waiver of any provision of the Cash Flow DIP Documents, (ii) the interpretation, enforcement or protection of any of its rights and remedies under the Cash Flow DIP Documents or (iii) the Cases.</p>
<u>Indemnification</u>	<p>Each Borrower and Guarantor shall indemnify the Cash Flow DIP Lender and its affiliates and their respective advisors, investment managers, employees, officers, directors, agents, subagents, and representatives in relation to the Cash Flow DIP Documents and the Cash Flow DIP Orders, except to the extent arising solely out of fraud or willful misconduct of the Cash Flow DIP Lender.</p>
<u>Governing Law and Submission to Jurisdiction:</u>	<p>This Cash Flow DIP Documents will be governed by the Bankruptcy Code, and the laws of the State of New York.</p>

EXHIBIT 2

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

In re:

FIRST GUARANTY MORTGAGE
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10584 (CTG)

(Jointly Administered)

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION OPERATIONAL CASH FLOW FINANCING;
(II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL;
(III) GRANTING LIENS AND PROVIDING SUPER-PRIORITY
ADMINISTRATIVE EXPENSE STATUS; (IV) GRANTING ADEQUATE
PROTECTION; (V) SCHEDULING A FINAL HEARING; (VI) MODIFYING
THE AUTOMATIC STAY; AND (VII) GRANTING RELATED RELIEF**

Upon the motion, dated June 30, 2022 (the “Cash Flow DIP Motion”), of First Guaranty Mortgage Corporation (“FGMC”) and Maverick II Holdings, LLC (“Maverick”), the debtors and debtors in possession (together, the “Debtors”) in the above-captioned chapter 11 cases (the “Cases”), seeking entry of an order (this “Interim Cash Flow DIP Order”) pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503, 506, 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6003, 6004, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 2002-1, 4001-1, 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), *inter alia*:

- (i) authorizing, pursuant to sections 105(a), 363(b), 364(c), and 364(d) of the Bankruptcy Code, the Debtors to execute, deliver, perform under and enter into transactions under:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: First Guaranty Mortgage Corporation (9575); and Maverick II Holdings, LLC (5621). The Debtors’ mailing address is 5400 Tennyson Parkway, Suite 450, Plano, TX 75024.

- (a) that certain Senior Secured Superpriority Debtor-in-Possession Term Loan and Security Agreement, to be dated on or about the DIP Closing Date,² the form of which is attached as Exhibit A to this Interim Cash Flow DIP Order (as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Cash Flow DIP Credit Agreement,” and all obligations or liabilities with respect to the Cash Flow DIP Credit Agreement, the “Cash Flow DIP Obligations”), among (i) FGMC, as borrower, (ii) Maverick, as “Holdings” (and a guarantor) and (iii) LVS II SPE XXXIV LLC, as lender (the “Cash Flow DIP Lender”), which shall consist of (a) a senior secured, superpriority multi-draw term loan facility, in the aggregate amount not to exceed \$22,000,000 (the “Operating Amount”) plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts (each as defined in the Cash Flow DIP Credit Agreement) (the “Cash Flow DIP Facility”) and, (b) subject to entry of the Final Cash Flow DIP Order (as defined below), a roll up facility consisting of the Prepetition Bridge Loan Obligations (as defined below) that are remaining after the Prepetition B2 FIE Financed Loan Obligations (as defined below) are refinanced by the DIP Repo Facility (such remaining Prepetition Bridge Loan Obligations, the “Roll-Up Obligations”), which Roll-Up Obligations shall be converted into a portion of the outstanding Cash Flow DIP Obligations; and
 - (b) all other documents related thereto, including a custodial agreement related to the loan files for the B2 FIE Financed Loans (as defined below), (collectively with the Cash Flow DIP Credit Agreement, the “Cash Flow DIP Documents”).
- (ii) granting, subject to the Carve-Out (as defined below) the priorities identified herein:
- (a) to the Cash Flow DIP Lender, superpriority claims pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code, against the Debtors to secure the Cash Flow DIP Obligations on a joint and several basis, which shall be junior in all respects to the DIP Repo Superpriority Claim (as defined below);
 - (b) to the Cash Flow DIP Lender, the Cash Flow DIP Liens (as defined below), pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, to secure the Cash Flow DIP Obligations, on the Cash Flow DIP Collateral (as defined below), including (i) a first-priority lien on the Debtors’ unencumbered property, (ii) a first-priority priming lien on Prepetition Bridge Loan Collateral (as defined below), and (iii) junior liens on the DIP Repo Facility Backup Collateral and the Prepetition Loan Collateral (as

² For purposes herein, the “DIP Closing Date” means the date on which the Cash Flow DIP Facility is entered into and becomes effective, which shall occur on the date that this Interim Cash Flow DIP Order is entered or as soon as practicable thereafter.

both terms are defined below) other than Prepetition Bridge Loan Collateral; and

- (c) to the DIP Repo Guarantor, subject to satisfaction of the DIP Repo Guarantee Lien Condition (as defined below), first-priority priming liens and security interests, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, on the Cash Flow DIP Collateral and *pari passu* with the Cash Flow DIP Liens, to secure amounts actually advanced by the DIP Repo Guarantor under the DIP Repo Guarantee made by it for the benefit of the DIP Repo Facility Purchasers;³
- (iii) authorizing the Debtors, pursuant to sections 361, 362 and 363 of the Bankruptcy Code:
 - (a) to use the Prepetition Loan Collateral (as defined below) (including cash collateral, which for the avoidance of doubt shall not include the DIP Repo Facility Backup Collateral or any other Excluded Asset (as both terms are defined below)); and
 - (b) to provide adequate protection, subject to the Carve-Out and the priorities identified herein, to the Prepetition Lenders.
- (iv) upon entry of an Order approving Cash Flow DIP Facility on a final basis (the “Final Cash Flow DIP Order”), authorizing the Debtors to waive:
 - (a) any Debtors’ right to surcharge collateral pursuant to section 506(c) of the Bankruptcy Code or otherwise;
 - (b) the “equities of the case” exception pursuant to section 552(b) of the Bankruptcy Code; and
 - (c) the equitable doctrine of marshaling or similar doctrines;

³ For purposes herein:

- a. The “DIP Repo Facility” has the meaning ascribed to it in the [DIP Motion] (the “DIP Repo Motion”).
- b. The “DIP Repo Agent” has the meaning ascribed to it in the DIP Repo Motion.
- c. The “DIP Repo Parties” has the meaning ascribed to it in the DIP Repo Motion.
- d. The “DIP Repo Facility Purchasers” means the buyers from time to time under the DIP Repo Facility, together with the DIP Repo Agent acting on their behalf.
- e. “DIP Repo Superpriority Claims” means the “DIP Superpriority Claims,” as defined in the Interim DIP Repo Order.
- f. The “DIP Repo Guarantee” means that certain Limited Recourse Guarantee, to be dated on or about the DIP Closing Date, attached as Exhibit C to the Motion (as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof), by and among the DIP Repo Agent and [Bravo Fund II, L.P.], as guarantor (the “DIP Repo Guarantor”), pursuant to which the DIP Repo Guarantor has agreed to provide a limited guaranty of FGMC’s obligations under the DIP Repo Facility.
- g. The “Prepetition Lenders” means B2 FIE XI LLC, Flagstar Bank, FSB (“Flagstar”), and Customers Bank (“Customers”).
- h. The “Prepetition Repo Facility Purchasers” has the meaning ascribed to it in the DIP Repo Motion.

- (v) authorizing the Debtors to use the proceeds of the Cash Flow DIP Facility, in accordance with this Interim Cash Flow DIP Order and the Cash Flow DIP Documents;
- (vi) modifying the automatic stay to the extent set forth herein and in the Cash Flow DIP Documents; and
- (vii) scheduling a final hearing (the “Final Hearing”) to consider final approval of the Cash Flow DIP Documents as set forth in the Motion.

The United States Bankruptcy Court for the District of Delaware (the “Court”) having considered the Cash Flow DIP Motion, the exhibits attached thereto, the declarations in support of the Cash Flow DIP Motion, the Cash Flow DIP Documents; and the Interim Hearing having been held by this Court on July 1, 2022; and pursuant to Bankruptcy Rule 4001 and Local Rule 4001-2, notice of the Cash Flow DIP Motion and the relief sought at the Interim Hearing having been given by the Debtors; this Court having considered the Cash Flow DIP Motion and all pleadings related thereto, including the record made by the Debtors at the Interim Hearing; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

BASED UPON THE PLEADINGS AND THE RECORD, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:⁴

A. Petition Date. On June 30, 2022 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

B. Joint Administration. The Court entered an order approving the joint administration of the Cases.

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

C. Debtors in Possession. The Debtors have continued in the management and operation of their businesses and properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

D. Jurisdiction and Venue. This Court has core jurisdiction over the Cases, the Cash Flow DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue for the Cases and proceedings on the Cash Flow DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The Court may enter a final order consistent with Article III of the United States Constitution. The predicates for the relief sought herein are sections 105, 361, 362, 363(c), 363(e), 364(c), 364(d)(1), 364(e), 503, 506, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004, 9013 and 9014, and Local Rules 2002-1, 4001-1, 4001-2 and 9013-1.

E. Committee Formation. As of the date hereof, the United States Trustee for the District of Delaware (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in the Cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”).

F. Debtors’ Stipulations. After consultation with their attorneys and financial advisors, the Debtors, subject to the limitations thereon contained in Paragraph [23] of this Interim Cash Flow DIP Order, on their behalf and on behalf of their estates, admit, acknowledge, agree, and stipulate as follows:

(a) *Prepetition Bridge Loans.* Pursuant to that certain Second Amended and Restated Secured Promissory Note, dated as of June 29, 2022, executed by FGMC, as borrower, and in favor of B2 FIE XI LLC, as lender, (“Prepetition Bridge Lender”) (as amended, restated, supplemented or otherwise modified from time to time, the “Prepetition Bridge Loan Agreement”), extended certain loans and other financial accommodations to the Debtors (the “Prepetition Bridge Loans”). The Prepetition Bridge Loan Agreement and any other agreements and documents executed or delivered in connection therewith or pursuant thereto, each as may be amended, restated, supplemented or otherwise modified from time to time are collectively referred to herein

as the “Prepetition Bridge Loan Documents.”

(b) *Prepetition Bridge Loan Obligations*. As of the Petition Date:

(i) The Prepetition Bridge Lender is owed on account of the Prepetition Bridge Loans the principal amount of \$18,350,771 (such obligations, together with all interest, fees, reimbursement obligations, indemnification obligations and all other “Obligations” under and as defined in the Prepetition Bridge Loan Agreement, the “Prepetition Bridge Loan Obligations”).

(ii) The Debtors are absolutely and unconditionally obligated to the Prepetition Bridge Lender in respect of the Prepetition Bridge Loan Obligations under the Prepetition Bridge Loan Agreement.

(c) *Prepetition Bridge Loan Liens and Prepetition Bridge Loan Collateral*. As more fully set forth in the Prepetition Bridge Loan Documents:

(i) Pursuant to the Prepetition Bridge Loan Agreement, the Debtors pledged to the Prepetition Bridge Lender a senior secured lien on substantially all of its personal property assets (the “Prepetition Bridge Loan Liens”), including all proceeds thereof, whether then owned and existing or thereafter acquired or arising (the “Prepetition Bridge Loan Collateral”).⁵

(d) *Validity, Perfection and Priority of Prepetition Bridge Loan Liens and Prepetition Bridge Loan Obligations*. The Debtors acknowledge and agree that as of the Petition Date: (a) the Prepetition Bridge Loan Liens on the Prepetition Bridge Loan Collateral are (i) valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Bridge Lenders for fair consideration and reasonably equivalent value and (ii) senior in priority over any and all other liens on the Prepetition Bridge Loan Collateral other than any other liens that are valid, properly perfected (before the Petition Date or in accordance with section 546 of the Bankruptcy Code), non-avoidable, and senior in priority as a matter of law (“Prepetition Prior Liens”);⁶ (b) the Prepetition Bridge Loan Obligations constitute legal, valid, binding and non-avoidable obligations of the Debtors enforceable in accordance with the terms of the Prepetition Bridge Loan Documents; (c) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Bridge Loan Liens or Prepetition Bridge Loan Obligations exist, and no portion of the Prepetition Bridge Loan Liens or Prepetition Bridge Loan

⁵ For purposes of this Order, the “Prepetition Loan Collateral” shall mean the following: (i) the Prepetition Bridge Loan Collateral; (ii) the collateral granted to Flagstar pursuant to that certain Mortgage Warehousing Loan and Security Agreement dated as of June 30, 2017, between FGMC, as borrower, and Flagstar, and any other agreements and documents executed or delivered in connection therewith or pursuant thereto; and (iii) the collateral granted to Customers pursuant to that certain Amended and Restated Loan Agreement dated as of July 17, 2019, between FGMC, as borrower, and Customers, and any other agreements and documents executed or delivered in connection therewith or pursuant thereto.

⁶ Nothing herein shall constitute a finding or ruling by this Court that any asserted Prepetition Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable.

Obligations (or any payment made in respect of any thereof) is subject to any challenge or defense, including, without limitation, avoidance, disallowance, disgorgement, recharacterization or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or other applicable law; (d) any payments made on account of the Prepetition Bridge Loan Obligations before the Petition Date were (1) payments out of the Prepetition Bridge Loan Collateral and/or (2) made in the ordinary course of business and in exchange for reasonably equivalent value and did not diminish any property otherwise available for distribution to unsecured creditors; and (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under chapter 5 of the Bankruptcy Code or actions for recovery or disgorgement, against the Prepetition Bridge Lender, or any of its Related Parties (as defined below), arising out of, based upon or related to their respective obligations under the Prepetition Bridge Loan Documents. For the avoidance of doubt, the Debtors acknowledge and agree that as of the Petition Date, the Prepetition Bridge Lenders have perfected, first-priority (subject only to applicable Prepetition Prior Liens) liens on the Prepetition Bridge Loan Collateral

(e) *Release of Claims.* The Debtors shall be deemed to have forever waived, discharged and released each of the Prepetition Bridge Lender and each of their respective Related Parties⁷ (collectively, the “Prepetition Bridge Lender Releasees”) from any and all “claims” (as defined in the Bankruptcy Code), counterclaims, causes of action (including causes of action in the nature of “lender liability”), defenses, setoff, recoupment, other offset rights and other rights of disgorgement or recovery against any and all of the Prepetition Bridge Lender Releasees, whether arising at law or in equity, relating to and/or otherwise in connection with the Prepetition Bridge Loan Liens, the Prepetition Bridge Loan Obligations, the Prepetition Bridge Loan Documents or the debtor-creditor relationship between any of the Prepetition Bridge Lender, on the one hand, and the Debtors, on the other hand, including, without limitation, (a) any recharacterization, subordination, avoidance, disallowance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law, municipal law or foreign law and (b) any right or basis to challenge or object to the amount, validity, or enforceability of the Prepetition Bridge Loan Obligations or any payments or other transfers made on account of the Prepetition Bridge Loan Obligations, or the validity, enforceability, priority, or non-avoidability of the Prepetition Bridge Loan Liens securing the Prepetition Bridge Loan Obligations, including any right or basis to seek any disgorgement or recovery of payments of cash or any other distributions or transfers previously received by any of the Prepetition Bridge Lender Releasees.

(f) *Cash Collateral.* All of the Debtors’ cash, including any cash in deposit accounts of the Debtor, wherever located, and any proceeds of the sale of the Prepetition Bridge Loan Collateral (including, without limitation, any proceeds from the Bankruptcy Sale (as defined below)) constitutes Cash Collateral of the Prepetition Bridge Lender.

⁷ For purposes of this Order, “Related Party” means, with respect to any specified person (as defined in the Bankruptcy Code), such person’s affiliates (as defined in the Bankruptcy Code) and the respective directors, officers, employees, agents, investment managers, subagents, representatives, and advisors (including attorneys, accountants and experts) of such person and such person’s affiliates. For the avoidance of doubt, the affiliates of the Prepetition Bridge Lender and Cash Flow DIP Lender include Pacific Investment Management Company LLC, B2 FIE IV LLC, LVS II Offshore, L.P., LVS II Holdings, LP, and Bravo II Guarantor I LLC.

G. Findings Regarding Corporate Authority. The Debtors have all requisite corporate power and authority to execute and deliver the Cash Flow DIP Documents to which they are parties to and to perform their obligations thereunder.

H. Adequate Notice of Interim Hearing. On June 30, 2022 the Debtors filed the Cash Flow DIP Motion with this Court, pursuant to Bankruptcy Rules 2002, 4001, 9013 and 9014, and represent that they provided notice of the Cash Flow DIP Motion and the Interim Hearing to the following parties and/or their respective counsel as follows: (i) the U.S. Trustee, (ii) the Debtors' [twenty (20)] largest unsecured creditors on a consolidated basis (excluding insiders), (iii) counsel to the Prepetition Bridge Lender, (iv) respective counsel for each of the Prepetition Repo Facility Purchasers, (v) counsel to Flagstar, (vi) counsel to Customers, (vii) counsel to the Cash Flow DIP Lender, (viii) counsel to the DIP Repo Lender, and (ix) any other party entitled to notice pursuant to Local Rule 9013-1(m). The notice given by the Debtors of the Cash Flow DIP Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b), (c) and (d) and 9013 and the applicable Local Rules.

I. Findings Regarding Postpetition Financing.

(a) *Good Cause.* Good and sufficient cause has been shown for the entry of this Interim Cash Flow DIP Order.

(b) *Necessity of Cash Flow DIP Facility.* An immediate and critical need exists to obtain the Cash Flow DIP Facility and to use cash collateral in order to permit, among other things, the continued operation of the Debtors' businesses in the ordinary course, to administer and preserve the value of their estates, to maintain business relationships and to satisfy other working capital and operational needs. In the absence of the availability of funds in accordance with the extensions of credit under the Cash Flow DIP Documents and this Interim Cash Flow DIP Order,

the continued operation of the Debtors' business would not be possible. The access of the Debtors to sufficient working capital and liquidity through the Cash Flow DIP Facility and the use of cash collateral is necessary and vital to avoid serious and irreparable harm to the Debtors and to achieve a successful reorganization. Consummation of the transactions contemplated by the Cash Flow DIP Documents and this Interim Cash Flow DIP Order is therefore in the best interests of the Debtors' estates.

(c) *No Financing Available on More Favorable Terms.* Given their financial condition and capital structure, and despite their diligent efforts, the Debtors are unable to reasonably obtain from other sources sufficient postpetition liquidity, and the Cash Flow DIP Facility is the only such operational financing facility available at this time. The Debtors have also been unable to obtain secured credit from other sources (i) having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a), and 507(b) of the Bankruptcy Code; (ii) secured only by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (iii) secured solely by a junior lien on property of the Debtors and their estates that is already subject to a lien. A loan facility in the amount provided by the Cash Flow DIP Documents is not otherwise available to the Debtors without granting the Cash Flow DIP Lender superpriority claims and superpriority priming liens and security interests, pursuant to sections 364(c)(1), (2), (3), and 364(d) of the Bankruptcy Code, as provided in this Interim Cash Flow DIP Order and the Cash Flow DIP Documents. After considering the advantages and disadvantages of the proposed Cash Flow DIP Facility, the Debtors have concluded, in the exercise of their prudent business judgment, that moving forward with the proposed Cash Flow DIP Facility is the best financing alternative reasonably available. The Cash Flow DIP Facility will permit the Debtors to operate their businesses in the ordinary course. Additionally, the extensions of credit under the Cash Flow DIP

Facility are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

(d) *Willingness to Provide Liquidity.* The Cash Flow DIP Lender has indicated a willingness to engage in the transactions contemplated by the Cash Flow DIP Documents and this Interim Cash Flow DIP Order in reliance on, among other things, (i) approval by the Court of the terms and conditions of the Cash Flow DIP Documents with respect to the Cash Flow DIP Obligations, and (ii) entry of findings of the Court that (A) the Cash Flow DIP Facility and the other financial accommodations pursuant to the Cash Flow DIP Documents are essential to the Debtors' estates and are being extended in good faith, and (B) the Cash Flow DIP Superpriority Claims and the Cash Flow DIP Liens (each as defined below) will have the protections provided for in section 364(e) of the Bankruptcy Code.

(e) *Good Faith.* The Cash Flow DIP Documents have been negotiated in good faith and at arm's length among the Debtors, the Cash Flow DIP Lender, and their respective representatives. All of the Cash Flow DIP Obligations arising under, in respect of, or in connection with the Cash Flow DIP Facility and Cash Flow DIP Documents shall be deemed to have been extended by the Cash Flow DIP Lender in accordance with the Cash Flow DIP Documents and in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and shall therefore be entitled to the full protection of section 364(e) of the Bankruptcy Code and the terms, conditions, benefits and privileges of this Interim Cash Flow DIP Order regardless of whether this Interim Cash Flow DIP Order is subsequently reversed, vacated, modified or otherwise no longer in full force and effect or the Cases are subsequently converted or dismissed, unless the occurrence of the

Cash Flow DIP Obligations pursuant to this Interim Cash Flow DIP Order is stayed pending appeal.

J. Adequate Protection. The Prepetition Lenders are entitled, pursuant to sections 361 and 363(e) of the Bankruptcy Code, and subject to paragraph 23 of this Interim Cash Flow DIP Order, to adequate protection of their interests in the Prepetition Loan Collateral for, and equal in amount to, any diminution in the value of the Prepetition Lenders' interests in the Prepetition Loan Collateral pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code. As adequate protection, the Prepetition Lenders shall be granted, as set forth herein, and subject to paragraph 23 of this Interim Cash Flow DIP Order, superpriority administrative claims and adequate protection liens for, and in an amount equal to, any Diminution in Value (as defined below) of the Prepetition Lenders' interests in the Prepetition Loan Collateral, but subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out (collectively, the "Forms of Adequate Protection"). Based on the Cash Flow DIP Motion and on the record presented to the Court, the Forms of Adequate Protection are fair and reasonable and reflect the Debtors' prudent exercise of business judgment.

K. Consideration. The Debtors will receive and have received fair consideration and reasonably equivalent value in exchange for access to the Cash Flow DIP Facility and all other financial accommodations provided under the Cash Flow DIP Facility, the Cash Flow DIP Documents, and this Interim Cash Flow DIP Order. The terms of the Cash Flow DIP Facility pursuant to the Cash Flow DIP Documents and the use of the Cash Flow DIP Collateral (including the cash collateral) pursuant to this Interim Cash Flow DIP Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment and constitute reasonably equivalent value and fair consideration.

L. Sections 506(c) and 552(b) of the Bankruptcy Code. The Cash Flow DIP Lender and Prepetition Lenders each shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code. Because of the agreement of the Cash Flow DIP Lender and Prepetition Lenders, as the case may be, to subordinate the Cash Flow DIP Liens, the Cash Flow DIP Superpriority Claims, the Adequate Protection Liens and the 507(b) Claims (each as defined below) to the payment of certain administrative expenses of the Debtors' estates pursuant to the Carve-Out, the Cash Flow DIP Lender and the Prepetition Lenders are each entitled to a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code subject to entry of the Final Cash Flow DIP Order such that the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Cash Flow DIP Lender or the Prepetition Lenders with respect to proceeds, products, offspring or profits of any of the Cash Flow DIP Collateral (as defined below) and/or Prepetition Loan Collateral, as applicable. Similarly, upon entry of the Final Cash Flow DIP Order, each of the Cash Flow DIP Lender and Prepetition Lenders are entitled to a waiver of section 506(c) of the Bankruptcy Code.

M. No Marshaling/Application of Proceeds. Subject to and upon entry of the Final Cash Flow DIP Order, neither the Cash Flow DIP Lender nor the Prepetition Bridge Lender shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any obligations, liens or collateral acknowledged or approved pursuant to this Interim Cash Flow DIP Order or the Final Cash Flow DIP Order.

N. Immediate Entry. The Debtors have requested immediate entry of this Interim Cash Flow DIP Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Bankruptcy Rule 4001-2. Absent the granting of the relief set forth in this Interim Cash Flow DIP Order, the Debtors will be immediately and irreparably harmed. Entry of this Interim Cash Flow DIP Order is in the best

interests of the Debtors and their estates and creditors because it will, among other things, allow the Debtors to continue to operate in the ordinary course of their businesses and thereby maximize the value of their estates.

O. DIP Repo Facility. On the Petition Date, the Debtors also filed the DIP Repo Motion, seeking, among other things, the entry of an Order granting the relief requested therein on an interim basis (the “Interim DIP Repo Order”). Subject to approval pursuant to the Interim DIP Repo Order, a portion of the proceeds of the DIP Repo Facility will be used to purchase the mortgage loans financed by the Prepetition Bridge Loans (as defined in the Interim DIP Repo Order, the “B2 FIE Financed Loans”) and repay the portion of the Prepetition Bridge Loans Obligations used to finance the B2 FIE Financed Loans (as defined in the Interim DIP Repo Order, the “Prepetition B2 FIE Financed Loan Obligations”). Notwithstanding anything to the contrary in this Interim Cash Flow DIP Order or any other order of the Court or any other document, in no event shall the Cash Flow DIP Facility be paid down (by mandatory or voluntary prepayment) while any portion of the DIP Repo Obligations (as defined in the Interim DIP Repo Order) remain outstanding; *provided*, for the avoidance of doubt, that nothing in this sentence prohibits the repayment of the Prepetition B2 FIE Financed Loan Obligations.

Based upon the foregoing findings and conclusions, the Cash Flow DIP Motion and the record before the Court with respect to the Cash Flow DIP Motion, and good and sufficient cause appearing therefore, **IT IS HEREBY ORDERED** that:

1. Motion Granted/Interim Financing Approved. The Cash Flow DIP Motion is granted on an interim basis as set forth in this Interim Cash Flow DIP Order. The Debtors are hereby authorized to enter into the Cash Flow DIP Documents. All objections to the Cash Flow

DIP Motion and to this Interim Cash Flow DIP Order to the extent not withdrawn, waived, settled or resolved are hereby denied and overruled on the merits.

2. Effectiveness. Subject to the terms hereof, this Interim Cash Flow DIP Order shall become immediately effective and enforceable *nunc pro tunc* to the Petition Date, upon the date this Interim Cash Flow DIP Order is signed by the Court and entered on the docket in the Cases (the “Interim Cash Flow DIP Order Entry Date”), and there shall be no stay of execution or effectiveness of this Interim Cash Flow DIP Order.

3. Authorization of the Cash Flow DIP Facility

(a) Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are immediately authorized and empowered to (i) enter into and perform their obligations under the Cash Flow DIP Credit Agreement, (ii) execute and deliver all other Cash Flow DIP Documents required or advisable to effect the Cash Flow DIP Facility, and (iii) take all actions which may be necessary or advisable for the performance by the Debtors under the Cash Flow DIP Documents. The Debtors are hereby authorized on an interim basis to borrow up to the aggregate principal amount of \$11,000,000 out of the Operating Amount, plus access to the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts, all of which shall be used by the Debtors as permitted by the Cash Flow DIP Documents, including, without limitation, subject to the Approved Budget (as defined below).

(b) In furtherance of the foregoing and without further approval of this Court, the Debtors are authorized and empowered to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all related fees and expenses, that the

Cash Flow DIP Lender may reasonably determine is required or necessary for the Debtors' performance of their obligations under the Cash Flow DIP Facility, including, without limitation:

- (i) the execution, delivery, and performance of the Cash Flow DIP Documents, including, without limitation, the Cash Flow DIP Credit Agreement and any security and pledge agreements contemplated thereby;
- (ii) the execution, delivery and performance of one or more amendments, waivers, consents or other modifications to and under the Cash Flow DIP Documents, in each case in such form as the Debtors and other required parties may agree;
- (iii) the non-refundable payment or reimbursement of the reasonable and documented fees, costs and expenses referred to in the Cash Flow DIP Documents, including the fees and expenses of the Cash Flow DIP Lender, and costs and expenses payable under the Cash Flow DIP Documents; and
- (iv) the performance of all other acts required under or in connection with the Cash Flow DIP Documents.

4. Cash Flow DIP Obligations. Upon execution of the Cash Flow DIP Documents, the Cash Flow DIP Documents and Cash Flow DIP Obligations shall constitute valid, binding and non-avoidable obligations of the Debtors enforceable against each person or entity party to the Cash Flow DIP Documents (a "Cash Flow DIP Party") in accordance with the terms thereof and the terms of this Interim Cash Flow DIP Order, and any of their successors and assigns, including any trustee appointed in the Cases or in any case under chapter 7 of the Bankruptcy Code upon conversion of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the "Successor Cases"). No obligation, payment, transfer or grant of security hereunder or under the Cash Flow DIP Documents shall be stayed, restrained, voidable, avoidable

or recoverable under the Bankruptcy Code or under any applicable law (including under sections 502(d), 544, 547, or 550 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, disallowance (whether equitable or otherwise), impairment or any other challenges under the Bankruptcy Code or any other applicable foreign or domestic law or regulation by any person or entity; provided, however, that the grant of adequate protection claims and liens shall be subject to paragraph 23 of this Interim Cash Flow DIP Order.

5. Security for the Cash Flow DIP Obligations.

(a) Effective immediately upon entry of this Interim Cash Flow DIP Order, the Court hereby grants the following valid, binding, enforceable, non-avoidable, automatically and properly perfected postpetition senior priming security interests and liens (collectively, the “Cash Flow DIP Liens”) to the Cash Flow DIP Lender, in each case to secure the Debtors’ obligations under the Cash Flow DIP Documents: a lien and security interest, pursuant to section 364(c) and section 364(d) of the Bankruptcy Code, upon all property identified in (i), (ii) and (iii) below and subject to the relevant priorities described below and in the Interim DIP Repo Order (in each case, other than Excluded Assets (as defined below)) (collectively, the “Cash Flow DIP Collateral”). The Cash Flow DIP Liens on the Cash Flow DIP Collateral shall be senior in all respects to the security interests in, and liens on, the Cash Flow DIP Collateral and subject only to (A) the Carve-Out, (B) valid, perfected and non-avoidable liens (other than liens of the Prepetition Bridge Loan Lender, which shall be primed) on Cash Flow DIP Collateral that are in existence on the Petition Date, solely to the extent such liens are senior in priority to the Cash Flow DIP Liens on Cash Flow DIP

Collateral, (C) valid and non-avoidable liens on Cash Flow DIP Collateral that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code solely to the extent such liens are senior in priority to the Cash Flow DIP Liens on Cash Flow DIP Collateral, and (D) as to the DIP Repo Facility Backup Collateral (as defined below) only, the lien of the DIP Repo Agent in such collateral.

(i) Priming Lien on Prepetition Bridge Loan Collateral. Pursuant to section 364(d) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully perfected, senior priming lien on, and security interest in, the Prepetition Bridge Loan Collateral.

(ii) Senior Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully perfected, first priority lien on, and security interest in, all tangible and intangible prepetition and postpetition property in which any of the Debtors has an interest, whether existing on or after the Petition Date or thereafter acquired, that is not subject to a valid, perfected, non-avoidable and enforceable lien or security interest in existence on or as of the Petition Date (collectively, the “Unencumbered Property”), including, without limitation, (i) any cash of the Debtors, (subject to the limitations on the Carve-Out Account set forth herein) and any investment of such cash (*provided* that such cash shall not include any cash that constitutes DIP Repo Collateral), inventory, accounts receivable, other rights to payment whether arising before or on the Petition Date, including without limitation the warehouse related cash accounts at FGMC, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other

intellectual property, equity interests, and any claims and causes of the Debtors; (ii) any commercial tort claims and causes of action of any of the Debtors and any claims or causes of action against any directors or officers of the Debtors as well as any proceeds of, or property recovered in connection with, any successful claims and causes of action against any directors or officers of the Debtors; (iii) upon entry of the Final Cash Flow DIP Order, proceeds of the Debtors' claims and causes of action arising under chapter 5 of the Bankruptcy Code (collectively, the "Avoidance Actions"); and (iv) the proceeds of all of the foregoing; *provided* that the Unencumbered Property shall exclude the Excluded Assets, to the extent set forth in the definition thereof; and

(iii) Junior Liens on Prepetition Loan Collateral and DIP Repo Backup Collateral. Pursuant to section 364(c)(3) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully perfected, junior lien on, and security interest in (a) the Prepetition Loan Collateral (other than the Prepetition Bridge Loan Collateral), which security interests and liens in favor of the Cash Flow DIP Lender shall be immediately junior to the Prepetition Lenders and (b) the DIP Repo Facility Backup Collateral,⁸ which security interests and liens in favor of the Cash Flow DIP Lender shall be immediately junior to the DIP Repo Lender; *provided* that, for the avoidance of doubt, the Cash Flow DIP Liens shall attach to the DIP Repo Facility Backup Collateral only to the extent that (i) the Transactions (as defined DIP Repo Facility Agreement) are recharacterized as other than sales or (ii) the Purchased Assets are repurchased by the Debtors.

⁸ As set forth in the Interim DIP Repo Order, the term "DIP Repo Facility Backup Collateral" means the Purchased Assets (as defined in the DIP Repo Facility Agreement).

(b) The Cash Flow DIP Liens shall be effective immediately upon the Interim Cash Flow DIP Order Entry Date.

(c) The Cash Flow DIP Liens are granted on the Cash Flow DIP Collateral *nunc pro tunc* to the Petition Date without the necessity of the execution by the Debtors (or recordation or other filing or notice) of security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents, or the possession or control by the applicable agents or Cash Flow DIP Lender. As set forth below in Paragraph 20 of this Interim Cash Flow DIP Order, the Cash Flow DIP Lender may, but shall not be obligated to, execute, record, file, or notice such security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents with respect to the Cash Flow DIP Liens, or possess or control the Cash Flow DIP Collateral, and the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to implement the foregoing.

6. Cash Flow DIP Superpriority Claims. On account of the Cash Flow DIP Obligations, the Cash Flow DIP Lender is hereby granted superpriority administrative expense claims (the “Cash Flow DIP Superpriority Claims”) pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code against each of the Debtors. The Cash Flow DIP Superpriority Claims shall be senior to all other administrative expense or other claims, including those arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 546(c), 546(d), and 726 of the Bankruptcy Code. Notwithstanding the foregoing, the Cash Flow DIP Superpriority Claims shall be subject and subordinate in all respects to the Carve-Out and the DIP Repo Superpriority Claims and, pending entry of the Final Cash Flow DIP Order, shall not be payable from the proceeds of Avoidance Actions.

7. Security for the DIP Repo Guarantor.

(a) In order to provide credit support on behalf of the Debtors and to induce the DIP Repo Parties to extend credit under the DIP Repo Facility, the DIP Repo Guarantor agreed to guarantee the obligations of FGMC under the DIP Repo Facility up to the DIP Repo Guarantee Limit. The provision of the DIP Repo Guarantee was a material inducement to the DIP Repo Agent and the DIP Repo Facility Purchasers extending postpetition warehouse financing to the Debtors pursuant to the DIP Repo Facility. Additionally, absent the provision of the DIP Repo Guarantee, the DIP Repo Facility Purchasers would have provided a lower advance rate under the DIP Repo Facility, which in turn would have increased the funding need of the Debtors under the Cash Flow DIP Facility on a dollar-for-dollar basis.

(b) Effective immediately upon entry of this Interim Cash Flow DIP Order, the Court hereby grants the following valid, binding, enforceable, non-avoidable, automatically and properly perfected postpetition security interests and liens (collectively, the “DIP Repo Guarantee Liens”) to the DIP Repo Guarantor, to secure amounts actually advanced by the DIP Repo Guarantor under the DIP Repo Guarantee for the benefit of the DIP Repo Facility Purchasers: a contingent first-priority lien and security interest, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, on the Cash Flow DIP Collateral, which shall arise only upon the full and indefeasible payment and satisfaction of the obligations under the DIP Repo Facility (the “DIP Repo Guarantee Lien Condition”). The DIP Repo Guarantee Liens shall be *pari passu* with the Cash Flow DIP Liens.

(c) The DIP Repo Guarantee Liens are granted on the Cash Flow DIP Collateral *nunc pro tunc* to the Petition Date without the necessity of the execution by the Debtors (or recordation or other filing or notice) of security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents, or the possession or control by the applicable agents or any other Cash Flow DIP Party. As set forth below in Paragraph 20 of this

Interim Cash Flow DIP Order, the DIP Repo Guarantor may, but shall not be obligated to, execute, record, file, or notice such security agreements, control agreements, pledge agreements, financing statements, mortgages, schedules or other similar documents with respect to the DIP Repo Guarantee Liens, or possess or control the Cash Flow DIP Collateral, and the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to implement the foregoing.

8. Excluded Assets. Notwithstanding anything to the contrary in this Interim Cash Flow DIP Order or the Cash Flow DIP Documents, the Cash Flow DIP Collateral shall not include (i) any leasehold interest of a Debtor to the extent the granting of liens on such interest would, after giving effect to the Bankruptcy Code or this Interim Cash Flow DIP Order, nonetheless result in the abandonment, invalidation or unenforceability of any right, title or interest under any lease governing such leasehold interest or a breach or termination of such lease pursuant to its terms, (ii) any escrow, fiduciary, or trust account (including funds held in such accounts unless and until released or distributed to the Debtors), (iii) the Debtors' intellectual property that constitutes "intent to use" trademarks, to the extent the assignment of the creation or a lien thereon would violate applicable non-bankruptcy law unless such violation is excused or permitted under applicable bankruptcy law, (iv) any amount in excess of 65% of the voting equity interest in any non-U.S. subsidiary of a Debtor, (v) the Carve-Out Account (as defined below) (including funds held in the Carve-Out Account), and (vi) the proceeds of any of the assets identified in the foregoing clauses (i) and (vi) until released or distributed to the Debtors, (the assets described in the foregoing clauses (i) through (vi), subject to the foregoing proviso, the "Excluded Assets").

9. Carve-Out.

(a) As used in this Interim Cash Flow DIP Order, the “Carve-Out” shall be comprised of the following components:

- (i) Clerk and U.S. Trustee Fees. All fees required to be paid to the Clerk of this Court and to U.S. Trustee under section 1930(a) of title 28 of the United States Code and 31 U.S.C. § 3717 (collectively, the “Clerk and UST Fees”).
- (ii) Allowed Professional Fees Incurred Prior to a Carve-Out Trigger Notice. To the extent allowed by the Court (regardless of whether the order allowing such fees is entered before or after the Carve-Out Trigger Notice), accrued and unpaid fees and expenses (the “Allowed Professional Fees”), in an aggregate amount on a line item basis not exceeding the budgeted amounts for such Allowed Professional Fees reflected in the Approved DIP Budget, incurred by persons or firms retained by the Debtors pursuant to section 327, 328 or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee (if any) pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the date of delivery by the Cash Flow DIP Lender of a Carve-Out Trigger Notice (as defined below) (collectively, the “Pre-Termination Amount”). For purposes of the Carve-Out, Allowed Professional Fees shall exclude (a) any restructuring, sale, success or similar fee of any Professional Person and (b) fees and expenses of any third party professionals employed by any individual member of the Creditors’ Committee (if any).
- (iii) any accrued and unpaid postpetition fee and expense claims, without regard to when such fees and expenses accrued, related to the appointment of the Chief Restructuring Officer and the Operations Consultant, in each case, in accordance with the Approved DIP Budget, including any interim or final approval as set forth in any order of the Court approving the appointment of any Chief Restructuring Officer and the Operations Consultant or, if applicable, any procedures approved by the Court relating to the compensation of the Chief Restructuring Officer and the Operations Consultant; *provided, however*, that any Court-approved bonus, transaction, success fees, completion fees, substantial contribution fees, or any other fees of similar import shall be paid solely from the net proceeds of the Court approved transaction giving rise to such award;
- (iv) Chapter 7 Trustee. In the event of a conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, allowed fees and expenses incurred by a trustee and any professional retained by such trustee, in an aggregate amount not to exceed \$25,000; provided, however, no portion of the Carve-Out shall be utilized for the payment of professional fees and disbursements incurred in connection with any challenge to (i) the amount, extent, priority, validity, perfection or enforcement of the indebtedness of the Debtors owing to the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates, or (ii) liens or security interests in the collateral securing such indebtedness, including challenges to the perfection,

priority or validity of the liens granted in favor of the Cash Flow DIP Lender or the Prepetition Bridge Lender or any of its affiliates with respect thereto;

- (v) Allowed Professional Fees Incurred After a Carve-Out Trigger Notice. Allowed Professional Fees of Professional Persons incurred on and after the first business day following delivery by the Cash Flow DIP Lender of the Carve-Out Trigger Notice, subject to an aggregate cap of \$200,000 (collectively, the “Post Trigger Notice Carve-Out Fee Cap”).

(b) Carve-Out Trigger Notice. Upon the occurrence and during the continuance of any Cash Flow DIP Event of Default (as defined below), the Cash Flow DIP Lender may deliver a written notice invoking the Post Trigger Notice Carve-Out Fee Cap (the “Carve-Out Trigger Notice”) to the Debtors, the Debtors’ lead restructuring counsel, the U.S. Trustee, and the lead counsel for the Creditors’ Committee (if any). The Carve-Out Trigger Notice may be delivered by email (or any other means permitted under the Cash Flow DIP Documents).

(c) Delivery of Fee Statements. For purposes of determining the Pre-Termination Amount, no later than five (5) business days after the delivery of a Carve-Out Trigger Notice, each Professional Person shall deliver a statement (each, a “Fee Statement”) to the Debtors setting forth a good-faith estimate of the amount of fees and expenses incurred and unpaid prior to the date of the Carve-Out Trigger Notice.

(d) Carve-Out Account. Promptly following the entry of this Interim Cash Flow DIP Order, the Debtors shall establish a segregated account, which shall not be subject to control of the Cash Flow DIP Lender (the “Carve-Out Account”), but which shall be funded by the Cash Flow DIP or available funds at FGMC in accordance with the Approved DIP Budget and in no event from any Excluded Asset. Amounts funded into the Carve-Out Account in accordance with clause (e) below shall be held in trust to pay the Carve-Out. Following delivery of a Carve-Out Trigger Notice, all Allowed Professional Fees of Professional Persons shall be paid to the applicable Professional Person first from the Carve-Out Account in accordance with the order or orders of

the Court allowing such Allowed Professional Fees. Notwithstanding anything to the contrary in this or any other Court order, the Carve-Out Account and the amounts on deposit in the Carve-Out Account shall be available and used only to satisfy obligations of Professional Persons benefitting from the Carve-Out. The failure of the Carve-Out Account to satisfy Professional Fees in full shall not affect the priority of the Carve-Out. The Cash Flow DIP Collateral shall include the Debtors' reversionary interest in funds held in the Carve-Out Account, if any, after all Allowed Professional Fees that are subject to the Carve-Out have been paid in full pursuant to a final order not subject to appeal.

(e) Carve-Out Funding After a Carve-Out Trigger Notice. The following provisions with respect to the Carve-Out Account shall apply only upon delivery of a Carve-Out Trigger Notice:

(i) On the date of the Carve-Out Trigger Notice, the Carve-Out Trigger Notice shall be deemed to constitute a demand to the Debtors to utilize all cash on hand at FGMC or from the Cash Flow DIP and in no event from any Excluded Asset (the "Cash On Hand") as of such date to fund the Carve-Out Account in an amount equal to (A) the unpaid Clerk and UST Fees, (B) the Chapter 7 Trustee Fee Cap, (C) the Pre-Termination Amount (determined based upon the Fee Statements submitted to the Debtors in accordance with clause (c) above), (D) the Post Trigger Notice Carve-Out Fee Cap, (collectively, the "Aggregate Unfunded Amount") to be held in trust to pay all amounts included in the Carve-Out.

(ii) On or after the date of a Carve-Out Trigger Notice, no Cash Flow DIP Party, including the Cash Flow DIP Lender, shall foreclose on or sweep cash of the Debtors (including cash received as a result of the sale or other disposition of any assets and cash provided pursuant to the Cash Flow DIP Facility) until the Carve-Out Account has been fully funded with the Aggregate Unfunded Amount.

(iii) All funds in the Carve-Out Account shall be used first to pay the obligations set forth in the definition of the Carve-Out set forth above until paid in full. All payments and reimbursements made from the Carve-Out Account shall permanently reduce the Carve-Out on a dollar-for-dollar basis.

(f) Payment of Compensation. Following delivery of a Carve-Out Trigger Notice, the Debtors shall be permitted to pay fees and expenses allowed and payable by order of the Court

(that has not been vacated or stayed, unless the stay has been vacated) under sections 330 and 331 of the Bankruptcy Code, as the same may be due and payable from the Carve-Out Account.

10. Fees and Expenses. The Debtors are authorized and directed to pay any and all reasonable and documented fees and expenses described in this Paragraph no later than ten (10) days after receipt (via electronic mail) by (i) the Debtors, (ii) counsel for the Debtors, (iii) the U.S. Trustee, and (iv) counsel for the Creditors' Committee (if any) (collectively, the "Fee Notice Parties"), of an invoice (which need not contain any itemized details as to the relevant fees and expenses), in connection with the Cases, whether incurred before, on or after the Petition Date and whether or not the transactions contemplated hereby are consummated. The Debtors shall indefeasibly pay or reimburse the Cash Flow DIP Lender for its respective reasonable and documented fees and out-of-pocket costs, expenses and charges, including, but not limited to, the reasonable and documented fees, costs, and expenses of Greenberg Traurig, LLP, as counsel to the Cash Flow DIP Lender, and any other advisors or professionals retained by the Cash Flow DIP Lender. For the avoidance of doubt, no recipient of the fees, costs and expenses of the Cash Flow DIP Lender shall be required to file with respect thereto any interim or final fee application with the Court. Such fees and expenses shall not be subject to any offset, defense, claim, counterclaim or diminution of any type, kind or nature whatsoever. All fees, costs and expenses payable under the Cash Flow DIP Documents to the Cash Flow DIP Lender shall be included and constitute part of the Cash Flow DIP Obligations and be secured by the Cash Flow DIP Liens. For the avoidance of doubt, the Debtors shall be responsible to pay, subject to the procedures outlined in this Paragraph, all reasonable and documented fees and expenses incurred by the Cash Flow DIP Lender in connection with any action taken in the Cases, including, but not limited to, acting as a plan sponsor pursuant to any chapter 11 plan for the Debtors. Further, the upfront fee payable by

the Debtors pursuant to section 3.04(b) of the Cash Flow DIP Credit Agreement, which is deemed fully earned and nonrefundable on the Interim Cash Flow DIP Order Entry Date, shall be payable pursuant to the terms of the Cash Flow DIP Documents.

11. No Direct Obligation to Pay Professional Fees. The Cash Flow DIP Lender shall not be responsible for payment or reimbursement of any fees or disbursement of any Professional Person, or the Clerk and UST Fees, incurred in connection with these Cases, any Successor Cases or otherwise. Nothing in this Interim Cash Flow DIP Order or otherwise shall be construed: (a) to obligate the Cash Flow DIP Lender in any way to pay compensation to, or reimburse the expenses of, any Professional Person, or the Clerk and UST Fees, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement; (b) as consent to the allowance of any fees and expenses of Professional Persons; or (c) to affect the rights of the Cash Flow DIP Lender, or any other party in interest, to object to the allowance and payment of such fees and expenses.

12. Restrictions on Use of Proceeds of Cash Flow DIP Facility. No portion of the Carve-Out, any cash collateral, any other Cash Flow DIP Collateral, or any proceeds of the Cash Flow DIP Facility shall be used for the payment of professional fees, disbursements, costs or expenses incurred by any person, including, without limitation, the Debtors, the Creditors' Committee, any trustee or other estate representative appointed in the Cases or any Successor Case, or any other party, for any of the following actions or activities without the written consent of the Cash Flow DIP Lender: (a) to seek authorization to obtain liens or security interests on any asset of the Debtors that are senior to, or on a parity with, the Cash Flow DIP Liens, the Cash Flow DIP Collateral, or the Cash Flow DIP Superpriority Claims; (b) to seek authorization to obtain claims against the Debtors or their property that are senior to, or *pari passu* with, the liens and claims

identified in the preceding sub-clause (a); or (c) except as expressly set forth herein, directly or indirectly prepare, assert, join, commence, support, or prosecute any action for any claim, counterclaim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination, or any other relief against, or adverse to the interests of, the Cash Flow DIP Lender and any of its representatives with respect to any transaction, occurrence, omission, action, or other matter, including, without limitation, (i) any Avoidance Action, (ii) any “lender liability” claims and causes of action, (iii) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the Cash Flow DIP Liens, the Cash Flow DIP Superpriority Claims, or the Cash Flow DIP Obligations, (iv) any action seeking to invalidate, modify, reduce, expunge, disallow, set aside, avoid, or subordinate, in whole or in part, any of the obligations identified in the preceding clause (iii), (v) any action seeking to modify any of the rights, remedies, priorities, privileges, protections, and benefits granted to the parties hereunder or under any of the documents referred to herein, including claims, proceedings, or actions that might prevent, hinder or delay any of such parties’ assertions, enforcement, realizations or remedies on or against their collateral and rights herein or (vi) objecting to, contesting with, or interfering with, in any way, such parties’ enforcement or realization upon any of their collateral or rights, once a Cash Flow DIP Event of Default has occurred; *provided* that the Debtors shall be permitted to challenge the validity of any alleged Cash Flow DIP Event of Default.

13. Limitation of Liability. The Cash Flow DIP Lender shall have no liability to any third party relating to the Cash Flow DIP Documents and the Debtors’ use of the liquidity provided thereunder and shall not, by virtue of entering into the transactions contemplated by the Cash Flow DIP Facility or otherwise complying with the Cash Flow DIP Documents or this Interim Cash

Flow DIP Order, be deemed to be in control of the operations of the Debtors, or to owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates. The Debtors shall, and are hereby authorized to, indemnify and hold harmless the Cash Flow DIP Lender and its affiliates and representatives from and against all losses, liabilities, claims, damages, penalties, actions, judgments, suits, expenses or disbursements of any nature whatsoever arising out of or relating to the Cash Flow DIP Documents or this Interim Cash Flow DIP Order, including the syndication of any obligations thereunder, and the Debtors' use of the liquidity provided thereunder; *provided, however*, that the foregoing indemnity shall not apply to any actions of any indemnified parties determined in a final non-appealable judgment to constitute fraud, gross negligence, or willful misconduct. This indemnification shall survive and continue for the benefit of all such persons or entities.

14. No Obligation to Extend Credit. The Cash Flow DIP Lender shall have no obligation to make any loan or advance under the Cash Flow DIP Documents, unless all of the conditions precedent in the Cash Flow DIP Credit Agreement have been satisfied in full or waived by the Cash Flow DIP Lender in its sole discretion.

15. Adequate Protection of the Prepetition Lenders. Subject to the Carve-Out in all respects, to the extent there is a postpetition diminution in value of the Prepetition Loan Collateral (including cash collateral), resulting from the use, sale, or lease by the Debtors of the Prepetition Loan Collateral (including cash collateral), the granting of the Cash Flow DIP Superpriority Claims, the granting of the Cash Flow DIP Liens and to the Carve-Out, and the imposition or enforcement of the automatic stay of section 362(a) of the Bankruptcy Code (collectively, the "Diminution in Value"), the Prepetition Lenders are hereby granted, subject to the terms and

conditions set forth below, and subject to paragraph 23 of this Interim Cash Flow DIP Order, the following Forms of Adequate Protection:

(a) Adequate Protection Liens. Pursuant to sections 361 and 363(e) of the Bankruptcy Code, the Prepetition Lenders are hereby granted a perfected, first-priority security interest and lien on (the “Adequate Protection Liens”) the same property of the Debtors on which the Prepetition Lenders had a perfected, first-priority security interest and lien prior to the Petition Date, whether arising prepetition or postpetition, which liens and security interests shall be subordinate only to (i) Liens permitted to be senior under such Prepetition Lender’s loan documents, (ii) the Cash Flow DIP Liens, (iii) the DIP Repo Guarantee Liens, and (iv) the Carve-Out.

(b) Prepetition Lenders Superpriority Claim. Pursuant to sections 361 and 364(c)(1) of the Bankruptcy Code, the Prepetition Lenders are hereby granted a superpriority administrative expense claim (the “Prepetition Lenders Superpriority Claim”) against each of the Debtors solely to the extent of any Diminution in Value of the Prepetition Loan Collateral, as provided for in section 507(b) of the Bankruptcy Code, which administrative expense claim in the Cases or any Successor Cases shall be senior to all other administrative expense or other claims, including those arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code; *provided* that such Prepetition Lenders Superpriority Claim shall be subject and subordinate to (i) the Cash Flow DIP Superpriority Claims, (ii) the DIP Repo Superpriority Claims, and (iii) the Carve-Out. Notwithstanding the foregoing, the Prepetition Lenders Superpriority Claim shall not be payable from the proceeds of Avoidance Actions, pending entry of the Final Cash Flow DIP Order.

(c) Reporting. As additional adequate protection, the Debtors shall prepare and deliver to the Prepetition Lenders any documents provided to the Cash Flow DIP Lender and/or the DIP Repo Agent for reporting purposes under the Cash Flow DIP Facility and/or the DIP Repo Facility.

(d) Sufficiency of Adequate Protection. The Prepetition Lenders are adequately protected by the Forms of Adequate Protection set forth herein and through the Cash Flow DIP Facility. The Cash Flow DIP Facility is necessary to allow the Debtors to continue the operation of their businesses, maintain their value as a going concern and achieve a successful reorganization, which will preserve and maximize the value of the Debtors and their estates for the benefit of the Debtors and all their stakeholders, including the Prepetition Lenders. The grant of the Cash Flow DIP Liens accordingly will not cause a diminution in the value of the Prepetition Lenders' interest in the Prepetition Loan Collateral. The grant of the DIP Repo Guarantee Liens benefits the Prepetition Lenders because absent provision of the DIP Repo Guarantee, the advance rates under the DIP Repo Facility would have been lower, which would have necessitated commensurately higher borrowings under the Cash Flow DIP Facility. Accordingly, the DIP Repo Guarantee Liens are contingent priming liens (contingent upon funding actual amounts under the DIP Repo Guarantee and the full and indefeasible payment and satisfaction of the obligations of the Debtors under the DIP Repo Facility) instead of actual priming liens in respect of additional borrowings under the Cash Flow DIP Facility. Additionally, the Forms of Adequate Protection are consistent with the Bankruptcy Code. The Court therefore finds that the foregoing adequate protection is reasonable and sufficient to protect the interests of the Prepetition Lenders.

16. Events of Default.

(a) Unless further extended or waived by written agreement among the Debtors and the Cash Flow DIP Lender, the occurrence of any of the following events shall constitute an event

of default (each a “Cash Flow DIP Event of Default”): (i) the failure of the Debtors to perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order; (ii) the consent of the Debtors to the standing of any party, including the Creditors’ Committee, to pursue any claim or cause of action against any of the Released Parties (as defined below) that belongs to the Debtors or their estates, including, without limitation, any Challenge (as defined below); (iii) commencement of a Challenge (as defined below) by any party, including the Debtors or the Creditors’ Committee; and (iv) an “Event of Default” as defined under the Cash Flow DIP Documents shall have occurred and is continuing, unless waived pursuant to the Cash Flow DIP Documents.

(b) Upon the occurrence and during the continuation of a Cash Flow DIP Event of Default, the Cash Flow DIP Lender may (i) deliver a notice of Cash Flow DIP Event of Default; (ii) declare the principal of and accrued interest, fees, expenses and other amounts under the Cash Flow DIP Documents to be due and payable; (iii) place an administrative hold on any deposit account or securities account that constitutes Cash Flow DIP Collateral, including the Controlled Account (as defined in the Cash Flow DIP Documents), subject to funding of the Carve-Out Account; and (iv) upon five (5) business days’ written notice to the Debtors, any official committee, and the U.S. Trustee (the “Cash Flow DIP Forbearance Period”), exercise all other rights and remedies available to the Cash Flow DIP Lender; *provided, however*, that, with respect to any Cash Flow DIP Event of Default for the failure to pay all obligations under the Cash Flow DIP Documents in full in cash by the maturity date as set forth in the Cash Flow DIP Credit Agreement (the “Cash Flow DIP Maturity Date”), the Cash Flow DIP Lender may exercise all rights and remedies immediately upon the occurrence of said default.

(c) Notwithstanding anything herein to the contrary, (i) if a Cash Flow DIP Event of Default exists at the end of the Cash Flow DIP Forbearance Period, then the Cash Flow DIP Lender shall be permitted to immediately exercise all of its other rights and remedies under the Cash Flow DIP Documents and (ii) the Cash Flow DIP Lender shall not be required to permit any funding or other financial accommodation under the Cash Flow DIP Documents during the Cash Flow DIP Forbearance Period unless and until the foregoing conditions shall have been satisfied during such period. The automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary, without the need for any further order of the Court, to permit the Cash Flow DIP Lender to exercise all rights and remedies under the Cash Flow DIP Documents and under this Interim Cash Flow DIP Order, in accordance with the terms of this Interim Cash Flow DIP Order.

17. Amendments, Consents, Waivers and Modifications. The Debtors and the Cash Flow DIP Lender are authorized, subject to the Cash Flow DIP Documents, to implement, in accordance with the terms of the respective Cash Flow DIP Documents, any amendments, waivers, consents or other modifications to or under the Cash Flow DIP Documents without the need for further notice and hearing or any order of this Court; *provided, however*, that, without the consent of this Court after notice and a hearing, no such amendments, consents, waivers or modifications shall (i) shorten the maturity date as set forth in the Cash Flow DIP Credit Agreement, (ii) increase the commitments thereunder or the rate of interest payable under the Cash Flow DIP Documents (other than imposition of the default rate) or (iii) amend the “Events of Default” or covenants in the Cash Flow DIP Documents to be materially more restrictive to the Debtors than those set forth in the form of Cash Flow DIP Credit Agreement as of the Interim Cash Flow DIP Order Entry Date.

18. Rights of Access and Information. Without limiting the rights of access and information afforded the Cash Flow DIP Parties under the Cash Flow DIP Documents, the Debtors shall be, and hereby are, required to afford representatives, agents and/or employees of the Cash Flow DIP Lender reasonable access to: (a) the Debtors' premises, (b) knowledgeable officers of the Debtors, (c) the Debtors' books and records, and (d) the Debtors' properties and other collateral of any Debtor against whom such parties are granted Cash Flow DIP Liens under this Interim Cash Flow DIP Order, and the Debtors shall reasonably cooperate, consult with, and provide to such persons all such information as may be reasonably requested.

19. DIP Budget.

(a) Attached hereto as Exhibit B is an initial cash flow forecast (the "Initial DIP Budget") setting forth all line-item and cumulative receipts and operating disbursements on a weekly basis for the period beginning as of the week of the Closing Date through and including the thirteenth (13th) week after such week. The Initial DIP Budget shall be deemed the "Approved DIP Budget" for all purposes of the Cash Flow DIP Documents until superseded by any Updated DIP Budget (as defined below) that subsequently is consented to by the Cash Flow DIP Lender

(b) On or before 5:00 p.m. New York City time on Thursday of each week, the Debtors shall deliver (a) a supplement to the Initial DIP Budget (or the previously supplemented Approved DIP Budget, as the case may be), covering the subsequent 13-week period that commences with the week immediately following the date of delivery of the supplemental budget (and which, for the avoidance of doubt, cannot modify previous weeks), consistent with the form and level of detail set forth in the Initial DIP Budget and otherwise in form and substance reasonably acceptable to, and consented to by, the Cash Flow DIP Lender in its discretion (each such supplemental budget, an "Updated DIP Budget"), (b) an actual consolidated cash flow of the Debtors for the week

preceding the first week of such Updated DIP Budget, showing line item variances between actual results and projected results (if applicable) for such week from the most recent Approved DIP Budget delivered pursuant to clause (a), in each case in a form reasonably acceptable to the Cash Flow DIP Lender which (I) shall be prepared on a consolidated basis for the Debtors, approved and certified by the Chief Restructuring Officer of the Debtors, as being accurate in all material respects (or in the case of the projections, as being projections believed to be reasonable at the time furnished, prepared in good faith based on assumptions believed to be reasonable at the time furnished), and (II) shall (A) show, in the case of clause (a), projected cash receipts and projected cash disbursements, (B) include for such period, in the case of clauses (a) and (b), a summary of collections, disbursements, outstanding checks and interest payments, (C) in the case of clause (b), include a line item variance report setting forth (x) actual results against anticipated results under the Approved DIP Budget for the week in regard to which such accompanying cash flow forecast is being delivered, reported in the aggregate (highlighting key line items) as of the end of such period, (y) variances in dollar amounts and percentages, and (z) a written explanation for all line item variances of greater than 10% for the applicable week, and (D) such other information as the Cash Flow DIP Lender may reasonably request (such items described in this clause (b), the “Variance Report”).

(c) Upon (and subject to) the approval of any such Updated DIP Budget by the Cash Flow DIP Lender in its sole discretion, such Updated DIP Budget shall constitute the then-approved Approved DIP Budget.

(d) As of the Friday after the second calendar week ending after the Petition Date and on each Friday thereafter (each a “Testing Date” and, as to the first three Testing Dates, the period between the Petition Date to the Testing Date and, as to subsequent Testing Dates, the four weeks

prior to the Testing Date, a “Testing Period”), the Debtors shall not permit (i) the amount of receipts in any line item during such Testing Period to be less than 90% of the amount of receipts for such line item as set forth in the Approved DIP Budget for such Testing Period or (ii) the amount of disbursements (for the avoidance of doubt, excluding disbursements under any of the “Debtor Professional Fees,” “Committee Professional Fees,” or “Lender Professional Fees” line items, each of which must be no more than 100% of the amount set forth in the Approved DIP Budget for such line item during the relevant Testing Period; provided, however, that any surplus during a Testing Period in any such line item can be carried forward to later Testing Periods for such line item) in any line item during such Testing Period to be greater than 110% of the amount of disbursements for such line item as set forth in the Approved DIP Budget for such Testing Period; provided, however, that for purposes of testing the relevant line items in the Approved DIP Budget are the following: “Asset Sales/Recoveries,” “Total Operating Disbursements,” “Debtor Professional Fees,” “Committee Professional Fees,” and “Lender Professional Fees.”

20. Automatic Perfection of Cash Flow DIP Liens and DIP Repo Guarantee Liens.

(a) This Interim Cash Flow DIP Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the Cash Flow DIP Liens and DIP Repo Guarantee Liens without the necessity of filing or recording financing statements, intellectual property filings, mortgages, notices of lien or similar instruments in any jurisdiction, taking possession of or control over any assets or taking any other action to validate or perfect (in accordance with applicable non-bankruptcy law) the Cash Flow DIP Liens or DIP Repo Guarantee Liens or to entitle the Cash Flow DIP Lender or DIP Repo Guarantor to its respective priorities granted herein.

(b) Notwithstanding the foregoing, each of the Cash Flow DIP Lender and DIP Repo Guarantor is hereby authorized, but not required, to file or record financing statements, trademark

filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over (including pursuant to a deposit account control agreement) or take any other action in order to validate and perfect the liens and security interests granted to the Cash Flow DIP Lender or DIP Repo Guarantor hereunder. Whether or not the Cash Flow DIP Lender or DIP Repo Guarantor chooses to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over or otherwise confirm perfection of the liens and security interests granted to them hereunder, such liens and security interests shall be and hereby are deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination, whether in these Cases or any Successor Case. The Debtors shall, if requested, execute and deliver to the Cash Flow DIP Lender or DIP Repo Guarantor, as applicable, all such agreements, financing statements, instruments and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request to more fully evidence, confirm, validate, perfect, preserve and enforce the Cash Flow DIP Liens or DIP Repo Guarantee Liens, as applicable. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(c) The Debtors are authorized to execute and deliver promptly upon demand by the Cash Flow DIP Lender or DIP Repo Guarantor all such financing statements, mortgages, notices and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request. The Debtors are authorized to, and shall, execute and deliver to the Cash Flow DIP Lender or DIP Repo Guarantor such agreements, financing statements, mortgages, instruments and other documents as the Cash Flow DIP Lender or DIP Repo Guarantor may reasonably request to evidence, confirm, validate or perfect the Cash Flow DIP Liens or DIP Repo Guarantee Liens, and the failure by the Debtors to execute or deliver any documentation relating to the Cash Flow DIP

Liens or DIP Repo Guarantee Liens shall in no way affect the validity, enforceability, non-avoidability, perfection, or priority of such liens.

(d) In lieu of obtaining such documentation or instruments, a certified copy of the Interim Cash Flow DIP Order may be filed by the Cash Flow DIP Lender and DIP Repo Guarantor with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby directed to accept such certified copy of this Interim Cash Flow DIP Order for filing and recording.

21. Automatic Stay Modified. The automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary, without the need for any further order of the Court, to permit the Cash Flow DIP Lender to exercise all rights and remedies under this Interim Cash Flow DIP Order or the Cash Flow DIP Documents.

22. Proofs of Claim. The Cash Flow DIP Lender shall not be required to file proofs of claim in the Cases, and the Debtors' stipulations in this Interim Cash Flow DIP Order or the Final Cash Flow DIP Order shall be deemed to constitute a timely filed proof of claim. Any order entered by the Court in connection with the establishment of a bar date for any claim (including, without limitation, administrative claims) in the Cases or any Successor Cases shall not apply to the Cash Flow DIP Lender.

23. Challenge Period/Investigation Budget.

(a) Notwithstanding any other provisions of this Interim Cash Flow DIP Order, the Creditors' Committee and any other party-in-interest (other than the Debtors) are permitted to investigate and commence, prior to the expiration of the Chapter 11 Challenge Period,⁹ an

⁹ For purposes of this Order, "Chapter 11 Challenge Period" means (i) with respect to parties-in-interest other than the Creditors' Committee, seventy-five (75) calendar days after entry of the Final Cash Flow DIP Order, and (ii) with respect to the Creditors' Committee, sixty (60) calendar days after the appointment of the Creditors' Committee.

adversary proceeding or contested matter, as required by the applicable Bankruptcy Rules, to seek to obtain standing to, and if standing is obtained, to do any of the following: (each, a “Challenge”)

(i) challenge the Debtors’ Stipulations contained herein, or any other stipulations or findings contained in this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order with respect to the Cash Flow DIP Liens or Cash Flow DIP Obligations, or the Prepetition Loan Liens or Prepetition Loan Obligations, including, without limitation, any challenge to the validity, priority, perfection, or enforceability thereof, including, without limitation, whether in nature of a setoff, counterclaim, or defense; (ii) assert any claim or cause of action, including a Released Claim (as defined below) against the Released Parties (as defined below); *provided*, that if a Creditors’ Committee is appointed, the Creditors’ Committee shall be subject to the Investigation Budget (as defined below) in accordance with Paragraph 23(b). If any of the Cases are converted to a case under chapter 7 of the Bankruptcy Code prior to the latest date by which the Chapter 11 Challenge Period would end pursuant to this Paragraph, then any chapter 7 trustee appointed in such converted case shall have a maximum of twenty (20) calendar days (the “Chapter 7 Challenge Period” and, together with the Chapter 11 Challenge Period, the “Challenge Period”) after the date that the Case is converted to bring any such Challenge. Except to the extent asserted in a Challenge filed during the Challenge Period, the expiration of such Challenge Period (to the extent not otherwise waived or barred), shall mean that (i) any and all Challenges or potential challenges shall be deemed to be forever waived and barred; (ii) all of the agreements, waivers, releases, affirmations, acknowledgements and stipulations contained in this Interim Cash Flow DIP Order and any Final Cash Flow DIP Order shall be irrevocably and forever binding on the Debtors, the Creditors’ Committee and all parties-in-interest and any and all successors-in-interest as to any of the foregoing, including any chapter 7 trustee, without further action by any party or the Court and

all such parties shall be deemed to have absolutely and unconditionally released, waived, and forever discharged and acquitted the Cash Flow DIP Lender, the Prepetition Bridge Lender, and each of their respective Related Parties (the “Released Parties”) from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, debts, accounts, contracts, liabilities, actions and causes of action (collectively, the “Released Claims”) of any kind, nature or description, whether known or unknown, foreseen or unforeseen or liquidated or unliquidated, arising in law or equity or upon contract or tort or under any state or federal law or otherwise, including, without limitation, any claims for recharacterization, subordination, or substantive consolidation, arising out of or relating to (as applicable) the Cash Flow DIP Facility or the Prepetition Loan Obligations, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the deal reflected thereby, and the obligations and financial obligations made thereunder, in each case that any of the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Cash Flow DIP Order, whether such Released Claims are matured or unmatured or known or unknown; and (iii) all of the Cash Flow DIP Obligations and/or Prepetition Loan Obligations, as the case may be, shall be deemed allowed on a final basis and the Cash Flow DIP Liens and/or Prepetition Loan Liens shall be deemed to constitute valid, binding and enforceable encumbrances, and not subject to avoidance pursuant to the Bankruptcy Code or applicable non-bankruptcy law. Notwithstanding anything to the contrary herein: (x) if any Challenge is timely commenced, the stipulations contained in this Interim Cash Flow DIP Order or any Final Cash Flow DIP Order shall nonetheless remain binding on all other parties-in-interest and preclusive except to the extent

that such stipulations are expressly and successfully challenged in such Challenge; and (y) the Released Parties reserve all of their rights to contest on any grounds any Challenge. Nothing in this Interim Cash Flow DIP Order vests or confers on any person, including, without limitation, the Creditors' Committee or any other statutory committee that may be appointed in these Cases, standing or authority to directly or indirectly support or pursue any cause of action, claim, defense, or other right belonging to the Debtors or their estates.

(b) Investigation Budget. If a Creditors' Committee is appointed, the Creditors' Committee shall be subject to a budget not to exceed \$30,000 in connection with the investigation and prosecution of any Challenge (the "Investigation Budget").

24. No Third Party Rights. Except as explicitly provided for herein (including the release of Released Claims against the Released Parties), this Interim Cash Flow DIP Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect or incidental beneficiary.

25. Prohibition on Additional Liens. Except as expressly provided in the Cash Flow DIP Documents, this Interim Cash Flow DIP Order, or the DIP Repo Order, the Debtors shall be enjoined and prohibited from, at any time during the Cases until such time as the Cash Flow DIP Obligations have been indefeasibly paid in full in cash, granting liens on or security interests in the Cash Flow DIP Collateral, the Prepetition Loan Collateral, or any portion thereof to any other entities, pursuant to section 364(d) of the Bankruptcy Code or otherwise, which liens are senior to or *pari passu* with the Cash Flow DIP Liens other than the Carve-Out, unless and until all Cash Flow DIP Obligations are indefeasibly paid in full in cash.

26. No Waiver. This Interim Cash Flow DIP Order shall not be construed in any way as a waiver or relinquishment of any rights that the Cash Flow DIP Lender may have to bring or

be heard on any matter brought before the Court. Similarly, the failure of the Cash Flow DIP Lender to seek relief or otherwise exercise its rights and remedies under this Interim Cash Flow DIP Order, the Cash Flow DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the Cash Flow DIP Lender.

27. Discharge Waiver. The Debtors expressly stipulate, and the Court finds and adjudicates, that none of the obligations, liens or superpriority claims granted or approved by this Interim Cash Flow DIP Order shall be discharged by the entry of an order confirming any plan of reorganization, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations, as applicable, have been indefeasibly paid in full in cash on or before the effective date of a confirmed plan of reorganization; provided, however, that the grant of adequate protection claims and liens shall be subject to paragraph 23 of this Interim Cash Flow DIP Order.

28. Interim Cash Flow DIP Order Controls. In the event of any inconsistency between the terms and conditions of the Cash Flow DIP Documents and this Interim Cash Flow DIP Order, the provisions of this Interim Cash Flow DIP Order shall govern and control solely to the extent of the inconsistency.

29. Survival. The provisions of this Interim Cash Flow DIP Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in the Cases; (b) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Case; or (d) pursuant to which the Court abstains from hearing the Cases or any Successor Case. The terms and provisions of this Interim Cash Flow DIP Order, including the claims, liens, security interests and other protections granted pursuant to this Interim Cash Flow DIP Order, notwithstanding the entry of

any such order, shall continue in the Cases, in any Successor Case, or following dismissal of any of the Cases or any Successor Case, and shall maintain their priority as provided in this Interim Cash Flow DIP Order until all obligations related thereto have been paid in full.

30. Preservation of Rights Under this Interim Cash Flow DIP Order.

(a) Without in any way limiting the preceding Paragraph, if an order dismissing the Cases under sections 305 or 1112 of the Bankruptcy Code or otherwise is at any time entered, the Debtors shall request that such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (i) the liens and superpriority claims granted pursuant to this Interim Cash Flow DIP Order shall continue in full force and effect, shall maintain their priority as provided in this Interim Cash Flow DIP Order and shall, notwithstanding such dismissal, remain binding on all parties in interest until all obligations pertaining thereto shall have been indefeasibly paid in full in cash (with interest) and the related commitments shall have been terminated in accordance with their terms and (ii) the Court shall retain non-exclusive jurisdiction, notwithstanding such dismissal, for the purposes of enforcing such claims and obligations.

(b) If any or all of the provisions of this Interim Cash Flow DIP Order are hereafter reversed, stayed, modified or vacated, such reversal, stay, modification or vacation shall not affect (i) the validity and enforceability of any obligations incurred prior to the actual receipt by the affected parties of written notice of the effective date of such reversal, stay, modification or vacation and (ii) the validity and enforceability of the liens and superpriority claims authorized or created hereby, unless this Interim Order is stayed pending appeal. Notwithstanding any such reversal, stay, modification or vacation, the obligations incurred by the Debtors hereunder and under the applicable documents, prior to the actual receipt of written notice of the effective date of such reversal, stay, modification or vacation, shall be governed in all respects by the original

provisions of this Interim Cash Flow DIP Order, and the parties shall be entitled to all the rights, remedies, privileges and benefits of sections 363(m) and 364(e) of the Bankruptcy Code, this Interim Cash Flow DIP Order and pursuant to the applicable documents.

31. Rights Under Sections 363(k) and 1129(b). Unless otherwise ordered by the Court for cause, the Cash Flow DIP Lender shall have the right to credit-bid the full amount of the Cash Flow DIP Obligations in any sale or disposition of the Cash Flow DIP Collateral as provided for in section 363(k) of the Bankruptcy Code, in accordance with the terms of the Cash Flow DIP Documents, without the need for further Court order authorizing the same and whether such sale is effectuated through section 363(k) and/or section 1129(b) of the Bankruptcy Code or otherwise because, among other things, the denial of such rights would result in the Cash Flow DIP Obligations not receiving the indubitable equivalent of their claims.

32. No Consent. No action, inaction or acquiescence by the Cash Flow DIP Lender, including funding the Debtors' ongoing operations under this Interim Cash Flow DIP Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the Cash Flow DIP Lender to a charge against the Cash Flow DIP Collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code.

33. Binding Effect; Successors and Assigns. The Cash Flow DIP Documents and the provisions of this Interim Cash Flow DIP Order, including all findings herein, shall be binding upon all parties in interest in the Cases, including, without limitation, the Cash Flow DIP Lender, the Creditors' Committee or any trustee or examiner appointed in these Cases, and the Debtors, and their respective successors and assigns (including any trustee or fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estate of the Debtors) whether in these Cases, in any Successor Cases, or upon any dismissal of any such

chapter 11 or chapter 7 case, and shall inure to the benefit of the Cash Flow DIP Lender and the Debtors and their respective successors and assigns.

34. No Duty to Monitor Compliance. The Cash Flow DIP Lender shall not (i) have any obligation with respect to any Debtor's use of cash collateral or the use of proceeds of the Cash Flow DIP Facility; (ii) be obligated to ensure or monitor any Debtor's compliance with any financial covenants, formula, or other terms and conditions of the Cash Flow DIP Documents; or (iii) be obligated to pay any expenses incurred or authorized to be incurred pursuant to the Cash Flow DIP Documents.

35. Final Hearing. The Final Hearing is scheduled for July 28, 2022, at 10:00 a.m. (prevailing Eastern Time) before this Court. Any objections by creditors or other parties-in-interest to any provisions of this Interim Cash Flow DIP Order shall be deemed waived unless timely filed and served in accordance with this Paragraph. The Debtors shall promptly serve a notice of entry of this Interim Cash Flow DIP Order and the Final Hearing, together with a copy of this Interim Cash Flow DIP Order, by first class mail, postage prepaid, or overnight mail upon the Notice Parties. The notice of the entry of this Interim Cash Flow DIP Order and the Final Hearing shall state that objections to the entry of the Final Order shall be filed with this Court by no later than July 21, 2022 p.m. (prevailing Eastern Time) on 4:00 p.m. (prevailing Eastern Time), 2022 (the "Objection Deadline"), with copies to: (i) proposed counsel for the Debtors; (ii) counsel for the Cash Flow DIP Lender Greenberg Traurig, LLP (Attn: Nancy Peterman (PetermanN@gtlaw.com), John D. Elrod (ElrodJ@gtlaw.com), Joseph Davis (DavisJ@gtlaw.com), and Danny Duerdoth (duerdothD@gtlaw.com), (iii) the Office of the United States Trustee for the District of Delaware, Attn: Benjamin Hackman; and (v) counsel to the Committee, if any.

36. Fannie Mae and Freddie Mac Rights.

(a) Notwithstanding anything to the contrary contained in the Cash Flow DIP Documents or this Interim Order, no lien, security interest granted pursuant to the Cash Flow DIP Documents or this Interim Order (including the Cash Flow DIP Liens or any adequate protection lien) shall attach to, modify, include or otherwise affect, and no administrative expense claim shall prime or encumber: (a) any mortgage loan presently owned by the Federal National Mortgage Association (together with any successor thereto, “Fannie Mae”; and such mortgage loans the “Fannie Mae Loans”), (b) any servicing rights with respect to the Fannie Mae Loans (the “Fannie Mae Servicing Rights”), (c) the Fannie Mae Lender Contract (as defined below) or any rights of the Debtors, or obligations of Fannie Mae, under the Fannie Mae Lender Contract (d) any mortgage loan presently owned, or subsequently acquired, by the Federal Home Loan Mortgage Corporation (together with any successor thereto, “Freddie Mac”; and such mortgage loans the “Freddie Mac Loans”), (e) any servicing rights with respect to the Freddie Mac Loans (the “Freddie Mac Servicing Rights”), or (f) the Freddie Mac Agreements (as defined below) or any rights of the Debtors, or obligations of Freddie Mac, under the Freddie Mac Agreements. Each of the Cash Flow DIP Facility Parties and the Prepetition Lenders stipulates that it has no claim as a secured creditor against Fannie Mae or Freddie Mac in connection with the Cash Flow DIP Facility.

(b) Furthermore, none of the principal, interest, and funds for the payment of property taxes and insurance premiums, mortgage premiums, condominium fees, or any other amounts collected by any Debtor or any subservicer in connection with its performance of its servicing obligations under the Fannie Mae Lender Contract or the Freddie Mac Agreements are property of the Debtors’ estates under section 541 of the Bankruptcy Code. Fannie Mae and Freddie Mac reserve all rights in and under all of their respective agreements with the Debtors, including,

respectively, the Fannie Mae Lender Contract and the Freddie Mac Agreements, none of which are impaired by the Cash Flow DIP Documents or this Interim Order.

(c) If, notwithstanding the foregoing, any party hereafter asserts that the Cash Flow DIP Liens or Cash Flow DIP Collateral, or adequate protection collateral include any Fannie Mae Servicing Rights, the Fannie Mae Lender Contract or any rights of the Debtors, or obligations of Fannie Mae under the Fannie Mae Lender Contract, any and all security interests therein shall be subject and subordinate to all rights of Fannie Mae under the Mortgage Selling and Servicing Contract, the Fannie Mae Selling Guide, the Fannie Mae Servicing Guide and all supplemental servicing instructions or directives provided by Fannie Mae, all applicable master agreements, recourse agreements, repurchase agreements, indemnification agreements, loss-sharing agreements, and any other agreements between Fannie Mae and the Debtors, and all as amended, restated or supplemented from time to time (collectively, the “Fannie Mae Lender Contract”), which rights include, among other rights, the right of Fannie Mae to terminate servicing or the Fannie Mae Lender Contract with or without cause and the right to sell, or have transferred, the Fannie Mae Servicing Rights. Fannie Mae reserves all of its rights under the Fannie Mae Lender Contract, including all of its rights under the Fannie Mae Servicing Guide.

(d) If, notwithstanding the foregoing, any party hereafter asserts that the Cash Flow DIP Liens or Cash Flow DIP Collateral, or adequate protection collateral include any Freddie Mac Servicing Rights, any Freddie Mac Agreement, or any rights of the Debtors, or obligations of Freddie Mac under any Freddie Mac Agreement, any and all security interests therein shall be subject and subordinate to all rights of Freddie Mac under the Freddie Mac Single-Family Seller/Servicer Guide, Freddie Mac Single-Family/Servicer Guide Plus Additional Provisions, all applicable master agreements, master commitments, purchase agreements, pricing identifiers,

supplements, addendums, bulletins, directives, terms of business and any other agreements between Freddie Mac and the Debtors, and all as amended, restated or supplemented from time to time (collectively, the “Freddie Mac Agreements”), which rights include, among other rights, the right of Freddie Mac to terminate the Servicing Contract (as defined in Freddie Mac Agreements) with or without cause and the right to sell, or have transferred, the Freddie Mac Servicing Rights. Freddie Mac reserves all of its rights under all Freddie Mac Agreements.

(e) If there is any conflict between the terms of the Fannie Mae Lender Contract and those of the Cash Flow DIP Documents, the terms of the Fannie Mae Lender Contract will control. If there is any conflict between the terms of any Freddie Mac Agreements and those of the Cash Flow DIP Documents, the terms of the applicable Freddie Mac Agreements will control.

37. Flagstar/Customers. Notwithstanding anything in this Cash Flow DIP Interim Order and the Cash Flow DIP Documents to the contrary, the relief sought by the Debtors in this order shall not apply (i) to any deposit accounts located at Customers Bank, Flagstar Bank, or Texas Capital Bank, National Association (“TCB”); (ii) to the accounts held by Deutsche Bank pursuant to the Amended and Restated Joint Securities Account Control Agreement dated as of August 11, 2017 (as amended, restated, supplemented or modified from time to time, the “JSACA”) by and among Deutsche Bank National Trust Company (“Securities Intermediary”), Customers Bank, Flagstar Bank and Texas Capital Bank, or (iii) to any of the collateral for the Prepetition Loan Facilities, the Customers Repo Facility, or the Prepetition Repo Facility of J.V.B. Financial Group, LLC, as successor by merger to C&Co./PrinceRidge LLC (“J.V.B.”) including cash collateral and proceeds of collateral; provided, however, that the Cash Flow DIP Liens (x) shall attach to such accounts and collateral on a junior basis to the extent of surplus proceeds from the disposition of the collateral, if any, (y) shall be and remain junior and subordinate in all respects

to the security interests of Flagstar Bank, Customers Bank, or J.V.B. in the collateral of Flagstar Bank, Customers Bank, or J.V.B. and (z) such Cash Flow DIP Liens (a) shall not in any respect limit the rights of Flagstar Bank, Customers Bank, J.V.B. to exercise their rights and remedies with respect to their respective collateral, (b) shall be automatically released (as to the collateral of Flagstar Bank, Customers Bank, or J.V.B. but not as to the surplus proceeds from the disposition of such collateral remaining after Flagstar Bank, Customers Bank, or J.V.B. respectively, has been indefeasibly paid in full on all obligations of the Debtor) without further action upon any disposition of such collateral or application of such collateral to the obligations of the Debtor to Flagstar Bank, Customers Bank, or J.V.B., (c) shall not give rise to any notice or other rights, under the Uniform Commercial Code or otherwise, in connection with any disposition or application of such collateral, and (e) shall not grant the Cash Flow DIP Lender any rights of enforcement with respect to such collateral until Customers Bank, Flagstar Bank, or J.V.B., as applicable, has received irrevocable payment in full of all of the Debtor's outstanding obligations to it. Nothing in this paragraph shall affect the right of the Debtors, Customers Bank, Flagstar Bank, TCB, or the Cash Flow DIP Lender to seek additional relief, including, without limitation, in the final first day orders. For the avoidance of doubt, the Debtors shall be permitted to use the Bank Account at Texas Capital Bank ending in the last four digits of 7572 for the purpose of payroll-related disbursements solely from proceeds of the Cash Flow DIP Loan.

38. Retention of Jurisdiction. This Court has and shall retain jurisdiction to enforce this Interim Cash Flow DIP Order according to its terms to the fullest extent permitted by law.

Dated: July 1st, 2022
Wilmington, Delaware



CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Credit Agreement

THIS SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION TERM LOAN AGREEMENT AND SECURITY AGREEMENT (this “Agreement”) dated as of July [1], 2022, is among: Maverick II Holdings, LLC, a Delaware limited liability company (“Maverick”), which is a debtor and debtor-in-possession in the Chapter 11 Cases (as defined below), First Guaranty Mortgage Corporation, a Virginia corporation (the “Borrower”), which is a debtor and debtor-in- possession in the Chapter 11 Cases, the other Guarantors (as defined below), each of which is a debtor and debtor-in-possession in the Chapter 11 Cases, and LVS II SPE XXXIV LLC (the “Lender”).

RECITALS

A. On June 30, 2022 (the “Petition Date”), the Borrower, and certain of its Subsidiaries and Affiliates (collectively, the “Debtors”) filed voluntary petitions to commence cases (the “Chapter 11 Cases”) under title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) and continued in the possession of their assets and in the management of their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

B. Prior to the Petition Date, B2 FIE XI LLC (the “Prepetition Bridge Lender”) extended to the Borrower loans in an aggregate principal amount of \$18,350,771 (the “Prepetition Bridge Loans”) pursuant to that certain Second Amended and Restated Secured Promissory Note, dated as of June 29, 2022 (the “Prepetition Bridge Loan Agreement”).

C. In connection with the Chapter 11 Cases, the Borrower has requested that the Lender provide a secured superpriority term loan facility (the “DIP Facility”) consisting of (a) new term loan Commitments in an aggregate principal amount not to exceed the sum of (i) the Operating Amount (as defined herein), plus (ii) the Mortgage Loan Funding Amounts (as defined herein), plus (iii) the Pipeline Sale Transaction Funding Amounts (as defined herein) and (b) effective as of the Final Roll-Up Date, the refinancing and conversion of the then outstanding Prepetition Bridge Loans to Roll-Up Loans.

D. The Lender has agreed to provide the DIP Facility upon the terms and conditions set forth herein.

E. To provide guarantees and security for the repayment of the Loans and the payment of the other Secured Obligations of the Borrower hereunder and under the other Loan Documents, the Loan Parties are providing to the Lender, pursuant to this Agreement and the other Loan Documents, the following (each as more fully described herein and in the other Loan Documents and subject to the qualifications set forth herein and in the other Loan Documents):

(i) a guarantee from each of the Guarantors of the due and punctual payment and performance of the Secured Obligations of the Borrower hereunder;

(ii) pursuant to Bankruptcy Code Section 364(c)(1), with respect to the Secured Obligations of the Loan Parties hereunder and under the other Loan Documents, the Superpriority Claims;

(iii) pursuant to Bankruptcy Code Section 364(c)(2), subject and subordinate in all respects to the Carve-Out, a perfected first priority lien on, and security interest in, all present and after-acquired property of the Loan Parties not subject to a valid, perfected and non-avoidable lien or security interest in existence on the Petition Date or to a valid lien in existence on the Petition Date that is perfected subsequent to the Petition Date as permitted by Bankruptcy Code Section 546(b) (including, after entry of the Final DIP Order, proceeds from the Debtors' avoidance actions under the Bankruptcy Code);

(iv) pursuant to Bankruptcy Code Section 364(c)(3), subject and subordinate in all respects to the Carve-Out, a perfected junior lien on, and security interest in, (A) all present and after-acquired property of the Loan Parties that is otherwise subject to a valid, perfected and non-avoidable lien or security interest in existence on the Petition Date or a valid lien in existence on the Petition Date that is perfected subsequent to the Petition Date as permitted by Bankruptcy Code Section 546(b) (other than the property described in the immediately following clause (v)) and (B) the DIP Repo Collateral; and

(v) pursuant to Bankruptcy Code Section 364(d)(1), subject and subordinate in all respects to the Carve-Out, a perfected first priority priming lien on, and security interest in, all collateral securing the Prepetition Bridge Loans.

F. All of the claims and the Liens granted hereunder and pursuant to the Loan Documents in the Chapter 11 Cases to the Lender shall be subject to the Carve-Out, but in each case only to the extent provided herein and in the DIP Order.

G. Pursuant to the terms of the DIP Order, all Secured Obligations will be secured by valid perfected Liens on substantially all of Debtors' assets, having the priorities set forth in the DIP Order.

H. In consideration of the mutual covenants and agreements herein contained and of the loans, extensions of credit and commitments hereinafter referred to, the parties hereto agree that the Prepetition Bridge Loan Agreement is amended and restated as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING MATTERS

Section 1.01 Terms Defined Above. As used in this Agreement, each term defined above has the meaning indicated above.

Section 1.02 Certain Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"13-Week Projection" a 13-week cash flow forecast, in form and substance acceptable to, and consented to by, the Lender, setting forth (i) all line-item and cumulative receipts and operating disbursements of the Debtors on a consolidated basis, broken down by week, and (ii) anticipated uses of the DIP Facility for such period delivered pursuant to Section 6.01(g).

“Acceptable Plan” means a Chapter 11 Plan in form and substance reasonably satisfactory to the Lender as to the treatment of claims arising under this Agreement and otherwise in form and substance reasonably satisfactory to the Lender.

“Acceptable Sale Order” means with respect to each of the MRS Sale Transaction, Pipeline Loan Sale Transaction, and Non-QM Loan Sale Transaction, an order of the Bankruptcy Court authorizing and approving such transaction, which shall be in form and substance acceptable to the Lender.

“Acknowledgment Agreement” means an acknowledgment agreement in the form prescribed by Fannie Mae or Freddie Mac, as applicable, that is required to be executed by an owner of servicing rights under the Fannie Mae Selling and Servicing Guides or Freddie Mac Sellers’ and Servicers’ Guides, as applicable, as a condition to such owner pledging such servicing rights.

“Adequate Protection Liens” shall have the meaning assigned to such term in the DIP Order.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” has the meaning assigned thereto in the preamble hereto.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Loan Parties from time to time concerning or relating to bribery or corruption.

“Applicable Rate” means, for any day, 11% per annum.

“Approved DIP Budget” shall have the meaning assigned to such term in Section 8.01(l).

“Bankruptcy Code” has the meaning assigned to such term in the recitals to this Agreement.

“Bankruptcy Court” has the meaning assigned to such term in the recitals to this Agreement.

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America or any successor Governmental Authority.

“Board of Directors” means the board of directors of the Borrower.

“Borrower” has the meaning assigned to such term in the preamble hereto.

“Borrowing Request” means a request by the Borrower for a Loan in accordance with Section 2.03.

“Budget Certificate” has the meaning assigned to such term in Section 8.01(l).

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed.

“Capital Leases” means, in respect of any Person, all leases which are required to be, in accordance with GAAP, recorded as capital leases or financing leases on the balance sheet of the Person liable (whether contingent or otherwise) for the payment of rent thereunder; provided, however, that all leases of such Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance on February 25, 2016 of the ASU 2016-02 (ASC 842, Leases) shall continue to be treated as operating leases (and any future lease that would have been treated as an operating lease for purposes of GAAP prior to the issuance of ASC 842 shall be treated as an operating lease), in each case for purposes of this Agreement.

“Carve-Out” has the meaning assigned to such term in the DIP Order.

“Cash Equivalents” means any Investment of the types described in Section 9.05(c) through Section 9.05(g).

“Cash Flow DIP Collateral” has the meaning assigned to such term in the DIP Order. Without limiting the generality of the foregoing, Cash Flow DIP Collateral includes each of the following:

(i) all Goods, Accounts (including, without limitation, receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (including, without limitation, patents, copyrights, trademarks, trade secrets, and other intellectual property and payment intangibles), commercial tort claims identified to the Lender, Documents, Instruments (including any promissory notes), Chattel Paper (whether tangible or electronic), cash, commodity accounts, Deposit Accounts, Fixtures, Letters of Credit Rights (whether or not the letter of credit is evidenced by a writing), instruments, securities accounts, securities, and all other investment property (including, for the avoidance of doubt, the capital stock and other equity interests (including both voting and economic rights therein) issued by any subsidiary of a Loan Party to a Loan Party), Supporting Obligations, and financial assets, whether now owned or hereafter acquired or arising, wherever located and all Proceeds of each of the foregoing;

(ii) all Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing; and

(iii) the Debtors' claims and causes of action arising under chapter 5 of the Bankruptcy Code and the proceeds thereof, subject to entry of the Final DIP Order.

Capitalized terms used in this definition of "Cash Flow DIP Collateral" but not otherwise defined in this Agreement shall have the meaning assigned to such terms in the UCC.

"Casualty Event" means any loss, casualty or other insured damage to, or any nationalization, taking under power of eminent domain or by condemnation or similar proceeding of, any Property of the Borrower or any of its Subsidiaries having a Fair Market Value in excess of \$50,000 in the aggregate for any calendar year.

"Change in Control" means the occurrence of any of the following events: (a) the adoption or the approval by the holders of Equity Interests of Borrower of a plan relating to the liquidation or dissolution of Borrower, (b) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any "person" (as defined above), other than a Permitted Holder, becomes the Beneficial Owner, directly or indirectly, of any of the voting Equity Interests of Borrower, measured by voting power rather than number of shares or (c) Borrower shall cease to Beneficially Own or control, of record, directly, 100% of the outstanding Equity Interests of Maverick.

"Chapter 11 Cases" has the meaning assigned to such term in the Recitals to this Agreement.

"Chapter 11 Plan" means a plan of reorganization or liquidation with respect to any of the Debtors.

"Chief Restructuring Officer" has the meaning ascribed to such term in Section 8.14(a).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

"Commitment" means with respect to the Lender, the sum of the Lender's Initial Term Loan Commitment and Delayed Draw Commitment, as applicable, in effect at such time.

"Confirmation Order" means an order of the Bankruptcy Court, in form and substance reasonably satisfactory to the Lender, confirming an Acceptable Plan.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Control" means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Account" has the meaning assigned to such term in Section 6.01(k).

"Credit Event" has the meaning assigned to such term in Section 6.02.

“Credit Exposure” means, at any time with respect to the Lender, the aggregate outstanding principal amount of the Lender’s Loans.

“Customers” means Customers Bank.

“Debt” means, with respect for any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (c) in respect of banker’s acceptances; (d) in respect of Capital Lease obligations; (e) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed; or (f) representing any Hedging Obligations. In addition, the term “Debt” includes all Debt of others secured by a Lien on any asset of the specified Person (whether or not such Debt is assumed by the specified Person) and, to the extent not otherwise included, the guarantee by the specified Person of any Debt of any other Person. Debt shall be calculated without giving effect to the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Debt for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such indebtedness.

“Debtors” has the meaning assigned to such term in the recitals to this Agreement.

“Default” means any event or condition which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Delayed Draw Availability Period” means the period from and including the date of the entry of the Final DIP Order to the Termination Date.

“Delayed Draw Commitment” means the commitment of the Lender to make the Delayed Draw Loans hereunder set forth on Annex I under the caption “Delayed Draw Commitment” as the same may be reduced by the amount of any reductions of the Delayed Draw Commitments pursuant to Sections 2.01(b) and 2.05(b). The aggregate amount of the Lender’s Delayed Draw Commitments on the Effective Date is \$11,000,000 plus any unused Initial Term Loan Commitments converted to Delayed Draw Commitments on the date of entry of the Final DIP Order.

“Delayed Draw Loans” means the term loans made by the Lender pursuant to Section 2.01(b).

“DIP Facility” has the meaning assigned to such term in the preamble hereto.

“DIP Liens” has the meaning assigned to such term in Section 13.01.

“DIP Order” means collectively, the Interim DIP Order and, upon entry thereof, the Final DIP Order.

“DIP Repo Collateral” has the meaning assigned to such term in the DIP Order.

“DIP Repo Facility” has the meaning assigned to such term in the DIP Order.

“DIP Repo Lender” means the lender under the DIP Repo Facility.

“Disclosure Statement Order” has the meaning assigned to such term in the definition of “Milestones.”

“Disqualified Capital Stock” means any Equity Interest that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Equity Interest), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Equity Interest, in whole or in part, on or prior to the date that is 91 days after the date on which the Loans mature. Notwithstanding the preceding sentence, any Equity Interest that would constitute Disqualified Capital Stock solely because the holders of the Equity Interest have the right to require the Borrower or any of its Subsidiaries to repurchase such Equity Interest upon the occurrence of a Change of Control or an asset sale will not constitute Disqualified Capital Stock if the terms of such Capital Stock provide that the Borrower or any of its Subsidiaries may not repurchase or redeem any such Equity Interests pursuant to such provisions prior to payment in full of the Secured Obligations. The amount of Disqualified Capital Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Borrower and its Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Capital Stock, exclusive of accrued dividends.

“dollars” or “\$” refers to lawful money of the United States of America.

“Effective Date” means the date on which the conditions specified in Section 6.01 are satisfied (or waived by the Lender).

“Environmental Laws” means any and all federal, state, and local laws, regulations, judicial decisions, orders, decrees, rules, permits, licenses, and other legal restrictions and requirements pertaining to health, safety, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., and the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.

“Environmental Liabilities” means, as to any Person, all liabilities, obligations, responsibilities, losses, damages, costs, and expenses (including, without limitation, all reasonable fees, disbursements and expenses of counsel, expert and consulting fees and costs of investigation and feasibility studies or other Remedial Actions), fines, penalties, sanctions, and interest incurred as a result of any claim or demand, by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute, including any Environmental Law, permit or order, arising from environmental conditions or the Release or threatened Release of a Hazardous Material into the environment, resulting from the past, present, or future operations of such Person or its Affiliates.

“Environmental Permit” means any permit, registration, license, approval, consent, exemption, variance, or other authorization required under or issued pursuant to applicable Environmental Laws.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such Equity Interest.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder and any successor statute.

“ERISA Affiliate” means any corporation or trade or business (whether or not incorporated) which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as the Borrower or any Subsidiary or is under common control (within the meaning of Section 414(c) of the Code and Sections 414(m) and (o) of the Code for purposes of the provisions relating to Section 412 of the Code) with Borrower or any Subsidiary.

“ERISA Event” means (a) a Reportable Event with respect to a Plan, (b) a withdrawal by the Borrower or any Subsidiary or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations which is treated as such a withdrawal under Section 4062(e) of ERISA, (c) a complete or partial withdrawal by the Borrower or any Subsidiary or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is insolvent, (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Plan or Multiemployer Plan, (e) the occurrence of an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan, (f) the imposition of any liability to the PBGC under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any Subsidiary or any ERISA Affiliate, (g) the failure of the Borrower or any Subsidiary or ERISA Affiliate to meet any funding obligations with respect to any Plan or Multiemployer Plan, or (h) a Plan becomes subject to the at-risk requirements in Section 303 of ERISA and Section 430 of the Code.

“Event of Default” has the meaning assigned such term in Section 10.01.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC thereunder.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to the Lender or required to be withheld or deducted from a payment to the Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) with respect to the Lender (other than an assignee pursuant to a request by the Borrower under Section 5.02), any

U.S. federal withholding tax that is imposed on amounts payable to or for the account of the Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) the Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 5.02) or (ii) the Lender changes its lending office, except in each case to the extent that, pursuant to Section 5.01, amounts with respect to such Taxes were payable either to the Lender's assignor immediately before the Lender became a party hereto or to the Lender immediately before it changed its lending office, (c) Taxes attributable to the Lender's failure to comply with Section 5.01(f), and (d) any U.S. withholding Tax that is imposed under FATCA.

"Fair Market Value" means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the board of directors of Borrower.

"Fannie Mae" means the Federal National Mortgage Association or any successor thereof.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"FHA" means the Federal Housing Administration or any successor thereof.

"Final DIP Order" means the final order of the Bankruptcy Court authorizing and approving the Debtors' entry into under the DIP Facility on a final basis, including the granting of the Liens and Superpriority Claims in respect of the DIP Facility in favor of the Lender, which shall be substantially in the form of the Interim DIP Order and include approval of the Delayed Draw Commitment in form and substance reasonably satisfactory to the Borrower and the Lender, with such changes as the Borrower and the Lender reasonably approve.

"Final DIP Order Entry Deadline" means the date that is thirty-five (35) days following the Petition Date, unless such date is extended with the consent of the Borrower and the Lender.

"Final Roll-Up Date" has the meaning ascribed to such term in Section 2.01(c).

"Financial Officer" means, for any Person, the chief financial officer, principal accounting officer, treasurer or controller of such Person. Unless otherwise specified, all references herein to a Financial Officer means a Financial Officer of the Borrower.

"Financial Statements" means the financial statement or statements of the Borrower and its Subsidiaries referred to in Section 7.04(a).

"Flagstar" means Flagstar Bank, FSB.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation or any successor thereof.

“GAAP” means generally accepted accounting principles in the United States of America as in effect from time to time subject to the terms and conditions set forth in Section 1.04.

“GNMA” means the Government National Mortgage Association or any successor thereof.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government over the Borrower or any Subsidiary, any of their Properties or the Lender.

“Governmental Requirement” means any law, statute, code, ordinance, order, determination, rule, regulation, judgment, decree, injunction, franchise, permit, certificate, license, authorization or other directive or requirement, whether now or hereinafter in effect, including, Environmental Laws, energy regulations and occupational, safety and health standards or controls, of any Governmental Authority.

“GSE” means a government sponsored enterprise of the United States of America, including, without limitation, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, any Federal Home Loan Bank and any public or privately owned successor entity to any of the foregoing.

“Guaranteed Obligations” has the meaning assigned to such term in Section 12.01(a).

“Guarantors” means each of the Debtors as of the Petition Date (other than the Borrower), including Maverick, and each other Subsidiary that becomes a Debtor and guarantees the Secured Obligations pursuant to Section 8.10.

“Guides” means, as of the time of reference, (a) the handbooks of HUD and the VA, (b) the Fannie Mae Selling and Servicing Guides, (c) the Freddie Mac Sellers’ and Servicers’ Guides and (d) the GNMA Mortgage Backed Securities Guides, as in effect at the relevant time.

“Hazardous Material” means any substance, product, waste, pollutant, material, chemical, contaminant, constituent, or other material which is or becomes listed, regulated, or addressed as hazardous, toxic, a pollutant, a contaminant or words of similar meaning under any Environmental Law, including, without limitation, asbestos, petroleum, and polychlorinated biphenyls.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements, (b) other agreements or arrangements designed to manage interest rates or interest rate risk and (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

“Highest Lawful Rate” means, with respect to the Lender, the maximum non-usurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Notes or on other Secured Obligations under laws applicable to the Lender which are presently in effect or, to the extent allowed by law, under such laws from time to time in effect.

“HUD” means the United States Department of Housing and Urban Development or any successor thereof.

“Indemnified Taxes” means (a) Taxes other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document, and (b) to the extent not otherwise described in (a), Other Taxes.

“Initial DIP Budget” has the meaning assigned to such term in Section 8.01(l).

“Initial Term Loans” means the term loans made by the Lender pursuant to Section 2.01(a).

“Initial Term Loan Commitment” means the commitment of the Lender to make the Initial Term Loans hereunder in an aggregate amount not to exceed \$11,000,000 out of the Operating Amount, plus the Mortgage Loan Funding Amounts and the Pipeline Sale Transaction Funding Amounts.

“Interest Payment Date” means the last Business Day of each month.

“Interim DIP Order” means an order of the Bankruptcy Court in substantially the form attached hereto as Exhibit F and otherwise reasonably satisfactory in form and substance to the Borrower and the Lender.

“Interim DIP Repo Order” means that certain Interim Order pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 507, 546, 548, 555, 559, 560 and 561 (A) Authorizing Debtors to Enter into Repurchase Agreement Facilities and Related Documents; (B) Authorizing Debtors to Sell and Repurchase Mortgage Loans in the Ordinary Course Of Business; (C) Granting Backup Liens and Superpriority Administrative Expense Claims; (D) Modifying the Automatic Stay; (E) Scheduling a Final Hearing; and (F) Granting Related Relief.

“Interim Period” means the period from and including the Effective Date to (but not including) the date that the Final DIP Order is entered by the Bankruptcy Court.

“Investment” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Debt, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If Borrower or any Subsidiary of Borrower sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of Borrower such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of Borrower, Borrower will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of

Borrower' Investments in such Subsidiary that were not sold or disposed of. The acquisition by Borrower or any Subsidiary of Borrower of a Person that holds an Investment in a third Person will be deemed to be an Investment by Borrower or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person. Except as otherwise provided in this Agreement, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“IRS” means the U.S. Internal Revenue Service.

“Key Counterparties” means any of (i) Fannie Mae, (ii) Freddie Mac, and (iii) GNMA.

“Lender” has the meaning assigned to such term in the preamble hereto.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any option or other agreement to sell or give a security interest in any filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction.

“Loan Documents” means this Agreement, the Note, the Security Instruments, and the DIP Order.

“Loan Parties” means Borrower and each other Guarantor.

“Loans” means the Initial Term Loans, the Delayed Draw Loans, and Roll-Up Loans made or deemed to be made by the Lender to the Borrower pursuant to this Agreement.

“Material Adverse Effect” means a material adverse change in, or material adverse effect on (a) the business, operations, Property or condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole ((i) other than, in the case of the Debtors, (A) the filing of the Chapter 11 Cases and (B) those events which normally result from or relate to the commencement and continuation of a proceeding under Chapter 11 of the Bankruptcy Code and (ii) in the case of the Debtors, taking into account the effect of the automatic stay under the Bankruptcy Code), (b) the ability of the Loan Parties, taken as a whole, to perform any of their obligations under any Loan Documents, (c) the validity or enforceability of any Loan Document or (d) the rights and remedies of or benefits available to the Lender under any Loan Document.

“Maturity Date” means the date that is 150 days following the Petition Date.

“Maverick” has the meaning assigned to such term in the preamble hereto.

“MERS” means Mortgage Electronic Registration Systems, Inc., or any successor thereto.

“Milestones” means the following milestones to be completed in each case in accordance with the applicable timing referred to below (or such later dates as may be approved by the Lender):

- (a) within four (4) business days after the Petition Date, the Interim DIP Order shall have been entered;
- (b) within 30 days after the Petition Date, an Acceptable Plan shall have been filed with the Bankruptcy Court;
- (c) within 90 days after the Petition Date, the Non-QM Loan Sale Transaction pursuant to an Acceptable Sale Order shall have been consummated;
- (d) on or prior to the Final DIP Order Entry Deadline, the Final DIP Order shall have been entered;
- (e) within 60 days after the Petition Date, the MRS Sale Transaction pursuant to an Acceptable Sale Order shall have been consummated;
- (f) within 50 days after the Petition Date, a disclosure statement in form and substance reasonably satisfactory to the Lender with respect to an Acceptable Plan, shall have been approved by the Bankruptcy Court (the “Disclosure Statement Order”);
- (g) within 90 days after the Petition Date, the Pipeline Loan Sale Transaction pursuant to an Acceptable Sale Order shall have been consummated;
- (h) within 90 days after the Petition Date, the Loan parties shall have substantial ceased all loan operations;
- (i) within 110 days after the Petition Date, an order in form and substance satisfactory to the Lender confirming the Acceptable Plan shall have been entered; and
- (j) within 120 days after the Petition Date, the Acceptable Plan shall have been consummated and the effective date of such Acceptable Plan shall have occurred.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto that is a nationally recognized rating agency.

“Mortgage Loan Funding Amounts” shall mean amounts required to fund (i) the amount (not to exceed \$16,000,000 in the aggregate) which comprises the excess, if any, of (A) the original principal balance of each mortgage loan originated by the Borrower (not to exceed \$125,000,000 in the aggregate) and sold to the DIP Repo Facility minus (B) the amount of funding provided by the DIP Repo Lender in respect of such originated loan, plus (ii) any mark to market losses incurred in connection with the DIP Repo Facility in an amount not to exceed \$3,600,000 in the aggregate, plus (iii) all professional fees incurred in connection with the Repo DIP Facility in an amount not to exceed \$600,000 in the aggregate, plus (iv) non-utilization fees and interest or pricing fees incurred under the DIP Repo Facility in amount not to exceed \$200,000, in each case, solely to the extent not satisfied first from the proceeds of DIP Repo Collateral.

“Mortgage Loan Funding Sublimit” means a sublimit in the amount of the Mortgage Loan Funding Amounts.

“Mortgage Servicing Right” means, with respect to any Person, the right of such Person to receive cash flows in its capacity as servicer of any Receivable or pool of Receivables, together with any assets related thereto that are of the type customarily transferred in connection with securitization transactions or secondary market sales involving assets such as, or similar to, Mortgage Servicing Rights, and any collections or proceeds thereof, including all contracts and contract rights, security interests, financing statements or other documentation in respect of such Mortgage Servicing Rights, all general intangibles under or arising out of or relating to such Mortgage Servicing Rights and any guarantees, indemnities, warranties or other obligations in respect of such Mortgage Servicing Rights. For purposes of determining the amount of a Mortgage Servicing Right at any time, such amount shall be determined in accordance with GAAP, consistently applied, as of the most recent practicable date.

“MRS Sale Transaction” means a sale, pursuant to section 363 of the Bankruptcy Code, of all or substantially all of the Loan Parties’ Mortgage Servicing Rights.

“Multiemployer Plan” means any employee pension plan as defined in Section 3(2) of ERISA covered by Title IV of ERISA that is a multiemployer plan as defined in Sections 3(37) or 4001 (a)(3) of ERISA, to which (a) the Borrower, a Subsidiary or an ERISA Affiliate makes, or is obligated to make, contributions or during the preceding five plan years has made, or been obligated to make, contributions or (b) Borrower or a Subsidiary may have any liability or obligation, whether known or unknown, asserted or unasserted, determined or determinable, absolute or contingent, accrued or unaccrued and whether due or to become due.

“Non-QM Loan Sale Transaction” means a sale, pursuant to section 363 of the Bankruptcy Code, of all or substantially all of the Loan Parties’ repurchased and “non-qualified” loans.

“Note” means a note of the Borrower payable to the Lender in substantially the form of Exhibit A hereto or such other form as may be acceptable to Lender in its discretion.

“Operating Amount” means \$22,000,000.

“Operating Sublimit” means a sublimit in the amount of the Operating Amount.

“Operations Consultant” has the meaning ascribed to such term in Section 8.14(b).

“Organizational Documents” means, with respect to any Person, (a) in the case of any corporation, the certificate of incorporation and by-laws (or similar documents) of such Person, (b) in the case of any limited liability company, the certificate of formation and limited liability company agreement (or similar documents) of such Person, (c) in the case of any limited partnership, the certificate of formation and limited partnership agreement (or similar documents) of such Person, (d) in the case of any general partnership, the partnership agreement (or similar document) of such Person and (e) in any other case, the functional equivalent of the foregoing.

“Other Connection Taxes” means, with respect to the Lender, Taxes imposed as a result of a present or former connection between the Lender and the jurisdiction imposing such Tax (other than connections arising from the Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under,

engaged in any other transaction pursuant to, or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.02).

“PBGC” means the Pension Benefit Guaranty Corporation, or any successor thereto.

“Permitted Holder” means B2 FIE IV LLC.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

“Petition Date” has the meaning assigned to such term in the Recitals to this Agreement.

“Pipeline Sale Sublimit” means a sublimit in the amount of the Pipeline Sale Transaction Funding Amounts.

“Pipeline Sale Transaction” means the sale, pursuant to section 363 of the Bankruptcy Code, of all or substantially all of the Loan Parties’ pipeline of loans pursuant to a transaction approved by Lender and consistent with the Approved Budget.

“Pipeline Sale Transaction Funding Amounts” means amounts required to fund (i) a work fee, in an amount acceptable to the Lender in its sole discretion, with respect to a pipeline purchase facility transaction approved by the Lender and consistent with the Approved Budget (the “Pipeline Sale”) and (ii) any mark to market losses incurred in connection with the Pipeline Sale in an amount not to exceed \$3,600,000.

“Plan” means any employee pension benefit plan, as defined in section 3(2) of ERISA, that is subject to Title IV of ERISA, other than a Multiemployer Plan, which (a) is currently or hereafter sponsored, maintained or contributed to by Borrower, a Subsidiary or an ERISA Affiliate or (b) Borrower or a Subsidiary may have any liability or obligation, whether known or unknown, asserted or unasserted, determined or determinable, absolute or contingent, accrued or unaccrued and whether due or to become due.

“Prepetition Bridge Lender” has the meaning assigned to such term in the Recitals to this Agreement.

“Prepetition Bridge Loan Agreement” has the meaning assigned to such term in the Recitals to this Agreement.

“Prepetition Bridge Loans” has the meaning assigned to such term in the Recitals to this Agreement.

“Prepetition Bridge Loan Collateral” means the “Collateral” as defined in the Prepetition Bridge Loan Agreement.

“Prepetition Bridge Loan Obligations” means the “Debt” and other obligations under, and as defined in, the Prepetition Bridge Loan Agreement.

“Prepetition Customers Facility” means that certain credit facility pursuant to the Amended and Restated Loan Agreement, dated as of July 17, 2019, between the Borrower and Customers.

“Prepetition Flagstar Facility” means that certain credit facility pursuant to the Mortgage Warehousing Loan and Security Agreement, dated as of June 30, 2017, between the Borrower and Flagstar.

“Prepetition Loan Documents” means the credit agreements, other agreements, documents, notes, and instruments entered into in connection with the Prepetition Loan Facilities.

“Prepetition Loan Facilities” means the Prepetition Bridge Loans, Prepetition Customers Facility, and Prepetition Flagstar Facility.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including cash, securities, accounts and contract rights.

“Receivables” means mortgage loans together with any assets related thereto that are of the type customarily transferred in connection with securitization transactions involving assets such as, or similar to, such Receivables, and any collections or proceeds of any of the foregoing, including all collateral securing such Receivables, all contracts and contract rights, security interests, financing statements or other documentation in respect of such Receivables, all general intangibles under or arising out of or relating to such Receivables and any guarantees, indemnities, warranties or other obligations in respect of such Receivables.

“Redemption” means with respect to any Debt, the repurchase, redemption, prepayment, repayment, defeasance or any other acquisition or retirement for value (or the segregation of funds with respect to any of the foregoing) of such Debt. “Redeem” has the correlative meaning thereto.

“Regulation D” means Regulation D of the Board, as the same may be amended, supplemented or replaced from time to time.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents, investment managers, subagents, representatives, and advisors (including attorneys, accountants and experts) of such Person and such Person’s Affiliates. For the avoidance of doubt, Lender’s Affiliates include B2 FIE IV LLC, LVS II Offshore, L.P., LVS II Holdings, LP, and Bravo II Guarantor I LLC.

“Release” means, as to any Person, any release, spill, emission, leaking, pumping, injection, deposit, disposal, disbursement, leaching, or migration of Hazardous Materials into the environment, including, without limitation, the movement of Hazardous Materials through or in the air, soil, surface water or ground water.

“Remedial Action” means all actions required to (a) clean up, remove, treat, or otherwise address Hazardous Materials in the indoor or outdoor environment, (b) prevent the Release or threat of Release or minimize the further Release of Hazardous Materials so that they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care.

“REO Asset” of a Person means a real estate asset owned by such Person and acquired as a result of the foreclosure or other enforcement of a Lien on such asset securing a Receivable or Servicing Advance Receivable.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Responsible Officer” means the chief executive officer, president, chief financial officer, or treasurer of Borrower or any Subsidiary or any Person designated by a Responsible Officer to act on behalf of a Responsible Officer; provided that such designated Person may not designate any other Person to be a Responsible Officer. Any document delivered hereunder that is signed by a Responsible Officer of Borrower or any Subsidiary shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of Borrower or any Subsidiary and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower or such Subsidiary.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other Property) with respect to any Equity Interests in Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other Property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in Borrower or any of its Subsidiaries or any option, warrant or other right to acquire any such Equity Interests in Borrower or any of its Subsidiaries.

“Roll-Up Loans” means the loans described in Section 2.01(c).

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned fifty percent or more or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State.

“SEC” means the Securities and Exchange Commission or any successor Governmental Authority.

“Secured Obligations” means, without duplication, any and all amounts owing or to be owing by the Borrower or any Guarantor whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising: (a) to the Lender under any Loan Document and (b) all renewals, extensions and/or rearrangements thereof. Without limitation of the foregoing, the term “Secured Obligations” shall include the unpaid principal of and interest on the Loans (including interest accruing at the then applicable rate provided in this Agreement after the maturity of the Loans), fees, reimbursement obligations and unpaid amounts, fees, expenses, indemnities, costs, and all other obligations and liabilities of every nature of the Borrower, any Subsidiary or any Guarantor, whether absolute or contingent, due or to become due, now existing or hereafter arising under this Agreement or the other Loan Documents.

“Security Instruments” means this Agreement, the DIP Order, and other agreements, instruments or certificates now or hereafter executed and delivered by the Borrower or any Guarantor and designated as a “Security Instrument” in connection with, or as security for the payment or performance of the Secured Obligations, as such agreements may be amended, modified, supplemented or restated from time to time.

“Servicing Advance Receivables” means rights to collections in respect of or other rights to reimbursement of Servicing Advances that Borrower or a Subsidiary of Borrower has made in the ordinary course of business and on customary industry terms.

“Servicing Advances” means advances made by Borrower or any of its Subsidiaries (or any joint ventures or preferred partners of Borrower or any Subsidiary) in its capacity as servicer of any mortgage-related receivables to fund principal, interest, escrow, foreclosure, insurance, tax or other payments or advances when the borrower on the underlying receivable is delinquent in making payments on such receivable; to enforce remedies, manage and liquidate REO Assets; or that Borrower or any of its Subsidiaries (or any joint ventures or preferred partners of Borrower or any Subsidiary) otherwise advances in its capacity as servicer, in each case on customary industry terms.

“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc., and any successor thereto that is a nationally recognized rating agency.

“Sublimit” means each of the Mortgage Loan Funding Sublimit, the Operating Sublimit, and the Pipeline Sale Sublimit.

“Sublimit Exposure” means, at any time of determination, the aggregate outstanding principal amount of the Lender’s Loans made pursuant to any applicable Sublimit. For the avoidance of doubt, the Roll-Up Loans shall not count towards any applicable Sublimit or Sublimit Exposure hereunder.

“Subsidiary” means any Person of which at least a majority of the outstanding Equity Interests having by the terms thereof ordinary voting power to elect a majority of the board of directors, manager or other governing body of such Person (irrespective of whether or not at the time Equity Interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned

by Borrower or one or more of its Subsidiaries or by Borrower and one or more of its Subsidiaries. Unless otherwise indicated herein, each reference to the term “Subsidiary” shall mean a Subsidiary of Borrower.

“Superpriority Claim” means a claim against a Loan Party in any of the Chapter 11 Cases that is a superpriority administrative expense claim having priority over any or all administrative expenses and other claims of the kind specified in, or otherwise arising or ordered under, any sections of the Bankruptcy Code (including, without limitation, sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 546(c) and/or 726 thereof), whether or not such claim or expenses may become secured by a judgment Lien or other non-consensual Lien, levy or attachment.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, assessments, fees, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Termination Date” means the earliest to occur of (a) the Maturity Date, (b) unless the Final DIP Order is entered on or prior to such date, the Final DIP Order Entry Deadline, (c) the substantial consummation (as defined in Section 1101(2) of the Bankruptcy Code, which for purposes hereof shall be no later than the effective date thereof) of an Acceptable Plan, (d) the date of the consummation of the sale of all or substantially all the Loan Parties’ assets, and (e) the date of termination of the Commitments (including an acceleration of the Secured Obligations pursuant to Section 10.02) as otherwise provided for herein.

“Testing Date” has the meaning assigned to such term in Section 9.01.

“Testing Period” has the meaning assigned to such term in Section 9.01.

“Transactions” means, the execution, delivery and performance by the Loan Parties of this Agreement and each other Loan Document, the borrowing of Loans, the use of the proceeds thereof, the guaranteeing of Secured Obligations by the Guarantors, the grant of the security interests and provision of collateral under the DIP Order.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York.

“Updated DIP Budget” has the meaning assigned to such term in Section 8.01(l).

“unrestricted” means, as of any date of determination, all cash and/or Cash Equivalents on the consolidated balance sheet of Borrower which is not “restricted” for purposes of GAAP.

“U.S. Person” means any Person that is a “United States person” as defined in section 7701(a)(30) of the Code.

“USA Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56), as amended.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 5.01(f)(ii)(B)(3).

“VA” means the United States Department of Veterans Affairs or any successor thereof.

“Variance Report” has the meaning assigned to such term in Section 8.01(l).

“Warehousing Facility” means any financing arrangement of any kind, including financing arrangements in the form of purchase facilities, repurchase facilities, loan agreements, note issuance facilities and commercial paper facilities (and excluding, in all cases, securitizations), including, in each case, any netting agreements and Hedging Obligations related thereto, with a financial institution or other lender or purchaser, in each case exclusively to (i) finance the purchase, origination or pooling of Receivables by Borrower or any Subsidiary (or any joint ventures or preferred partners of Borrower or any Subsidiary) prior to securitization or sale, (ii) finance Servicing Advances or (iii) finance the carrying of REO Assets related to Receivables; provided that, in each case, such purchase, origination, pooling, funding and carrying is in the ordinary course of business. Without limiting the foregoing, the Prepetition Customers Facility and Prepetition Flagstar Facility are each a Warehousing Facility.

“Warehousing Indebtedness” means Debt in connection with a Warehousing Facility.

“Wholly-Owned Subsidiary” means any Subsidiary of which all of the outstanding Equity Interests (other than any directors’ qualifying shares mandated by applicable law), on a fully-diluted basis, are owned by Borrower or one or more of the Wholly-Owned Subsidiaries or are owned by Borrower and one or more of the Wholly-Owned Subsidiaries.

“Withholding Agent” means the Borrower or any Guarantor.

Section 1.03 Terms Generally; Rules of Construction. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in the Loan Documents), (b) any reference herein to any law shall be construed as referring to such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to the restrictions contained in the Loan Documents), (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) with respect to the determination of any time period, the word “from” means “from and including” and the word “to” means “to and including” and (f) any reference herein to Articles, Sections, Annexes, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Annexes, Exhibits and Schedules to, this Agreement. No provision of this Agreement or any other Loan Document shall

be interpreted or construed against any Person solely because such Person or its legal representative drafted such provision.

Section 1.04 Accounting Terms and Determinations; GAAP. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all determinations with respect to accounting matters hereunder shall be made, and all financial statements and certificates and reports as to financial matters required to be furnished to the Lender hereunder shall be prepared in accordance with GAAP, applied on a basis consistent with the financial statements of Borrower except for changes in which Borrower's independent certified public accountants concur or which are disclosed to the Lender on the next date on which financial statements are required to be delivered to the Lender pursuant to Section 8.01(b); provided that, unless the Borrower and the Lender shall otherwise agree in writing, no such change shall modify or affect the manner in which compliance with the covenants contained herein is computed such that all such computations shall be conducted utilizing financial information presented consistently with prior periods.

ARTICLE II THE CREDITS

Section 2.01 Existing Loans and Commitments.

(a) Initial Term Loans. Subject to the terms and conditions set forth herein including the entry of the Interim DIP Order, the Lender agrees to make Initial Term Loans to the Borrower from time to time during the Interim Period (but in any event with respect to Initial Term Loans made pursuant to this Section 2.01(a), limited to a maximum of two (2) borrowings), on any Business Day in a principal amount equal to the amount requested by the Borrower in accordance with Section 2.03(a), provided, that the Lender will not be required to make Initial Term Loans in an amount that would result in (i) the aggregate amount of Initial Term Loans exceeding the Lender's Initial Term Loan Commitment or (ii) any applicable Sublimit Exposure exceeding its respective Sublimit. The Initial Term Loan Commitment shall be permanently reduced by the amount of any Initial Term Loan when made during the Interim Period and any remaining Initial Term Loan Commitments shall be converted to Delayed Draw Commitments in accordance with the definition thereof. Amounts paid or prepaid in respect of the Initial Term Loans may not be reborrowed.

(b) Delayed Draw Loans. Subject to the terms and conditions set forth herein, including the entry of the Final DIP Order, the Lender agrees to make Delayed Draw Loans to the Borrower from time to time during the Delayed Draw Availability Period (but in any event with respect to Delayed Draw Loans made pursuant to this Section 2.01(b), limited to a maximum of four (4) borrowings), on any Business Day in a principal amount equal to the amount requested by the Borrower in accordance with Section 2.03(b), provided, that the Lender will not be required to make Delayed Draw Loans in an amount that would result in (i) the aggregate amount of Delayed Draw Loans exceeding the Lender's Delayed Draw Commitment or (ii) any applicable Sublimit Exposure exceeding its respective Sublimit. The Delayed Draw Commitment shall be permanently reduced by the amount of any Delayed Draw Loan when made and any remaining Delayed Draw Commitment shall terminate at the end of the Delayed Draw Availability Period. Amounts paid or prepaid in respect of the Delayed Draw Loans may not be reborrowed.

(c) Roll-Up Facility Loans. Upon entry of the Final DIP Order (the “Final Roll-Up Date”), all of the Prepetition Bridge Loan Obligations that have not been previously refinanced by the DIP Repo Facility shall be deemed to have been refinanced by and/or converted into the Roll-Up Loans, and shall be deemed to be part of the Secured Obligations. Amounts of Roll-Up Loans repaid or prepaid may not be reborrowed.

Section 2.02 Loans.

(a) Loans. Each Initial Term Loan and Delayed Draw Loan shall be made by the Lender in accordance with its Initial Term Loan Commitment and Delayed Draw Commitment, respectively.

(b) Notes. Each Loan made hereunder shall be evidenced by a Note of the Borrower, payable to the Lender in a principal amount equal to its Loans, and otherwise duly completed. The date, amount, and interest rate of each Loan made by the Lender, and all payments made on account of the principal thereof, shall be recorded by the Lender on its books for its Note, and, prior to any transfer, may be endorsed by the Lender on a schedule attached to such Note or any continuation thereof or on any separate record maintained by the Lender. Failure to make any such notation or to attach a schedule shall not affect the Lender’s or the Borrower’s rights or obligations in respect of such Loans or affect the validity of such transfer by the Lender of its Note.

Section 2.03 Requests for Loans.

(a) To request the Initial Term Loans during the Interim Period, the Borrower shall notify the Lender of such request not later than 11:00 a.m., New York City time (or such later time as the Lender may agree in its sole discretion), three Business Days before the date of the proposed borrowing (or such shorter time as the Lender may agree in its sole discretion) by submitting a Borrowing Request. There shall be no more than two (2) borrowings of Initial Term Loans during the Interim Period. Each such Borrowing Request shall be irrevocable. Each such written Borrowing Request shall be in substantially the form of Exhibit B and signed by the Borrower and shall specify the following information:

- (i) the aggregate amount of the requested Loans;
- (ii) the date of such borrowing, which shall be a Business Day;
- (iii) the contemplated use or uses of such Loans and the Sublimit applicable to such Loans;
- (iv) the total Credit Exposure and each Sublimit Exposure on the date thereof (i.e., outstanding principal amount of Loans without regard to the Loans requested);
- (v) pro forma total Credit Exposure and each Sublimit Exposure on the date thereof (after giving effect to the Loans requested); and
- (vi) the location and number of the Borrower’s account to which funds are to be disbursed.

(b) To request the Delayed Draw Loans, the Borrower shall notify the Lender of such request not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed borrowing. Each such Borrowing Request shall be irrevocable. There shall be no more than four (4) borrowings of Delayed Draw Loans during the Delayed Draw Availability Period. Each such written Borrowing Request shall be in substantially the form of Exhibit B and signed by the Borrower and shall specify the following information:

- (i) the aggregate amount of the requested Loans;
- (ii) the date of such borrowing, which shall be a Business Day;
- (iii) the contemplated use or uses of such Loans and the Sublimit applicable to such Loans;
- (iv) the total Credit Exposure and each Sublimit Exposure on the date thereof (i.e., outstanding principal amount of Loans without regard to the Loans requested);
- (v) pro forma total Credit Exposure and each Sublimit Exposure on the date thereof (after giving effect to the Loans requested); and
- (vi) the location and number of the Borrower's account to which funds are to be disbursed.

(c) Each Borrowing Request shall constitute a representation that the amount of the requested Loan shall not cause the total Credit Exposure to exceed the total Commitments.

Section 2.04 Funding of Loans. The Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 1:00 p.m., New York City time, to the Controlled Account of the Borrower specified in the Borrowing Request.

Section 2.05 Termination of Commitments and Reduction of Delayed Draw Commitments.

(a) Scheduled Termination of Commitments. The Initial Term Loan Commitments shall be permanently reduced by the amount of each Initial Term Loan when made during the Interim Period and any remaining Initial Term Loan Commitments on the date of the entry of the Final DIP Order shall be converted to Delayed Draw Commitments in accordance with the definition thereof. The Delayed Draw Commitments shall be permanently reduced by the amount of each Delayed Draw Loan when made during the Delayed Draw Availability Period and any remaining Delayed Draw Commitments shall terminate upon the end of the Delayed Draw Availability Period.

(b) Optional Termination and Reduction of Delayed Draw Commitments.

- (i) The Borrower may at any time terminate, or from time to time reduce, the Delayed Draw Commitments; provided that each reduction of the Delayed

Draw Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$1,000,000.

(ii) The Borrower shall notify the Lender of any election to terminate or reduce the Delayed Draw Commitments under Section 2.05(b)(i) at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Each notice delivered by the Borrower pursuant to this Section 2.05(b)(ii) shall be irrevocable. Any termination or reduction of the Delayed Draw Commitments shall be permanent and may not be reinstated.

Section 2.06 Payment of Obligations. Subject to the DIP Order, upon the occurrence of the Termination Date (whether at maturity, by acceleration or otherwise), the Lender shall be entitled to immediate payment of the Secured Obligations without further application to or order of the Bankruptcy Court.

Section 2.07 No Discharge; Survival of Claims. The Borrower and each Guarantor agrees that (a) any Chapter 11 Plan or any related confirmation order entered in the Chapter 11 Cases shall not discharge or otherwise affect in any way any of the Secured Obligations of the Loan Parties to the Lender under this Agreement and the related Loan Documents, other than after the payment in full in cash to the Lender of all Secured Obligations under the DIP Facility and the related Loan Documents on or before the effective date of a Chapter 11 Plan and termination of the Commitments and (b) to the extent its Secured Obligations hereunder and under the other Loan Documents are not satisfied in full, (i) its Secured Obligations arising hereunder shall not be discharged by the entry of such confirmation order (and each Loan Party, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge) and (ii) the Superpriority Claim granted to the Lender pursuant to the DIP Order and the Liens granted to the Lender pursuant to the DIP Order shall not be affected in any manner by the entry of such confirmation order.

ARTICLE III PAYMENTS OF PRINCIPAL AND INTEREST; PREPAYMENTS; FEES

Section 3.01 Repayment of Loans. The Borrower hereby unconditionally promises to pay to the Lender the then unpaid principal amount of each Loan on the Termination Date.

Section 3.02 Interest.

(a) Interest. The Loans shall bear interest at the Applicable Rate, but in no event to exceed the Highest Lawful Rate.

(b) Post-Default Rate. If any Event of Default has occurred and is continuing, or if any principal of or interest on any Loan or any fee payable by the Borrower pursuant to Section 3.04 or any Guarantor hereunder or under any other Loan Document is not paid when due (after giving effect to any grace period applicable thereto), whether at stated maturity, upon acceleration or otherwise, then all Loans outstanding, and any overdue amount in the case of a failure to pay amounts when due, shall bear interest, after as well as before judgment, at a rate per annum equal to two percent (2%) plus the Applicable Rate then in effect, but in no event to exceed

the Highest Lawful Rate, until such Event of Default has been cured or waived or such amount is fully paid, as the case may be.

(c) Interest Payment Dates. Accrued interest on each Loan shall be payable in kind in arrears on each Interest Payment Date by adding such interest to the outstanding principal amount for such Loan and on the Termination Date (each such addition, a “Principal Increase”); provided that (i) interest accrued pursuant to Section 3.02(b) shall be payable on the earlier of each Interest Payment Date and the date of demand therefor and (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment. Principal Increases shall be considered principal of the Loans for all purposes, including, without limitation, calculation of interest on subsequent Interest Payment Dates. In no case shall interest payable hereunder exceed the amount that the Lender may charge or collect under applicable law.

(d) Interest Rate Computations. All interest hereunder shall be computed on the basis of a year of 360 days, unless such computation would exceed the Highest Lawful Rate, in which case interest shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and in each case for the initial borrowing of Loans hereunder, including the day of the borrowing, to but excluding the Interest Payment Date, and thereafter from the Interest Payment Date, to but excluding the next Interest Payment Date.

Section 3.03 Prepayments.

(a) Optional Prepayment. Subject to prior written notice in accordance with Section 3.03(a)(ii), the Borrower shall have the right at any time and from time to time to prepay the Loans prior to the Termination Date, in whole or in part, in a minimum aggregate amount of \$1,000,000 or any integral multiple of \$1,000,000 in excess thereof or, if less, the remaining balance of the Loans; provided that:

(i) each payment made in accordance with this Section 3.03, or any refinancing, substitution, or replacement of any Loans (including pursuant to any amendment or waiver of this Agreement) that effectuates an optional prepayment pursuant to this Section 3.03, shall be accompanied by accrued interest on the Loans at such time which amount shall be due and payable on the date of the effectiveness of such payment, refinancing, substitution or replacement, and

(ii) the Borrower shall have notified the Lender in writing (which may be by e-mail) of any optional prepayment hereunder not later than 11:00 a.m., New York City time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of the Loans or portion thereof to be prepaid; provided that a notice of optional prepayment delivered by the Borrower may state that such notice is conditioned upon the occurrence of any event or transaction, in which case such notice may be revoked by the Borrower (by notice to the Lender on or prior to the specified effective date) if such condition is not satisfied.

(b) Mandatory Prepayment. In addition to any prepayment required as a result of an Event of Default or the occurrence of the Termination Date, the Loans shall be subject to mandatory prepayment as follows:

(i) if any of the Loan Parties receive any settlement of or payment in respect of, or any series of related settlements of or payments in respect of, any property or casualty insurance claim (excluding business interruption insurance claims) or any condemnation proceeding relating to any asset of any of the Loan Parties, then the Loans shall be prepaid by an amount equal to 100% of such settlement or payment;

(ii) if any of the Loan Parties incur Debt in violation of this Agreement, including Section 9.02, then the Loans shall be prepaid by an amount equal to 100% of the net cash proceeds from such Debt; and

(iii) if any of the Loan Parties sell any Property (other than DIP Repo Collateral), then the Loans shall be prepaid by an amount equal to 100% of the proceeds of such Property (without any reinvestment rights or de minimis dollar carveouts).

At the election of the Lender in its sole discretion, all or a portion of such mandatory prepayments may be declined and available to the Loan Parties to be used in accordance with the Approved DIP Budget.

(c) Application. Subject to the Carve-Out, all optional prepayments and mandatory prepayments shall, within one Business Day of receipt thereof, be applied as follows: first, to pay accrued and unpaid interest on, and expenses in respect of, the obligations under the DIP Facility, to the extent then due and payable; and second, to repay any principal amounts or other obligations which have been advanced and are outstanding under the DIP Facility.

Section 3.04 Fees.

(a) Reserved.

(b) Upfront Fees. Upon entry of the Interim DIP Order and the Final DIP Order, as applicable, the Borrower shall pay to the Lender an upfront fee in an amount equal to 2.00% of the Commitment of the Lender on the date of entry of such applicable order, prior to giving effect to the funding of any Loans on such date, earned, due, and payable in cash on such date. Payment of such upfront fees will not be made in cash but, instead, will be made by adding the amount of such fees to the outstanding principal amount of the Loans.

ARTICLE IV PAYMENTS; PRO RATA TREATMENT; SHARING OF SET-OFFS

Section 4.01 Payments Generally.

(a) Payments by the Borrower. The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or of amounts payable under Section 5.01 or otherwise) prior to 3:00 pm, New York City time, on the date when due, in immediately available funds, without defense, deduction, recoupment, set-off or counterclaim.

Each payment (including each prepayment) by the Borrower on account of principal on the Loans shall be applied to the outstanding principal amount of the Loans then held by the Lender. Fees, once paid, shall be fully earned and shall not be refundable under any circumstances. Any amounts received after such time on any date may, in the discretion of the Lender, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Lender at its offices specified in writing by the Lender from time to time for such purpose. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) Application of Insufficient Payments. If at any time insufficient funds are received by and available to the Lender to pay fully all amounts of principal, interest, and fees then due hereunder, such funds shall be applied to the Secured Obligations in a manner determined by the Lender in its sole discretion.

ARTICLE V TAXES

Section 5.01 Taxes.

(a) Defined Terms. For purposes of this Section 5.01, the term “applicable law” includes FATCA.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower or any Guarantor under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower or a Guarantor, as applicable, shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.01) the Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Lender reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower. The Borrower shall indemnify the Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes paid by the Lender on or with respect to any payment by or on account of any obligation of the Borrower or any Guarantor hereunder or in connection with any Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under

this Section 5.01) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability under this Section 5.01 shall be delivered to the Borrower by the Lender, and any such certificate shall be conclusive absent manifest error.

(e) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or by the Borrower or a Guarantor to a Governmental Authority pursuant to this Section 5.01, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

(f) Status of Lender.

(i) If the Lender is entitled to an exemption from or reduction of withholding tax with respect to payments under this Agreement or any other Loan Document, it shall deliver to the Borrower, at the time or times prescribed by applicable law or reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, the Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not the Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.01(f)(ii)(A), Section 5.01(f)(ii)(B) and Section 5.01(f)(ii)(D) below) shall not be required if in the Lender's judgment such completion, execution or submission would subject the Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of the Lender.

(ii) Without limiting the generality of the foregoing:

(A) if the Lender is a U.S. Person, it shall deliver to the Borrower on or prior to the Effective Date (and from time to time thereafter at the time or times prescribed by applicable law or upon the reasonable request of the Borrower), executed originals of IRS Form W-9 (or any successor form) certifying that the Lender is exempt from U.S. federal backup withholding tax;

(B) if the Lender is not a U.S. Person it shall, to the extent it is legally entitled to do so, deliver to the Borrower (in such number of copies as shall be requested by the recipient) on or prior to the Effective Date (and from time to time thereafter at the time or times prescribed by applicable law or upon the reasonable request of the Borrower), whichever of the following is applicable:

(1) in the case the Lender is claiming the benefits of an income tax treaty to which the United States is a

party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS W-8BEN-E, as applicable (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS W-8BEN-E, as applicable (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

- (2) in the case the Lender is claiming that its extension of credit will generate U.S. effectively connected income, executed copies of IRS Form W-8ECI (or any successor form);
- (3) in the case the Lender is claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit E-1 to the effect that (A) such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (B) the interest payments in question are not effectively connected with a U.S. trade or business conducted by the Lender or are effectively connected but are not includible in the Lender’s gross income for U.S. federal income tax purposes under an income tax treaty (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or IRS W-8BEN-E, as applicable (or any successor form); or
- (4) to the extent the Lender is a partnership and one or more direct or indirect partners of the Lender are claiming the portfolio interest exemption, the Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 on behalf of each such direct or indirect partner;

(C) if the Lender is not a U.S. Person it shall, to the extent it is legally entitled to do so, deliver to the Borrower (in such number of copies as shall be requested by the recipient) on or prior to the Effective Date (and from time to

time thereafter at the time or times prescribed by applicable law or upon the reasonable request of the Borrower), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made; and

(D) if a payment made to the Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if the Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), the Lender shall deliver to the Borrower at the time or times prescribed by law and at such time or times reasonably requested by the Borrower such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower as may be necessary for the Borrower to comply with their obligations under FATCA and to determine that the Lender has complied with the Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

The Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.01 (including by the payment of additional amounts pursuant to this Section 5.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) if such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Effect of Failure or Delay in Requesting Indemnification. Failure or delay on the part of the Lender to demand indemnification pursuant to this Section 5.01 shall not constitute a waiver of the Lender's right to demand such indemnification; provided that the Borrower shall not be required to indemnify the Lender pursuant to this Section 5.01 for any Indemnified Taxes or Other Taxes incurred more than 180 days prior to the date that the Lender notifies the Borrower of the event giving rise to such Indemnified Taxes or Other Taxes and of the Lender's intention to claim indemnification therefor; provided further that, if the event giving rise to indemnification is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 5.02 Mitigation Obligations. If the Borrower is required to pay any additional amount to the Lender or any Governmental Authority for the account of the Lender pursuant to Section 5.01, then the Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of the Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.01 in the future, and (ii) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to the Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by the Lender in connection with any such designation or assignment.

ARTICLE VI CONDITIONS PRECEDENT

Section 6.01 Conditions Precedent to Effective Date. The obligations of the Lender to make Loans on or after the Effective Date shall not become effective until the date on which each of the following conditions is satisfied (or waived by the Lender):

(a) Credit Agreement. This Agreement and all other Loan Documents shall be in form and substance reasonably satisfactory to the Lender and in connection therewith the Lender shall have received from each party hereto counterparts (in such number as may be requested by the Lender) of this Agreement and all other Loan Documents signed on behalf of such party.

(b) DIP Repo Facility. The preparation, authorization and execution of the agreements with respect to the DIP Repo Facility (which shall include refinancing of mortgage loans funded by the Prepetition Bridge Lender before the Petition Date), shall be in form and substance reasonably satisfactory to the Lender.

(c) Filings, Registrations and Recordings. The Lender shall have received UCC financing statements required or reasonably requested by the Lender to be filed in order to create in favor of the Lender a perfected Lien on the Cash Flow DIP Collateral, which shall be in proper form for filing, registration or recordation.

(d) Chapter 11 Cases. (i) The Chapter 11 Cases shall have been commenced and (ii) the motion to approve the Interim DIP Order and the Final DIP Order, and all "first day motions", "first day orders" and all other orders filed or to be filed at the time of commencement of the Chapter 11 Cases shall be reasonably satisfactory in form and substance to the Lender in all respects.

(e) Interim DIP Order. The Lender shall have received a signed copy of the Interim DIP Order which shall have been entered by the Bankruptcy Court on or before the fourth Business Day after the Petition Date, and such Interim DIP Order shall not have been vacated, reversed, modified, amended or stayed.

(f) Fees. All fees required to be paid to the Lender on or before the Effective Date shall have been paid. All reasonable and documented out-of-pocket expenses (including reasonable and documented fees and expenses of outside counsel) required to be paid to the Lender on or before the Effective Date shall have been paid to the extent invoiced at least one (1) day prior to the Effective Date.

(g) Initial Budget. The Lender shall have received the Initial DIP Budget, which shall be in form and substance reasonably satisfactory to the Lender, together with a Budget Certificate.

(h) No Conflicts. Except as authorized by the Interim DIP Order, there shall not occur as a result of, and after giving effect to, the initial extension of credit under the DIP Facility, a default under any of the Borrower's, the Guarantors' or their respective subsidiaries' material debt instruments and other material agreements which would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(i) Patriot Act. To the extent requested at least ten (10) Business Days prior to the Effective Date, the Lender shall have received, at least three (3) Business Days prior to the Effective Date, "know your customer" and similar information.

(j) Perfected Security Interest. The Lender shall have a valid and perfected security interest in the Cash Flow DIP Collateral pursuant to the Interim DIP Order.

(k) Controlled Account. The Borrower shall have opened a deposit account for purposes of depositing the proceeds of the Loans and over which the Lender has control in accordance with section 9-104 of the UCC, pursuant to a deposit account control agreement or otherwise, all in form and substance satisfactory to the Lender in its sole discretion (such an account, a "Controlled Account").

(l) Reserved.

(m) Interim DIP Repo Order. The Lender shall have received a signed copy of the Interim DIP Repo Order, and such Interim DIP Repo Order shall not have been vacated, reversed, modified, amended or stayed.

(n) Reserved.

(o) Secretary's Certificates. The Lender shall have received a certificate of a Responsible Officer of each Loan Party setting forth (i) resolutions of its board of directors or other appropriate governing body with respect to the authorization of such Loan Party to execute and deliver the Loan Documents to which it is a party and to enter into the transactions contemplated in those documents, (ii) the officers of such Loan Party (A) who are authorized to sign the Loan Documents to which such Loan Party is a party and (B) who will, until replaced by

another officer or officers duly authorized for that purpose, act as its representative for the purposes of signing documents and giving notices and other communications in connection with this Agreement and the transactions contemplated hereby, (iii) specimen signatures of such authorized officers and (iv) the articles or certificate of incorporation and by-laws or other applicable organizational documents of such Loan Party, certified by a Responsible Officer as being true and complete. The Lender may conclusively rely on such certificate until the Lender receives notice in writing from such Loan Party to the contrary.

(p) Cash Management System. The Loan Parties shall have established a cash management system for the Chapter 11 Cases reasonably satisfactory to the Lender.

(q) Chief Restructuring Officer and Operations Consultant. The Loan Parties shall have retained a Chief Restructuring Officer and an Operations Consultant as of the Petition Date.

(r) Insurance Certificate. The Lender shall have received a certificate from the Loan Parties' insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to the Loan Documents is in full force and effect and that the Lender has been named as additional insured and/or lenders loss payee thereunder to the extent required under the Loan Documents.

Section 6.02 Each Credit Event. The obligation of the Lender to make a Loan (the making of each such Loan, a "Credit Event") is subject to the satisfaction of the following conditions:

(a) After giving effect to such Credit Event, there shall exist no Default.

(b) The representations and warranties of Borrower and the Guarantors set forth in this Agreement and in the other Loan Documents shall be true and correct on and as of the date of such Credit Event, except to the extent any such representations and warranties are expressly limited to an earlier date, in which case, on and as of the date of such Credit Event, such representations and warranties shall continue to be true and correct as of such specified earlier date.

(c) The Credit Event shall not violate any requirement of law and shall not be enjoyed, temporarily, preliminarily, or permanently.

(d) (i) For the Initial Term Loans, the Interim DIP Order shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed in any respect without the consent of the Lender or (ii) for the Delayed Draw Loans, the Final DIP Order shall have been entered by the Bankruptcy Court, shall be in full force and effect and shall not have been vacated, reversed, modified, amended or stayed in any respect without the consent of the Lender.

(e) The receipt by the Lender of a Borrowing Request in accordance with Section 2.03(b).

ARTICLE VII REPRESENTATIONS AND WARRANTIES

The Borrower and Guarantors represent and warrants to the Lender that:

Section 7.01 Organization; Powers. Subject to any restrictions arising on account of Borrower's or any Subsidiaries' status as a "debtor" under the Bankruptcy Code and entry of the Interim DIP Order and the Final DIP Order, each of Borrower and the Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all corporate or equivalent requisite power and authority, and has all material governmental licenses, authorizations, consents and approvals necessary, to own its assets and to carry on its business as now conducted, and is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where failure to be in good standing or to have such power, authority, licenses, authorizations, consents, approvals and qualifications could not reasonably be expected to have a Material Adverse Effect.

Section 7.02 Authority; Enforceability. Upon entry of the Interim DIP Order and subject to any restrictions arising on account of Borrower's or any Subsidiaries' status as a "debtor" under the Bankruptcy Code, the Transactions are within the Borrower's and each Guarantor's corporate or equivalent powers and have been duly authorized by all necessary corporate or equivalent action including any action required to be taken by any other Person, whether interested or disinterested, in order to ensure the due authorization of the Transactions. Upon entry of the Interim DIP Order, each Loan Document to which a Loan Party is a party has been duly executed and delivered by Borrower and such Guarantor and constitutes a legal, valid and binding obligation of the Borrower and such Guarantor, as applicable, enforceable in accordance with its terms, subject to entry of the Interim DIP Order and the Final DIP Order and subject to any restrictions arising on account of Borrower's or any Subsidiaries' status under the Bankruptcy Code.

Section 7.03 Approvals; No Conflicts. Except as otherwise provided in the Interim DIP Order, the Transactions (a) do not require, as a condition thereto, any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other third Person (including members, shareholders or any class of directors or managers, whether interested or disinterested, of Borrower or any other Person) to be obtained or made by Borrower or any Subsidiary pursuant to any statutory law or regulation applicable to it, nor is any such consent, approval, registration, filing or other action necessary for the validity or enforceability of any Loan Document against the Borrower or any Guarantor as herein provided or the consummation of the transactions contemplated thereby, except such as have been obtained or made and are in full force and effect other than (i) the recording and filing of the UCC-1 financing statements as required by this Agreement and the Interim DIP Order and the Final DIP Order and (ii) those third party approvals or consents which if not made or obtained, would not cause a Default hereunder, could not reasonably be expected to have a Material Adverse Effect or do not have an adverse effect on the enforceability of the Loan Documents, (b) will not violate any applicable law or regulation or the Organizational Documents of Borrower or any Subsidiary or any order of any Governmental Authority applicable to Borrower or any Subsidiary, (c) will not violate or result in a default under any indenture or other material instrument binding upon Borrower or any Subsidiary or its Properties, give rise to a right thereunder to require any payment to be made by Borrower or such Subsidiary or to the extent there is a cap on the amount of first lien loans in any such indenture

will not exceed such cap and (d) will not result in the creation or imposition of any consensual Lien by Borrower or any Subsidiary on any Property of Borrower or any Subsidiary (other than the Liens created by the Loan Documents).

Section 7.04 Financial Condition; No Material Adverse Change.

(a) Reserved.

(b) Since the Petition Date, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.

Section 7.05 Litigation.

(a) Except as set forth on Schedule 7.05, there are no unstayed actions, suits, investigations or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of Borrower, threatened in writing against Borrower or any Subsidiary (i) not fully covered by insurance (except for normal deductibles), that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or is not otherwise subject to the automatic stay as a result of the Chapter 11 Cases, or (ii) that involve any Loan Document or the Transactions.

(b) Since the date of this Agreement, there has been no change in the status of the matters disclosed in Schedule 7.05 that, individually or in the aggregate, has resulted in, or could be reasonably expected to result in, a Material Adverse Effect.

Section 7.06 Environmental Matters. Except for such matters as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect on Borrower and its Subsidiaries:

(a) Borrower and its Subsidiaries and each of their respective Properties and operations thereon are, and within all applicable statute of limitation periods have been, in compliance with all applicable Environmental Laws;

(b) Borrower and its Subsidiaries have obtained all Environmental Permits required for their respective operations and each of their Properties, with all such Environmental Permits being currently in full force and effect, and none of Borrower or its Subsidiaries has received any written notice or otherwise has knowledge that any such existing Environmental Permit will be revoked or that any application for any new Environmental Permit or renewal of any existing Environmental Permit will be denied; and

(c) None of Borrower or its Subsidiaries has any knowledge of any conditions or circumstances associated with the currently or previously owned or leased Properties or operations of Borrower and its Subsidiaries that could reasonably be expected to give rise to Borrower incurring any material Environmental Liabilities.

Section 7.07 Compliance with Laws; No Defaults.

(a) Each of Borrower and each Subsidiary (i) is in compliance with all Governmental Requirements applicable to it or its Property and all agreements and other instruments binding upon it or its Property, and (ii) subject to any restrictions arising on account of Borrower' or any Subsidiaries' status as a "debtor" under the Bankruptcy Code and to the entry of the Interim DIP Order and the Final DIP Order, possesses all licenses, permits, franchises, exemptions, approvals and other authorizations granted by Governmental Authorities necessary for the ownership of its Property and the conduct of its business, except in either case where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) No Default has occurred and is continuing.

Section 7.08 Investment Company Act. Neither Borrower nor any Subsidiary is an "investment company" within the meaning of, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 7.09 Taxes. Each of Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP, (b) to the extent not required to be paid pursuant to the Bankruptcy Code or an order of the Bankruptcy Court or (c) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect. The charges, accruals and reserves on the books of Borrower and its Subsidiaries in respect of Taxes and other governmental charges are, in the reasonable opinion of Borrower, adequate.

Section 7.10 ERISA.

(a) Except for such noncompliance as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the Borrower, the Subsidiaries and each ERISA Affiliate have complied with ERISA and, where applicable, the Code regarding each Plan.

(b) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each Plan is, and has been, established and maintained in substantial compliance with its terms, ERISA and, where applicable, the Code.

(c) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, no act, omission or transaction has occurred which could result in imposition on the Borrower, any Subsidiary or any ERISA Affiliate (whether directly or indirectly) of (i) either a civil penalty assessed pursuant to subsections (c), (i) or (l) of Section 502 of ERISA or a tax imposed pursuant to Chapter 43 of Subtitle D of the Code or (ii) breach of fiduciary duty liability damages under Section 409 of ERISA.

(d) No Plan (other than a defined contribution plan) or any trust created under any such Plan has been terminated in a distress termination under Section 4041(c) of ERISA since January 1, 2000. Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) no ERISA Event has occurred or is reasonably expected

to occur; (ii) neither the Borrower, any Subsidiary nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (iv) neither the Borrower, any Subsidiary nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

(e) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, full payment when due has been made of all amounts which Borrower or any of the Subsidiaries is required under the terms of each Plan or applicable law to have paid as contributions to such Plan as of the date hereof, and no failure of a Plan to meet the minimum funding standards under Section 303 of ERISA or Section 430 of the Code, whether or not waived, exists with respect to any Plan.

(f) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the actuarial present value of the benefit liabilities under each Plan which is subject to Title IV of ERISA does not, as of the end of Borrower's most recently ended fiscal year, exceed the current value of the assets (computed on a plan termination basis in accordance with Title IV of ERISA) of such Plan allocable to such benefit liabilities.

(g) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, neither Borrower nor any of the Subsidiaries sponsors, maintains, or contributes to an employee welfare benefit plan, as defined in Section 3(1) of ERISA, including any such plan maintained to provide benefits to former employees of such entities, that may not be terminated by Borrower or a Subsidiary in its sole discretion at any time.

(h) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, neither Borrower nor any of the Subsidiaries sponsors, maintains or contributes to, or has at any time in the six-year period preceding the date hereof sponsored, maintained or contributed to, any Multiemployer Plan.

Section 7.11 Disclosure; No Material Misstatements. No reports, financial statements, certificates or other written information furnished by or on behalf of Borrower or any Subsidiary to the Lender or any of its Affiliates in connection with the negotiation of this Agreement or any other Loan Document or delivered hereunder or under any other Loan Document (as modified or supplemented by other written information so furnished, and taken as a whole) contain any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; provided that, with respect to projected financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

Section 7.12 Insurance. Borrower maintains, and has caused to be maintained for each of its Subsidiaries, with financially sound and reputable insurance companies, which may be Affiliates, insurance in such amounts and against such risks as are customarily maintained by

companies engaged in the same or similar businesses operating in the same or similar locations. Borrower will in accordance with Section 8.01(f) ensure the loss payable clauses or provisions in said insurance policy or policies insuring any of the collateral for the Secured Obligations are endorsed in favor of and made payable to the Lender as its interests may appear, and such policies name the Lender as “additional insureds” and provide that the insurer will endeavor to give at least 10 days prior notice of any cancellation to the Lender.

Section 7.13 Restriction on Liens. Subject to any restrictions on account of Borrower’s or any Subsidiaries’ status as a “debtor” under the Bankruptcy Code, neither Borrower nor any of the Subsidiaries is a party to any material agreement or arrangement effective after the Petition Date (other than Capital Leases creating Liens permitted by Section 9.03(c), but then only on the Property subject of such Capital Lease and Warehousing Indebtedness creating Liens permitted by Section 9.03(f)), or, other than as a result of the Chapter 11 Cases, subject to any order, judgment, writ or decree, which either restricts or purports to restrict its ability to grant Liens to the Lender on or in respect of their Properties to secure the Secured Obligations and the Loan Documents, except, in each case, as provided in Section 9.14.

Section 7.14 Subsidiaries. Borrower has no other Subsidiaries other than Maverick. Maverick is a Wholly-Owned Subsidiary.

Section 7.15 Location of Business and Offices. Maverick’s jurisdiction of organization is Delaware; the name of Maverick as listed in the public records of its jurisdiction of organization is Maverick II Holdings, LLC. The Borrower’s jurisdiction of organization is Virginia; the name of the Borrower as listed in the public records of its jurisdiction of organization is First Guaranty Mortgage Corporation. Maverick and the Borrower’s principal places of business and chief executive offices are located at the address specified in Section 11.01 (or as set forth in a notice delivered pursuant to Section 8.01(i) and Section 11.01(c)). Each Subsidiary’s jurisdiction of organization, name as listed in the public records of its jurisdiction of organization, organizational identification number in its jurisdiction of organization, and the location of its principal place of business and chief executive office is stated on Schedule 7.14 (or as set forth in a notice delivered pursuant to Section 8.01(i)).

Section 7.16 Properties; Titles, Etc. Other than as a result of the Chapter 11 Cases and subject to any necessary order or authorization of the Bankruptcy Court, Borrower and its Subsidiaries have good and indefeasible title to or valid leasehold interests in the Cash Flow DIP Collateral and its other Properties material to its business, including the Cash Flow DIP Collateral, and none of the Cash Flow DIP Collateral of Borrower or Guarantor is subject to any Lien, except for Liens permitted pursuant hereto.

Section 7.17 Membership and Standing. The Borrower is an approved member in good standing of the MERS System. The Borrower is an approved servicer, seller/servicer or issuer, as applicable, of mortgage loans for Fannie Mae. Neither Borrower nor Guarantor have received notice from any Governmental Authority that it intends to terminate or restrict the Borrower’s status as an approved servicer in its programs for which the Borrower is registered, approved or authorized.

Section 7.18 Use of Loans. The proceeds of the Loans, which shall be deposited in the Controlled Account (and shall remain in the Controlled Account until properly used in accordance with this Agreement, the DIP Order, and the Approved DIP Budget), shall be used (or shall be deemed to be used) (a) to provide for working capital requirements, operating expenses, and other line items, in each case in accordance with the Approved DIP Budget, (b) to pay fees and expenses of the Lender related to the DIP Facility and the Chapter 11 Cases, including, without limitation, reasonable out of pocket fees of attorneys and other professional advisors of the Lender, including, without limitation, Greenberg Traurig, LLP, and any financial advisor that may be retained by the Lender, and (c) to fund the Roll-Up Loan. Without limiting the foregoing, (1) Loans made pursuant to requests made under Section 2.03 with respect to the Operating Sublimit shall be used only for working capital requirements, operating expenses, and other line items as may be approved by Lender in its discretion, (2) Loans made pursuant to requests made under Section 2.03 with respect to the Mortgage Loan Funding Sublimit shall be used only to pay the Mortgage Loan Funding Amounts, and (3) Loans made pursuant to requests made under Section 2.03 with respect to the Pipeline Sale Sublimit shall be used only to pay the Pipeline Sale Transaction Funding Amounts. No proceeds of the Loans (including proceeds that are subject to the Carve-Out) shall be (i) transferred to, or used by, any entity other than the Borrower, except as permitted under the Approved DIP Budget and the DIP Order, or (ii) used to assert any claim, cause of action or objection against the Lender or any its affiliates or any of their respective employees, officers, directors, advisors, investment managers, agents and subagents, including, without limitation, to challenge any claim or lien of the Prepetition Bridge Lender or the priority, validity, or enforceability of the Prepetition Bridge Loan Documents, and/or challenging any prepetition payment or transfer to the Prepetition Bridge Lender or its affiliates. Borrower and its Subsidiaries are not engaged principally, or as one of its or their important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying margin stock (within the meaning of Regulation T, U or X of the Board). No part of the proceeds of any Loan will be used for any purpose which violates the provisions of Regulations T, U or X of the Board.

Section 7.19 Anti-Corruption Laws, Sanctions, OFAC.

(a) Implementation of Policies and Procedures. The Borrower has implemented and maintain in effect policies and procedures designed to achieve compliance by Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and applicable Sanctions.

(b) Compliance. Borrower, the Subsidiaries and, to the knowledge of Borrower, their respective directors, officers, employees and agents are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in Borrower or any Subsidiary being designated as a Sanctioned Person.

(c) Dealings With Sanctioned Persons. None of (i) Borrower, any Subsidiary or any of their respective directors, officers or employees, or (ii) to the knowledge of the Borrower, any agent of the Borrower that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. The Borrower will not, in violation of applicable Sanctions, directly or, to its knowledge, indirectly use the proceeds from the Loans or

lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for the purpose of financing the activities of any Person currently subject to any applicable Sanctions.

Section 7.20 Foreign Corrupt Practices. Neither the Borrower nor any the Subsidiaries, nor any director, officer, agent, employee or Affiliate of Borrower or any of its Subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a material violation by such Persons of the FCPA, including without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and, the Borrower, its Subsidiaries and its and their Affiliates have conducted their business in material compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

ARTICLE VIII AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest, if applicable, on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents (other than contingent indemnification obligations for which no claim has been made) shall have been paid in full, the Borrower and Maverick covenant and agree with the Lender that:

Section 8.01 Financial Statements; Other Information. Borrower will furnish to the Lender:

- (a) [Reserved].
- (b) Quarterly Financial Statements. As soon as available, but in any event in accordance with then applicable law and within the time periods specified in the SEC’s rules and regulations applicable to non-accelerated filers, all quarterly financial statements prepared in accordance with GAAP.
- (c) Monthly Operating Reports. Substantially concurrently with the filing thereof with the Bankruptcy Court, the monthly operating report of the Debtors required to be filed with the Bankruptcy Court.
- (d) Certificate of Financial Officer – Compliance. Concurrently with any delivery of financial statements under Section 8.01(b), a certificate of a Financial Officer in substantially the form of Exhibit C-2 hereto (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) certifying that the Borrower has been in compliance with Section 9.01 as of such times as required therein and in connection therewith setting forth reasonably detailed calculations demonstrating compliance with Section 9.01 and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial

statements referred to in Section 7.04(a) that would affect the preparation of the financial statements most-recently required to be delivered in accordance with Section 8.01(b) or the computation of any matter in Section 9.01 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate.

(e) [Reserved].

(f) Certificate of Insurer – Insurance Coverage. Promptly after the Effective Date, a certificate of insurance coverage from each insurer or one or more insurance agencies with respect to the insurance required by Section 8.06, in form and substance reasonably satisfactory to the Lender, and, if requested by the Lender, copies of the applicable policies.

(g) Notices Under Material Instruments. Promptly after the furnishing thereof, copies of any financial statement, report or notice furnished by Borrower to any holder of debt securities of Borrower or any Subsidiary pursuant to the terms of any preferred stock designation, indenture, loan or credit or other similar agreement (including any documents evidencing any Warehousing Indebtedness or the Prepetition Loan Documents), other than this Agreement and not otherwise required to be furnished to the Lender pursuant to any other provision of this Section 8.01.

(h) Notice of Casualty Events. Prompt written notice, and in any event within three Business Days (or if under the circumstances the Lender determines a longer period is reasonable, such longer period) following the knowledge thereof by, a Responsible Officer of Borrower, of the occurrence of any Casualty Event or the commencement of any action or proceeding that could reasonably be expected to result in a Casualty Event.

(i) Information Regarding Borrower and Guarantors. Prompt written notice (and in any event within ten (10) Business Days thereafter (or such longer period as is acceptable to the Lender,)) of any change (i) in the Borrower's or any Guarantor's company or corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its Properties, (ii) in the location of the Borrower's or any Guarantor's chief executive office or principal place of business, (iii) in the Borrower's or any Guarantor's identity or company or corporate structure or in the jurisdiction in which such Person is incorporated, organized or formed, (iv) in the Borrower's or any Guarantor's organizational identification number in its jurisdiction of organization, and (v) in the Borrower's or any Guarantor's federal taxpayer identification number.

(j) Notices of Certain Changes. Promptly, but in any event within five (5) Business Days after the execution thereof, copies of any amendment, modification or supplement to any documents evidencing any Warehousing Indebtedness or the Prepetition Loan Documents or to the Organizational Documents, any preferred stock designation or any other organic document of Borrower or any Subsidiary.

(k) Other Requested Information. Promptly following any request therefor, (i) such other information regarding the operations, business affairs and financial condition of Borrower or any Subsidiary (including any Plan or Multiemployer Plan and any reports or other information required to be filed under ERISA), or compliance with the terms of this Agreement or

any other Loan Document, as the Lender may reasonably request and (ii) information and documentation reasonably requested by the Lender for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

(l) Approved DIP Budget; Variance Reports.

(i) The Loan Parties shall prepare and deliver a 13-Week Projection, in form and substance acceptable to, and consented to by, the Lender (the “Initial DIP Budget”), setting forth all line-item and cumulative receipts and operating disbursements on a weekly basis for the period beginning as of the week of the Effective Date through and including the thirteenth (13th) week after such week. Once so consented to by the Lender, the Initial DIP Budget shall be deemed the “Approved DIP Budget” for all purposes of the DIP Documents until superseded by any Updated DIP Budget (as defined below) that subsequently is consented to by the Lender.

(ii) On or before 5:00 p.m. New York City time on Thursday of each week, the Loan Parties shall deliver to the Lender (a) a supplement to the Initial DIP Budget (or the previously supplemented Approved DIP Budget, as the case may be), covering the subsequent 13-week period that commences with the week immediately following the date of delivery of the supplemental budget (and which, for the avoidance of doubt, cannot modify previous weeks), consistent with the form and level of detail set forth in the Initial DIP Budget and otherwise in form and substance reasonably acceptable to, and consented to by, the Lender in its discretion (each such supplemental budget, an “Updated DIP Budget”), (b) an actual consolidated cash flow of the Loan Parties for the week preceding the first week of such Updated DIP Budget, showing line item variances between actual results and projected results (if applicable) for such week from the most recent Approved DIP Budget delivered pursuant to the immediately preceding clause (a), in each case in a form reasonably acceptable to the Lender which (I) shall be prepared on a consolidated basis for the Loan Parties, approved and certified by the Chief Restructuring Officer (the “Budget Certificate”) as being accurate in all material respects (or in the case of the projections, as being projections believed to be reasonable at the time furnished, prepared in good faith based on assumptions believed to be reasonable at the time furnished), and (II) shall (A) show, in the case of clause (a), projected cash receipts and projected cash disbursements, (B) include for such period, in the case of clauses (a) and (b), a summary of collections, disbursements, outstanding checks and interest payments, (C) in the case of clause (b), include a line item variance report setting forth (x) actual results against anticipated results under the Approved DIP Budget for the week in regard to which such accompanying cash flow forecast is being delivered, reported in the aggregate (highlighting key line items) as of the end of such period, (y) variances in dollar amounts and percentages, and (z) a written explanation for all line item variances of greater than 10% for the applicable week, and (D) such other information as the Lender may reasonably request (such items described in this clause (b), the “Variance Report”).

(iii) Upon (and subject to) the approval of any such Updated DIP Budget by the Lender in its sole discretion, such Updated DIP Budget shall constitute the then-approved Approved DIP Budget. To the extent that a proposed Updated DIP Budget is not

approved by the Lender, the initial Approved DIP Budget or last approved Updated DIP Budget shall remain in full force and effect as the Approved DIP Budget.

(m) Motions, etc. To the extent reasonably practicable at least two days prior to, and in any event no later than one day prior to, such filing or distribution, copies of all pleadings and motions to be filed by or on behalf of the Borrower or any of the Guarantors with the Bankruptcy Court in the Chapter 11 Cases relating to this Agreement, a sale of assets pursuant to section 363 of the Bankruptcy Code, or a Chapter 11 Plan, or otherwise seeking a material form of relief (other than emergency pleadings or motions where, despite the Debtors' commercially reasonable efforts, such notice is not feasible).

(n) Loan Portfolio. Each Business Day, the Borrower shall provide to the Lender an updated loan portfolio report, in a form acceptable to the Lender, regarding all of the mortgage loans on the Borrower's balance sheet, and which shall include the following: (a) for each mortgage loan, the lock date, lock expiry date, channel, note rate, and, if applicable, the mark-to-market value and buy price for the mortgage loan; (b) a pipeline report in the same format previously provided to the Lender; and (c) a separate portion of the report that highlights each mortgage loan that has an expired lock date and that the Borrower is proactively terminating.

Section 8.02 Notices of Material Events. The Borrower will furnish to the Lender prompt written notice of the following:

- (a) the occurrence of any Default or Event of Default;
- (b) the filing or commencement of, or the threat in writing of, any action, suit, proceeding, investigation or arbitration by or before any arbitrator or Governmental Authority against or affecting Borrower or any Subsidiary not previously disclosed in writing to the Lender or any material adverse development in any action, suit, proceeding, investigation or arbitration (whether or not previously disclosed to the Lender), in either case, that could reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of Borrower and its Subsidiaries in an aggregate amount exceeding \$5,000,000; and
- (d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section 8.02 shall be accompanied by a statement of a Responsible Officer setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 8.03 Existence; Conduct of Business. Borrower will, and will cause each Subsidiary to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and its rights, licenses and franchises; provided, however, that neither Borrower shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the board of directors or other governing

body of Borrower shall determine that the preservation thereof is no longer desirable in the conduct of the business of Borrower and its Subsidiaries, taken as a whole.

Section 8.04 Payment of Obligations. Except where such payment is not required to be paid pursuant to the provisions of the Bankruptcy Code or an order of the Bankruptcy Court, the Borrower will, and will cause each Subsidiary to, pay its obligations, including Tax liabilities of Borrower and all of its Subsidiaries before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate actions, (b) Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect or result in the seizure or levy of any material Property of Borrower or any Subsidiary.

Section 8.05 Performance of Obligations under Loan Documents. The Borrower will pay the Loans and other Secured Obligations in respect of the DIP Facility in accordance with the terms hereof, and Borrower will, and will cause each Subsidiary to, do and perform every act and discharge all of the obligations to be performed and discharged by them under the Loan Documents, including this Agreement, at the time or times and in the manner specified.

Section 8.06 Insurance. Borrower will maintain, for itself and each Subsidiary, insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks and with such deductibles as is usually carried by companies engaged in similar businesses in the same or similar locations in which Borrower and its Subsidiaries operate, including customary directors' and officers' liability insurance.

Section 8.07 Books and Records; Inspection Rights. The Borrower will, and will cause each Subsidiary to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. The Borrower will, and will cause each Subsidiary to, permit any representatives designated by the Lender, upon reasonable prior notice and during normal business hours, to visit and inspect its Properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested, in each case, subject to applicable safety standards, applicable privilege and confidentiality restrictions, and restrictions of owners of such records or properties who are neither Borrower nor any Subsidiary.

Section 8.08 Compliance with Laws. Subject to any necessary order or authorization of the Bankruptcy Court, the Borrower will, and will cause each Subsidiary to, comply in all material respects with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its Property (including Environmental Laws), except where (i) such law, rule, regulation or order is being contested in good faith by appropriate actions diligently conducted or (ii) the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to achieve compliance by it and its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti- Corruption Laws and applicable Sanctions.

Section 8.09 Reserved.

Section 8.10 Reserved.

Section 8.11 ERISA Compliance. The Borrower will promptly furnish, and will cause the Subsidiaries to promptly furnish, to the Lender (i) promptly after receipt of a written request by the Lender, copies of the most recent annual and other report with respect to each Plan or any trust created thereunder, filed with the United States Secretary of Labor, the Internal Revenue Service or the PBGC, (ii) immediately upon becoming aware of the occurrence of any ERISA Event or of any “prohibited transaction,” as described in Section 406 of ERISA or in Section 4975 of the Code, in connection with any Plan or any trust created thereunder that could reasonably be expected to result in a Material Adverse Effect, a written notice signed by the Chief Executive Officer or the principal Financial Officer, the Subsidiary or the ERISA Affiliate, as the case may be, specifying the nature thereof, what action Borrower, the Subsidiary or the ERISA Affiliate is taking or proposes to take with respect thereto, and, when known, any action taken or proposed by the Internal Revenue Service, the United States Department of Labor or the PBGC with respect thereto, and (iii) promptly upon receipt thereof, copies of any notice of the PBGC’s intention to terminate or to have a trustee appointed to administer any Plan. With respect to each Plan (other than a Multiemployer Plan), the Borrower will, and, to the extent applicable, will cause each Subsidiary and ERISA Affiliate to, (i) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any lien, all of the contribution and funding requirements of Section 412 of the Code and of Section 302 of ERISA , and (ii) pay, or cause to be paid, to the PBGC in a timely manner, without incurring any late payment or underpayment charge or penalty, all premiums required pursuant to Sections 4006 and 4007 of ERISA.

Section 8.12 Key Counterparties. Borrower shall use reasonable commercial efforts to maintain, or restart, business relationships with Key Counterparties.

Section 8.13 Lender Call and Meetings. The Loan Parties shall (i) require their attorneys and advisors to have a weekly call with advisors and attorneys of the Lender, at a time to be mutually agreed, (ii) require senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer, and the Operations Consultant (to have calls with the Lender each Monday, Wednesday, and Friday of each week (and more frequently if an Event of Default has occurred and is continuing)), (iii) upon the request of the Lender, from time to time conduct Lender presentations by senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer, and the Operations Consultant regarding any plans, sale, and the marketing process and the other business and affairs of the Loan Parties, and (iv) allow the Lender to have direct access to senior management (including Aaron Samples, Thomas Ramm, and Darien Oien), the Chief Restructuring Officer, and the Operations Consultant from time to time in its discretion to discuss the plan, sale, and the marketing process and the other business and affairs of the Loan Parties.

Section 8.14 Chief Restructuring Officer and Operations Consultant.

(a) The board of directors of the Borrower (the “Board of Directors”) and each Loan Party shall appoint and retain a representative of FTI Consulting (which person shall be acceptable to the Lender (it being understood that Tanya Meerovich is acceptable to the Lender) and employed on terms and conditions acceptable to the Lender in its sole discretion) as a “chief

restructuring officer” of each Loan Party to handle all matters related to the Loan Parties’ finances (including disbursements), budgetary matters, restructuring matters, plan matters, sale matters and the chapter 11 cases generally (the “Chief Restructuring Officer”). The Chief Restructuring Officer shall not be replaced or removed or have its duties changed, in each case, without the prior written consent of the Lender. The Chief Restructuring Officer shall use such other representatives of FTI Consulting to assist in performing the duties delegated to the Chief Restructuring Officer and such representations shall be retained as temporary employees of the Loan Parties. The rights granted to the Chief Restructuring Officer shall be permanently delegated to, and shall be the exclusive rights of, the Chief Restructuring Officer. The Chief Restructuring Officer shall (i) be at all times retained by the Loan Parties, (ii) prepare the Initial DIP Budget and each Updated DIP Budget and Variance Reports and any other projections and cash flow forecasts of the Loan Parties, (iii) assist the Loan Parties in all aspects of their financial affairs, budgeting and reporting requirements under the Loans and (iv) perform any such actions or other actions as are typically performed determined by a chief restructuring officer. The Chief Restructuring Officer shall report to the Board of Directors.

(b) The Board of Directors and each Loan Party shall appoint and retain an operations consultant (which person shall be acceptable to the Lender and employed on terms and conditions acceptable to the Lender in its sole discretion), as an “operations consultant” of each Loan Party to consult on matters related to the Loan Parties’ ongoing operations during the Chapter 11 Cases (the “Operations Consultant”). The Operations Consultant shall not be permitted to be replaced or removed or have its duties changed, in each case, without the prior consent of Lender. The Operations Consultant shall (i) be at all times retained by the Loan Parties and (ii) consult with the Loan Parties in all aspects of their operations.

ARTICLE IX NEGATIVE COVENANTS

Until the Commitments have expired or terminated and the principal of and interest, if applicable, on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents (other than contingent indemnification obligations for which no claim has been made) have been paid in full, the Borrower and Maverick covenant and agrees with the Lender that:

Section 9.01 Budget Variance. As of the Friday after the second calendar week ending after the Petition Date and on each Friday thereafter (each a “Testing Date” and, as to the first three Testing Dates, the period between the Petition Date to the Testing Date and, as to subsequent Testing Dates, the four weeks prior to the Testing Date, a “Testing Period”), the Loan Parties shall not permit (i) the amount of receipts in any line item during such Testing Period to be less than 90% of the amount of receipts for such line item as set forth in the Approved DIP Budget for such Testing Period or (ii) the amount of disbursements (for the avoidance of doubt, excluding disbursements under any of the “Debtor Professional Fees,” “Committee Professional Fees,” or “Lender Professional Fees” line items, each of which must be no more than 100% of the amount set forth in the Approved DIP Budget for such line item during the relevant Testing Period; provided, however, that any surplus during a Testing Period in any such line item can be carried forward to later Testing Periods for such line item) in any line item during such Testing Period to be greater than 110% of the amount of disbursements for such line item as set forth in the Approved

DIP Budget for such Testing Period; provided, however, that for purposes of testing the relevant line items in the Approved DIP Budget are the following: “Asset Sales/Recoveries,” “Total Operating Disbursements,” “Debtor Professional Fees,” “Committee Professional Fees,” and “Lender Professional Fees.”

Section 9.02 Debt. The Borrower will not, and will not permit any Subsidiary to, incur, create, assume or suffer to exist any Debt, except:

(a) The Secured Obligations or any guaranty of or suretyship arrangement for the Secured Obligations.

(b) Warehousing Indebtedness.

(c) Accounts payable and accrued expenses, liabilities or other obligations to pay the deferred purchase price of Property or services, incurred from time to time from and after the Petition Date in the ordinary course of business by the Loan Parties which are not greater than ninety (90) days past the date of invoice or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP.

(d) Intercompany Debt between the Borrower and any Subsidiary Guarantor or between Subsidiary Guarantors to the extent permitted by Section 9.05(h); provided that (i) such Debt is not held, assigned, transferred, negotiated or pledged to any Person other than Borrower or one of its Wholly-Owned Subsidiaries that is a Guarantor and (ii) any such Debt owed by either the Borrower or a Guarantor shall be subordinated to the Secured Obligations on terms set forth in Article XII.

(e) Endorsements of negotiable instruments for collection in the ordinary course of business.

(f) Guarantees of the Borrower and any Guarantor in respect of Debt otherwise permitted hereunder.

(g) [Reserved].

(h) Cash deposits securing obligations to any GSE and set forth on Schedule 9.02.

(i) The incurrence by Borrower or any of the Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes.

(j) To the extent otherwise constituting Debt, obligations arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of Mortgage Servicing Rights, loans and other mortgage-related receivables purchased or originated by Borrower or any Subsidiary arising in the ordinary course of business.

(k) Debt of Borrower and its Subsidiaries outstanding on the Petition Date (including any interest and fees accrued thereon after the Petition Date) and set forth in Schedule 9.02.

(l) Other Debt incurred in the ordinary course of business pursuant to an order entered by the Bankruptcy Court.

Section 9.03 Liens. Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any of its Properties (now owned or hereafter acquired), except:

(a) Liens granted under the Loan Documents securing the payment of any Secured Obligations.

(b) Valid, perfected and non-avoidable Liens in existence on the Petition Date or a Lien in existence on the Petition Date that is perfected subsequent to the Petition Date as permitted by Bankruptcy Code Section 546(b).

(c) Liens existing on the Petition Date and listed in Schedule 9.03.

(d) Liens securing the Prepetition Loan Facilities subject to the DIP Order.

(e) Adequate Protection Liens subject to the conditions set forth in the DIP Order.

(f) Liens securing Warehousing Indebtedness.

(g) The Carve-Out.

(h) Liens incurred in the ordinary course of business and not securing Debt for borrowed money pursuant to an order entered by the Bankruptcy Court.

(i) Liens on cash deposits securing obligations to any GSE permitted pursuant to Section 9.02(h).

(j) Liens arising from the recourse that a GSE may have with respect to any Mortgage Servicing Right arising under the Guides or any Acknowledgment Agreement.

(k) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor.

Section 9.04 Dividends, Distributions and Redemptions. Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, return any capital to its stockholders or make any distribution of its Property to its Equity Interest holders, except:

(a) Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its Equity Interests (other than Disqualified Capital Stock).

(b) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests.

(c) Borrower may make Restricted Payments or other payments pursuant to and in accordance with stock option plans or other benefit plans for management or employees of the Debtors that have been approved by an order of the Bankruptcy Court reasonably satisfactory to the Lender.

Section 9.05 Investments, Loans and Advances. The Borrower will not, and will not permit any Subsidiary to, make or permit to remain outstanding any Investments in or to any Person, except that the foregoing restriction shall not apply to:

(a) Investments existing on the Effective Date and set forth in Schedule 9.05.

(b) Accounts receivable arising in the ordinary course of business.

(c) Direct obligations of the United States or any agency thereof, or obligations guaranteed or insured by the United States or any agency thereof, in each case maturing within one year from the date of acquisition thereof.

(d) Any Investment consisting of Mortgage Servicing Rights, Receivables or REO Assets, in each case made in the ordinary course of business, and any Investment represented by Servicing Advances, residential or commercial mortgage loans made in the ordinary course of business.

(e) Investments by Borrower or any Subsidiary in the form of loans extended to non-Affiliate borrowers in connection with any loan origination business of Borrower or such Subsidiary in the ordinary course of business.

(f) Reserved.

(g) Loans or advances to employees, officers or directors in the ordinary course of business of Borrower or any of its Subsidiaries, in each case only as permitted by applicable law, including Section 402 of the Sarbanes Oxley Act of 2002, and outstanding on the Effective Date.

(h) Reserved.

(i) (i) Guarantees permitted by Section 9.02, and (ii) guarantees by Borrower or any Subsidiary for the performance or payment obligations of the Borrower or any Guarantor, which obligations were incurred in the ordinary course of business and do not constitute Secured Obligations.

Section 9.06 Nature of Business. The Borrower will not, and will not permit any Subsidiary to, allow any material change to be made in the character of its business from the businesses in which it is engaged as of the date hereof and businesses reasonably related thereto.

Section 9.07 Proceeds of Loans. The Borrower will not permit the proceeds of the Loans to be used for any purpose other than those permitted by Section 7.18. Neither the Borrower nor any Person acting on behalf of the Borrower has taken or will take any action which might cause any of the Loan Documents to violate Regulations T, U or X or any other regulation of the Board or to violate Section 7 of the Exchange Act or any rule or regulation thereunder, in each case as now in effect or as the same may hereinafter be in effect. If requested by the Lender, the Borrower will furnish to the Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 or such other form referred to in Regulation U, Regulation T or Regulation X of the Board, as the case may be. The Borrower will not request any Borrowing, and the Borrower shall not directly or, to the knowledge of the Borrower, indirectly use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not directly or, to the knowledge of such Person, indirectly use, the proceeds of any Borrowing (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, each to the extent in violation of applicable Sanctions, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 9.08 ERISA Compliance. Except as could not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, Borrower will not, and will not permit any Subsidiary to, at any time:

(a) engage in, or permit any ERISA Affiliate to engage in, any transaction in connection with which the Borrower, a Subsidiary or any ERISA Affiliate could be subjected to either a civil penalty assessed pursuant to subsections (c), (i) or (l) of Section 502 of ERISA or a tax imposed by Chapter 43 of Subtitle D of the Code;

(b) terminate, or permit any ERISA Affiliate to terminate, any Plan in a manner, or take any other action with respect to any Plan, which could result in any liability of the Borrower, a Subsidiary or any ERISA Affiliate to the PBGC;

(c) fail to make, or permit any ERISA Affiliate to fail to make, full payment when due of all amounts which, under the provisions of any Plan, agreement relating thereto or applicable law, the Borrower, a Subsidiary or any ERISA Affiliate is required to pay as contributions thereto.

(d) permit to exist, or allow any ERISA Affiliate to permit to exist, the failure of a Plan to meet the minimum funding standards under Section 303 of ERISA or Section 430 of the Code, whether or not waived, with respect to any Plan;

(e) permit, or allow any ERISA Affiliate to permit, the actuarial present value of the benefit liabilities under any Plan maintained by the Borrower, a Subsidiary or any ERISA

Affiliate which is regulated under Title IV of ERISA to exceed the current value of the assets (computed on a plan termination basis in accordance with Title IV of ERISA) of such Plan allocable to such benefit liabilities;

(f) contribute to or assume an obligation to contribute to, or permit any ERISA Affiliate to contribute to or assume an obligation to contribute to, any Multiemployer Plan;

(g) acquire, or permit any ERISA Affiliate to acquire, an interest in any Person that causes such Person to become an ERISA Affiliate with respect to the Borrower or a Subsidiary or with respect to any ERISA Affiliate of the Borrower or a Subsidiary if such Person sponsors, maintains or contributes to, or at any time in the six-year period preceding such acquisition has sponsored, maintained, or contributed to, (i) any Multiemployer Plan, or (ii) any other Plan that is subject to Title IV of ERISA under which the actuarial present value of the benefit liabilities under such Plan exceeds the current value of the assets (computed on a plan termination basis in accordance with Title IV of ERISA) of such Plan allocable to such benefit liabilities; or

(h) incur, or permit any ERISA Affiliate to incur, a liability to or on account of a Plan under Sections 515, 4062, 4063, 4064, 4201 or 4204 of ERISA.

Section 9.09 Mergers, Etc. The Borrower will not, and will not permit any Subsidiary to, merge into or with or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its Property to any other Person (whether now owned or hereafter acquired) (any such transaction, a “consolidation”), or liquidate or dissolve; except any Loan Party may transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its Property to, or may be merged into or consolidated or amalgamated with, any other Loan Party; provided that (i) if the Borrower is party to such transaction, then the Borrower is the surviving entity, and (ii) all actions necessary or desirable to preserve, protect and maintain the security interest and Lien of the Lender in any Cash Flow DIP Collateral held by any Loan Party involved in any such transaction are taken to the reasonable satisfaction of the Lender.

Section 9.10 Sale of Properties. The Borrower will not, and will not permit any Subsidiary to, sell, assign, farm-out, convey or otherwise transfer any Property except for:

(a) The sale or transfer of equipment that is no longer useful or necessary for the business of the Borrower or any other Loan Party or is replaced by equipment of at least comparable value or use.

(b) The grant by the Loan Parties in the ordinary course of business of any non-exclusive license of patents, trademarks, registrations therefor and other similar intellectual property.

(c) Any disposition of assets pursuant to (i) a condemnation, appropriation, seizure or similar taking or proceeding by a Governmental Authority, (ii) the requirement of, or at the direction of, a Governmental Authority or (iii) a Casualty Event.

(d) Dispositions of Property to the Borrower or any Guarantor.

(e) The sale of advances, loans, customer receivables, mortgage related securities or other assets in the ordinary course of business, including pursuant to Warehousing Indebtedness, the sale of accounts receivable or other assets that by their terms convert into cash in the ordinary course of business, any sale of Mortgage Servicing Rights in connection with the origination of the associated mortgage loan in the ordinary course of business or any sale of securities in respect of additional fundings under reverse mortgage loans in the ordinary course of business.

(f) Any disposition of REO Assets.

(g) The grant by the Loan Parties in the ordinary course of business in respect of any licenses, sublicenses, leases or subleases to other Persons not materially interfering with the conduct of the business of the Loan Parties, in each case so long as no such grant otherwise affects the Lender's security interest in the asset or property subject thereto.

(h) Borrower and its Subsidiaries may make any such dispositions, purchases or acquisitions in the ordinary course of business pursuant to an order entered by the Bankruptcy Court.

Section 9.11 Environmental Matters. The Borrower will not, and will not permit any Subsidiary to, conduct any activity or use any of its Properties or assets in any manner that violates any Environmental Law where such violation could reasonably be expected to have a Material Adverse Effect on Borrower and its Subsidiaries.

Section 9.12 Transactions with Affiliates. The Borrower will not, and will not permit any Subsidiary to, enter into any transaction, including any purchase, sale, lease or exchange of Property or the rendering of any service, with any Affiliate (other than transactions among the Loan Parties) unless such transactions are upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's length transaction with a Person not an Affiliate; provided that the foregoing restriction shall not apply to transactions as follows: (i) any Restricted Payment permitted by Section 9.04(a); (ii) Investments permitted under Section 9.05(h); (iii) loans and advances permitted under Section 9.05(l); (iv) the performance of employment, equity award, equity option or equity appreciation agreements, plans or other similar compensation or benefit plans or arrangements (including vacation plans, health and insurance plans, deferred compensation plans and retirement or savings plans) entered into by the Borrower or any other Loan Party in the ordinary course of its business with its employees, officers and directors; (v) the performance of any agreement set forth under Schedule 9.12 and existing on the date hereof or as otherwise in a form as provided on such Schedule, together with each extension, renewal, amendment or modification to the extent it does not expand the scope of undertakings provided thereby on more restrictive or onerous terms than as in effect on the date hereof; and (vi) fees and compensation to, and indemnity provided on behalf of, officers, directors, and employees of the Borrower or any Guarantor in their capacity as such, to the extent such fees and compensation are customary.

Section 9.13 Subsidiaries. The Borrower will not, and will not permit any Subsidiary to, create or acquire any additional Subsidiary unless the Borrower gives written notice to the Lender of such creation or acquisition and complies with Section 8.10. The Borrower shall not, and shall

not permit any Subsidiary to, sell, assign or otherwise dispose of any Equity Interests in any Subsidiary except in compliance with Section 9.10. Neither Borrower nor Maverick shall have any other Subsidiaries.

Section 9.14 Negative Pledge Agreements; Dividend Restrictions. The Borrower will not, and will not permit any Subsidiary to enter into any contract, agreement or understanding which in any way prohibits or restricts the granting, conveying, creation or imposition of any Lien on any of its Property in favor of the Lender or restricts any Subsidiary from paying dividends or making distributions to the Borrower or any Guarantor, except for restrictions and conditions:

- (a) imposed by law (including orders of the Bankruptcy Court);
- (b) of a customary nature contained in agreements relating to the disposition of a Subsidiary otherwise permitted under this Agreement pending such disposition; provided such restrictions and conditions apply only to the Subsidiary that is to be disposed of;
- (c) contained in the documentation relating to any Warehousing Facilities or any Hedging Agreements;
- (d) contained in joint venture agreements or other similar agreements entered into in the ordinary course of business and approved by an order of the Bankruptcy Court reasonably satisfactory to the Lender in respect to the disposition or distribution of assets of such joint venture;
- (e) in any negative pledge incurred or provided in favor of any holder of a Lien permitted by Section 9.03(c) or (e) solely to the extent such negative pledge relates to the property the subject of such Debt or Lien; or
- (f) contained in customary provisions in leases, licenses and similar contracts restricting the assignment, encumbrance, sub-letting or transfer thereof.

Section 9.15 Superpriority Claims. The Borrower will not, and will not permit any Subsidiary to, incur, create, assume, suffer to exist or permit any other Superpriority Claim *pari passu* with or senior to the claims of the Lender against the Debtors except with respect to the Carve-Out and the DIP Repo Superpriority Claim (as defined in, and subject to the priorities set forth in, the Interim DIP Order) against the Borrower.

ARTICLE X EVENTS OF DEFAULT; REMEDIES

Section 10.01 Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default”:

- (a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof, by acceleration or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in Section 10.01(a)) payable under any Loan Document, when and as the same shall become due and payable and such failure shall continue unremedied for a period of three Business Days;

(c) any representation or warranty made or deemed made by or on behalf of Borrower or any Subsidiary herein or in any Loan Document, or in any report, certificate, financial statement or other document furnished by or on behalf of Borrower or any Subsidiary pursuant to or in connection with any Loan Document, shall prove to have been materially incorrect when made or deemed made;

(d) Borrower or any Subsidiary shall fail to observe or perform any covenant, condition or agreement contained in Section 8.01(m), Section 8.02, Section 8.03, Section 8.12, Section 8.13, Section 8.14 or in Article IX;

(e) Borrower or any Subsidiary shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 10.01(a), Section 10.01(b) or Section 10.01(d)) or any other Loan Document (i) with respect to Section 8.01(f) or Section 8.04 with respect to Taxes and such failure shall continue unremedied for a period of five days after the earlier to occur of (A) notice thereof from the Lender to the Borrower (which notice will be given at the request of the Lender) or (B) a Responsible Officer of Borrower or such Subsidiary otherwise becoming aware of such default or (ii) with respect to any other provisions of this Agreement and such failure shall continue unremedied for a period of fifteen days after the earlier to occur of (A) notice thereof from the Lender to the Borrower (which notice will be given at the request of the Lender) or (B) a Responsible Officer of Borrower or such Subsidiary otherwise becoming aware of such default;

(f) Borrower or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any post-Petition Date Debt in excess of \$50,000, when and as the same shall become due and payable, subject to any applicable grace periods set forth in any documents governing such post-Petition Date Debt;

(g) any event or condition occurs that results in any post-Petition Date Debt, in excess of \$50,000 becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any such Debt or any trustee or agent on its or their behalf to cause any such Debt to become due, or to require the Redemption thereof or any offer to Redeem to be made in respect thereof, prior to its scheduled maturity or require Borrower or any Subsidiary to make an offer in respect thereof; provided that this Section 10.01(g) shall not apply to Debt that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Debt, if such sale or transfer is permitted hereunder and Borrower repays such Debt in full upon receipt of the net cash proceeds from such sale or transfer;

(h) after the commencement of the Chapter 11 Cases, (i) one or more judgments for the payment of money in an aggregate amount in excess of \$50,000 (to the extent not covered by independent third party insurance provided by financially sound and reputable insurers as to which the insurer does not dispute coverage and is not subject to an insolvency proceeding) or (ii)

any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, shall be rendered against Borrower, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 15 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of Borrower or any Subsidiary to enforce any such judgment; *provided* that, in each case, the entry of an order allowing any general unsecured claim arising prior to the Petition Date against any of the Debtors shall not be an Event of Default;

(i) any material provision of any Loan Document after delivery thereof shall for any reason, except to the extent permitted by the terms thereof, cease to be in full force and effect and valid, binding and enforceable in accordance with their terms against the Borrower or a Guarantor party thereto as represented and warranted pursuant to Section 7.02 or shall be repudiated by any of them, or cease to create a valid and perfected Lien of the priority required thereby on any of the collateral purported to be covered thereby, except to the extent permitted by the terms of this Agreement, or the Borrower or any Guarantor shall so state in writing;

(j) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(k) a Change in Control shall occur;

(l) (i) the entry of an order dismissing the Chapter 11 Cases (which dismissal does not require as a condition to such dismissal the termination of the DIP Facility and the payment in full in cash of all Secured Obligations (other than contingent indemnification obligations not due and payable)) or converting the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (ii) the entry of an order appointing a Chapter 11 trustee in the Chapter 11 Cases, (iii) the entry of an order in the Chapter 11 Cases appointing an examiner having expanded powers (beyond those set forth in Sections 1106(a)(3) and (4) of the Bankruptcy Code) and (iv) the filing of any pleading by any Loan Party seeking or otherwise consenting to, any of the matters set forth in Sections 10.01(l)(i) through (iii) above;

(m) (i) any Chapter 11 Plan other than the Acceptable Plan is filed by, or with the support of, a Loan Party without the consent of the Lender, (ii) the Loan Parties shall have commenced or supported any solicitation in respect of a proposed plan or reorganization other than the Acceptable Plan, (iii) an amendment, supplement or other modification shall have been made to, or a consent or waiver shall have been granted with respect to any departure by any person from the provisions of, the Acceptable Plan (without giving effect to such amendment, supplement, modification, consent or waiver), (iv) after its filing, the Acceptable Plan is withdrawn without the consent of the Lender, (v) the Bankruptcy Court shall terminate or reduce the period pursuant to Section 1121 of the Bankruptcy Code during which the Loan Parties have the exclusive right to file a Chapter 11 Plan and solicit acceptances thereof, (vi) the Bankruptcy Court shall grant relief that is inconsistent with the Acceptable Plan in any material respect and that is adverse to the Lender's interests or inconsistent with the Loan Documents in any material respect or (vii) any of the Loan Parties or any Affiliate thereof Controlled by the Loan Parties shall file any motion or pleading with the Bankruptcy Court that is inconsistent in any material respect with the Acceptable

Plan and such motion or pleading has not been withdrawn prior to the earlier of (A) three (3) Business Days of the Borrower receiving notice from the Lender and (B) entry of an order of the Bankruptcy Court approving such motion or pleading;

(n) there shall be a breach by any Loan Party of any provisions of the Interim DIP Order (prior to entry of the Final DIP Order) or the Final DIP Order, or the Interim DIP Order (prior to entry of the Final DIP Order) or Final DIP Order shall cease to be in full force and effect or shall have been reversed, modified, amended, stayed, vacated or subject to stay pending appeal, in the case of any modification or amendment, without the prior written consent of the Lender;

(o) the entry of an order in the Chapter 11 Cases charging any of the Cash Flow DIP Collateral (in an amount greater than \$100,000) under Section 506(c) of the Bankruptcy Code against the Lender under which any person takes action against the Cash Flow DIP Collateral and that becomes a final non-appealable order, or the commencement of other actions that are materially adverse to the Lender or its respective rights and remedies under the DIP Facility in any of the Chapter 11 Cases or materially inconsistent with the Loan Documents;

(p) the entry of an order granting relief from any stay of proceeding (including, without limitation, the automatic stay) so as to allow a third party to proceed with foreclosure (or granting of a deed in lieu of foreclosure) against any asset with a value in excess of \$50,000;

(q) the payment of any pre-Petition Date claims (other than as permitted by the Interim DIP Order, the Final DIP Order or pursuant to an order entered in the Chapter 11 Cases that grants the relief set forth in any “first day” motion that was previously delivered and not objected to, by the Lender or that is supported, or not objected to, by the Lender);

(r) any lien securing, or Superpriority Claim in respect of, the obligations under the DIP Facility shall cease to be valid, perfected (if applicable) and enforceable in all respects or to have the priority granted under the Interim DIP Order and the Final DIP Order, as applicable.

(s) except as expressly provided herein, the DIP Order or the Loan Documents, (i) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court authorizing any claims or charges entitled to superpriority under Section 364(c)(1) of the Bankruptcy Code *pari passu* with or senior to the DIP Facility, or (ii) the existence of (x) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 or clause (b) of Section 507 of the Bankruptcy Code (other than the Carve-Out) or (y) any Lien on the Cash Flow DIP Collateral having a priority senior to or *pari passu* with the Liens and security interests granted in the DIP Order;

(t) the Loan Parties or any of their Subsidiaries, shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding against the Lender relating to the DIP Facility other than matters for which the Borrower’s rights with respect thereto are expressly reserved in the DIP Order;

(u) failure to satisfy any of the Milestones in accordance with the terms relating to such Milestone;

(v) after the entry thereof by the Bankruptcy Court, the Confirmation Order shall cease to be in full force and effect, or any Loan Party shall fail to comply in any material respect with the Confirmation Order, or the Confirmation Order shall have been revoked, remanded, vacated, reversed, rescinded or modified or amended, in the case of any modification or amendment, without the prior written consent of the Lender.

(w) except as otherwise consented to by the Lender, Borrower or any Subsidiary shall have sold or otherwise disposed of all or a material portion of the Cash Flow DIP Collateral;

(x) the termination or suspension of the Borrower or the failure of the Borrower to be in good standing as an approved seller, servicer, seller/servicer and/or issuer, as applicable, of mortgage loans for Fannie Mae, Freddie Mac, GNMA, FHA or VA or the termination or suspension of the subservicer or the failure of the subservicer to be in good standing as an approved servicer/subservicer of mortgage loans for Fannie Mae, Freddie Mac, GNMA, FHA or VA;

(y) any payment of or grant of adequate protection with respect to any Debt existing prior to the Petition Date, other than in accordance with the DIP Order without the consent of the Lender and approval of the Bankruptcy Court;

(z) (i) the removal or attempted removal by the Loan Parties, or replacement or attempted replacement by the Loan Parties, of the Chief Restructuring Officer as an officer of any Loan Party, (ii) the dissolution or attempted dissolution of the position of the Chief Restructuring Officer as an officer of any Loan Party, or the change or derogation or attempted change or derogation of the duties thereof, or (iii) the hindering or other circumvention or attempted hindering or other circumvention of the duties of the Chief Restructuring Officer;

(aa) (i) absent the consent of the Lender, the removal or attempted removal by the Loan Parties, or replacement or attempted replacement by the Loan Parties of the Operations Consultant, or (ii) the hindering or other circumvention or attempted hindering or other circumvention of the duties of the Operations Consultant;

(bb) the Lender ceases to have control, under section 9-104 of the UCC, of the Controlled Account;

(cc) the consent of any of the Loan Parties to the standing of any party, including the Creditors' Committee (as defined in the DIP Order), to pursue any claim or cause of action against any of the Released Parties (as defined in the DIP Order) belonging to the Loan Parties or their estates, including, without limitation, any Challenge (as defined in the DIP Order); or the commencement of a Challenge (as defined below) by any party, including the Debtors or the Creditors' Committee.

Section 10.02 Remedies.

(a) In the case of an Event of Default, at any time thereafter during the continuance of such Event of Default, and without further order of the Bankruptcy Court, the Lender, shall, by notice to the Borrower in accordance with the DIP Order, take either or both of the following actions, at the same or different times: (i) terminate the Commitments and thereupon the Commitments shall terminate immediately, and (ii) declare the principal amount of the Loans

then outstanding, and accrued interest, fees, and other similar amounts thereon, to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower and the Guarantors accrued hereunder and under the Notes and the other Loan Documents shall become due and payable immediately, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby waived by the Borrower and each Guarantor. In the case of the occurrence of an Event of Default and at any time thereafter during the continuation of such Event of Default, the Lender will have all other rights and remedies available at law and equity, as set forth in the DIP Order.

(b) All proceeds realized from the liquidation or other disposition of collateral or otherwise received after maturity of the Loans, whether by acceleration or otherwise, shall be applied in the manner directed by the Lender.

ARTICLE XI MISCELLANEOUS

Section 11.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to Section 11.01(b)), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email, as follows:

(i) if to the Borrower or any Guarantor, to it at:

First Guaranty Mortgage Corporation
5800 Tennyson Parkway, Suite 450
Plano, TX 75024
Attention: General Counsel
Telephone: 469-592-7239
E-mail: generalcounsel@fgmc.com

(ii) if to the Lender, to it at:

650 Newport Center Dr
Newport Beach, CA 92660
Attn: Control Group
Email: ControlGroupNB@pimco.com

(b) Notices and other communications to the Lender and Borrower hereunder may be delivered or furnished by electronic communications.

(c) Any party hereto may change its address or telephone number or email address for notices and other communications hereunder by notice to the other parties hereto. All

notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 11.02 Waivers; Amendments.

(a) No failure on the part of the Lender to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege, or any abandonment or discontinuance of steps to enforce such right, power or privilege, under any of the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any of the Loan Documents preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the Lender hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by Section 11.02(b), and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Lender may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof nor any Security Instrument or any provision thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Lender.

Section 11.03 Expenses, Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Lender, including the reasonable and documented fees, charges and disbursements of (A) a single counsel to the Lender and (B) other outside consultants for the Lender, the costs to the Lender of a third party servicer or data servicer in the course of its administration of the Secured Obligations in respect of the DIP Facility and the Loan Documents on its behalf, the reasonable travel, photocopy, mailing, courier, telephone and other similar expenses, and the cost of environmental audits and surveys and appraisals in connection with the preparation, negotiation, execution, delivery and administration (both before and after the execution hereof and including advice of counsel to the Lender as to the rights and duties of the Lender with respect thereto) of this Agreement and the other Loan Documents and any amendments, modifications or waivers of or consents related to the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all costs, expenses, Taxes, assessments and other charges incurred in connection with any filing, registration, recording or perfection of any security interest contemplated by this Agreement or any Security Instrument or any other document referred to therein and (iii) following the occurrence and continuation of any Event of Default, all out-of-pocket expenses incurred by the Lender (without limitation of the expenses of the Lender payable pursuant to clause (i)), including the reasonable and documented fees, charges and disbursements of any counsel for the Lender in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section 11.03, or in connection with the Loans made (or deemed made) hereunder, including all such out-of-pocket expenses incurred in anticipation of, or on and after the occurrence of any Default.

(b) The Borrower shall indemnify the Lender and each Related Party of the Lender (each such person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of one firm of counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or the parties to any other Loan Document of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or by any other Loan Document, (ii) the failure of any Loan Party to comply with the terms of any Loan Document, including this Agreement, (iii) any inaccuracy of any representation or any breach of any warranty or covenant of the Borrower or any guarantor set forth in any of the Loan Documents or any instruments, documents or certifications delivered in connection therewith, (iv) any Loan or the use of the proceeds therefrom, (v) any other aspect of the Loan Documents, (vi) the operations of the business of Borrower and its Subsidiaries by Borrower and its Subsidiaries, (vii) any assertion that the Lender was not entitled to receive the proceeds received pursuant to the security instruments, (viii) [reserved], (ix) the breach or non-compliance by Borrower or any Subsidiary with any environmental law applicable to Borrower or any subsidiary, (x) [reserved], (xi) the presence, use, release, storage, treatment, disposal, generation, threatened Release, transport, arrangement for transport or arrangement for disposal of oil, oil and gas wastes, solid wastes or Hazardous Substances on or at any of the Properties owned or operated by Borrower or any Subsidiary or any actual or alleged presence or Release of Hazardous Materials on or from any Property owned or operated by Borrower or any of its Subsidiaries, (xii) [reserved], (xiii) any other environmental, health or safety condition in connection with the Loan Documents, or (xiv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto, and such indemnity shall extend to each Indemnitee notwithstanding the sole or concurrent negligence of every kind or character whatsoever, whether active or passive, whether an affirmative act or an omission, including all types of negligent conduct identified in the Restatement (Second) of Torts of one or more of the Indemnities or by reason of strict liability imposed without fault on any one or more of the Indemnities; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted solely from the fraud or willful misconduct of such Indemnitee. This Section 11.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Each Loan Party shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or the use of the proceeds thereof.

Section 11.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except

that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) the Lender may not assign or otherwise transfer its rights or obligations hereunder without the prior written consent of the Borrower (and any attempted assignment or transfer by the Lender without such consent shall be null and void); provided that Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of the Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 11.04(a) shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release the Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, and, to the extent expressly contemplated hereby, the Related Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Notwithstanding any other provisions of this Section 11.04, no transfer or assignment of the interests or obligations of the Lender or any grant of participations therein shall be permitted if such transfer, assignment or grant would require the Borrower and the Guarantors to file a registration statement with the SEC or to qualify the Loans under the “Blue Sky” laws of any state.

Section 11.05 Survival; Revival; Reinstatement.

(a) All covenants, agreements, representations and warranties made by the Borrower and Guarantors herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making (or deemed making) of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Section 3.04, Section 5.01 and Section 11.03 shall survive, on an unsecured and non-guaranteed basis, and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement, any other Loan Document or any provision hereof or thereof.

(b) To the extent that any payments on the Secured Obligations or proceeds of any Cash Flow DIP Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Liens, security interests, rights, powers and remedies under this Agreement and each Loan Document shall continue in full force and effect. In such event, each Loan Document

shall be automatically reinstated and the Borrower and Guarantor shall take such action as may be reasonably requested by the Lender to effect such reinstatement.

Section 11.06 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

(b) This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES HERETO AND THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. To the extent there are any inconsistencies between the terms of this Agreement or any Loan Document and the DIP Order, the provisions of the DIP Order shall govern.

(c) Except as provided in Section 6.01, this Agreement shall become effective when it shall have been executed by the Lender and when the Lender shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 11.07 Severability. Any provision of this Agreement or any other Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 11.08 Right of Setoff. Subject to the DIP Order, an Event of Default shall have occurred and be continuing, each of the Lender and its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by the Lender or Affiliate to or for the credit or the account of the Borrower or any Subsidiary against any of and all the obligations of Borrower or any Subsidiary owed to the Lender now or hereafter existing under this Agreement or any other Loan Document, irrespective of whether or not the Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations may be unmatured. The rights of the Lender under this Section 11.08 are in addition to other rights and remedies (including other rights of setoff) which the Lender or its Affiliates may have.

Section 11.09 Governing Law; Jurisdiction; Service of Process.

(a) This Agreement and the Note shall be governed by, and construed in accordance with, the laws of the State of New York.

(b) Each party hereto hereby irrevocably and unconditionally: submits (and the Borrower shall cause each other Loan Party to submit) for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the jurisdiction of the Bankruptcy Court or, if the Bankruptcy Court does not have (or abstains from) jurisdiction, in any of the courts of the State of New York and the United States of America for the Southern District of New York and appellate courts from any thereof; provided, that nothing contained herein or in any other Loan Document will prevent the Lender from bringing any action to enforce any award or judgment or exercise any right under the security instruments or against any Cash Flow DIP Collateral or any other property of any Loan Party in any other forum in which jurisdiction can be established. Each party hereby irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions.

(c) Each party irrevocably consents to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at the address specified in Section 11.01 or such other address as is specified pursuant to Section 11.01 (or its assignment and assumption), such service to become effective thirty (30) days after such mailing. Nothing herein shall affect the right of a party or any holder of a note to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against another party in any other jurisdiction.

(d) EACH PARTY HEREBY (i) IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN; (ii) IRREVOCABLY WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY SUCH LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES; (iii) CERTIFIES THAT NO PARTY HERETO NOR ANY REPRESENTATIVE, OR AGENT OF COUNSEL FOR ANY PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, OR IMPLIED THAT SUCH PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (iv) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT, THE LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 11.09.

Section 11.10 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 11.11 Confidentiality. The Lender and each other party hereto or to any other Loan Document, agrees to maintain, and agrees to cause each of its Affiliates to maintain, the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, partners and investors and their directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by the Bankruptcy Court or any regulatory authority purporting to have jurisdiction over it, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (and in each such case, such Person shall, if permitted by law, notify the Borrower of such occurrence as soon as reasonably practicable following the service of any such process on such Person), (d) to any other party to this Agreement or any other Loan Document, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) with the consent of the Borrower or (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 11.11. For the purposes of this Section 11.11, "Information" means all information received from Borrower or any Subsidiary relating to Borrower or any Subsidiary and their businesses other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. Any Person required to maintain the confidentiality of Information as provided in this Section 11.11 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 11.12 Interest Rate Limitation. It is the intention of the parties hereto that the Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby would be usurious as to the Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to the Lender notwithstanding the other provisions of this Agreement), then, in that event, notwithstanding anything to the contrary in any of the Loan Documents or any agreement entered into in connection with or as security for the Loans, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Lender that is contracted for, taken, reserved, charged or received by the Lender under any of the Loan Documents or agreements or otherwise in connection with the Loans shall under no circumstances exceed the maximum amount allowed by such applicable law, and any excess shall be canceled automatically and if theretofore paid shall be credited by the Lender on the principal amount of the Secured Obligations (or, to the extent that the principal amount of the Secured Obligations shall have been or would thereby be paid in full, refunded by the Lender to the Borrower); and (ii) if the maturity of the Loans or any other Secured Obligations is accelerated by reason of an election of the holder thereof resulting from any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest under law applicable to the Lender may never include more

than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall be canceled automatically by the Lender as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited by the Lender on the principal amount of the Secured Obligations (or, to the extent that the principal amount of the Secured Obligations shall have been or would thereby be paid in full, refunded by the Lender to the Borrower). All sums paid or agreed to be paid to the Lender for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to the Lender, be amortized, prorated, allocated and spread throughout the stated term of the Loans evidenced by the Loans until payment in full so that the rate or amount of interest on account of any Loans hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (i) the amount of interest payable to the Lender on any date shall be computed at the Highest Lawful Rate applicable to the Lender pursuant to this Section 11.12 and (ii) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Lender would be less than the amount of interest payable to the Lender computed at the Highest Lawful Rate applicable to the Lender, then the amount of interest payable to the Lender in respect of such subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to the Lender until the total amount of interest payable to the Lender shall equal the total amount of interest which would have been payable to the Lender if the total amount of interest had been computed without giving effect to this Section 11.12.

Section 11.13 Exculpation Provisions. Each of the parties hereto specifically agrees that it has a duty to read this Agreement and the other Loan Documents and agrees that it is charged with notice and knowledge of the terms of this Agreement and the other Loan Documents; that it has in fact read this Agreement and is fully informed and has full notice and knowledge of the terms, conditions and effects of this Agreement; that it has been represented by independent legal counsel of its choice throughout the negotiations preceding its execution of this Agreement and the other Loan Documents; and has received the advice of its attorney in entering into this Agreement and the other Loan Documents; and that it recognizes that certain of the terms of this Agreement and the other Loan Documents result in one party assuming the liability inherent in some aspects of the transaction and relieving the other party of its responsibility for such liability. Each party hereto agrees and covenants that it will not contest the validity or enforceability of any exculpatory provision of this Agreement and the other Loan Documents on the basis that the party had no notice or knowledge of such provision or that the provision is not “conspicuous.”

Section 11.14 No Third Party Beneficiaries. This Agreement, the other Loan Documents, and the agreement of the Lender to make Loans hereunder are solely for the benefit of the Loan Parties, and no other Person (including any Subsidiary of the Borrower that is not a Guarantor, obligor, contractor, subcontractor, supplier or materialsman) shall have any rights, claims, remedies or privileges hereunder or under any other Loan Document against the Lender for any reason whatsoever. There are no third party beneficiaries, other than to the extent contemplated by the last sentence of Section 11.04(a).

Section 11.15 USA Patriot Act Notice. The Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Borrower and the Guarantors, which information includes the name and address of the Borrower and the Guarantors and other information that will allow the Lender to identify the Borrower and the Guarantors in accordance with the USA Patriot Act.

ARTICLE XII GUARANTY

Section 12.01 Guarantee.

(a) Each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to the Lender, and each of its successors, indorsees, transferees and permitted assigns, the prompt and complete payment in cash when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations (collectively, the “Guaranteed Obligations”). This is a guarantee of payment and not collection and the liability of each Guarantor is primary and not secondary.

(b) Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable federal and state laws relating to the insolvency of debtors (after giving effect to the right of contribution established in Section 12.02).

(c) Each Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing the guarantee contained in this Article XII or affecting the rights and remedies of the Lender hereunder.

(d) Each Guarantor agrees that if the maturity of the Guaranteed Obligations is accelerated by bankruptcy or otherwise, such maturity shall also be deemed accelerated for the purpose of this guarantee without demand or notice to such Guarantor. The guarantee of each Guarantor contained in this Article XII shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon the Guarantors and the successors and assigns thereof, and shall inure to the benefit of the Lender, and its respective successors and permitted assigns, notwithstanding that from time to time during the term of this Agreement there may be no Guaranteed Obligations outstanding.

(e) No payment made by any Guarantor, any other guarantor or any other Person or received or collected by the Lender from the Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Guaranteed Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of the Guaranteed Obligations or any payment received or collected from such Guarantor in respect of the Guaranteed Obligations), remain liable for the Guaranteed Obligations up to the maximum liability of such Guarantor hereunder.

Section 12.02 Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder which has not paid its proportionate share of such payment. Each Guarantor’s right of contribution shall be subject to the terms and conditions of Section 12.03. The provisions

of this Section 12.02 shall in no respect limit the obligations and liabilities of any Guarantor to the Lender, and each Guarantor shall remain liable to the Lender for the full amount guaranteed by such Guarantor hereunder.

Section 12.03 No Subrogation; Subordination. Notwithstanding any payment made by any Guarantor hereunder or any set-off or application of funds of any Guarantor by the Lender, no Guarantor shall be entitled to exercise its rights to be subrogated to any of the rights of the Lender against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Lender for the payment of the Guaranteed Obligations, nor shall any Guarantor seek any indemnity, exoneration, participation, contribution or reimbursement from the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time, such amount shall be held by such Guarantor in trust for the Lender, and shall, forthwith upon receipt by such Guarantor, be turned over to the Lender in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Lender, if required), to be applied against the Guaranteed Obligations in accordance with the DIP Order. Any Liens securing payments of the debts and obligations of the Borrower or any Guarantor to any other Loan Party, whether such debts and obligations now exist or are hereafter incurred or arise, or whether the obligation of the debtor thereon be direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or obligations be evidenced by note, contract, open account, or otherwise, and irrespective of the Person or Persons in whose favor such debts or obligations may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by, shall be subordinate to any Liens securing payment of the Secured Obligations, regardless of whether such encumbrances in favor of such Loan Party or the Lender presently exist or are hereafter created or attach, and after an Event of Default has occurred and is continuing, if the Lender so requests, any such debts and obligations shall be collected, enforced and received by such Guarantor for the benefit of the Lender and be paid over to the Lender on account of the Guaranteed Obligations, but without affecting or impairing in any manner the liability of such Guarantor under the other provisions of this Article XII.

Section 12.04 Guaranty Amendments, Etc. With respect to the Guaranteed Obligations, each Guarantor shall remain obligated hereunder, and such Guarantor's obligations hereunder shall not be released, discharged or otherwise affected, notwithstanding that, without any reservation of rights against any Guarantor and without notice to, demand upon or further assent by any Guarantor (which notice, demand and assent requirements are hereby expressly waived by such Guarantor): (a) any demand for payment of any of the Guaranteed Obligations made by the Lender may be rescinded by the Lender or otherwise and any of the Guaranteed Obligations continued; (b) the Guaranteed Obligations, the liability of any other Person upon or for any part thereof or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by, or any indulgence or forbearance in respect thereof granted by, the Lender; (c) any Loan Document may be amended, modified, supplemented or terminated, in whole or in part, as the Lender may deem advisable from time to time; (d) any collateral security, guarantee or right of offset at any time held by the Lender for the payment of the Guaranteed Obligations may be sold, exchanged, waived, surrendered or released; (e) any additional guarantors, makers or endorsers of the Guaranteed Obligations may from time to time be obligated on the Guaranteed Obligations or any additional security or collateral for the payment and

performance of the Guaranteed Obligations may from time to time secure the Guaranteed Obligations; or (f) any other event shall occur which constitutes a defense or release of sureties generally (other than a defense of payment or performance). The Lender shall not have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Secured Obligations or for the guarantee contained in this Article XII or any Property subject thereto.

Section 12.05 Waivers. Each Guarantor hereby waives any and all notice of the creation, renewal, extension or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by the Lender upon the guarantee contained in this Article XII or acceptance of the guarantee contained in this Article XII; the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Article XII and no notice of creation of the Guaranteed Obligations or any extension of credit already or hereafter contracted by or extended to the Borrower need be given to any Guarantor; and all dealings between the Borrower and any of the Guarantors, on the one hand, and the Lender, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Article XII. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon the Borrower or any of the Guarantors with respect to the Guaranteed Obligations.

Section 12.06 Guaranty Absolute and Unconditional.

(a) Each Guarantor understands and agrees that the guarantee contained in this Article XII is, and shall be construed as, a continuing, completed, absolute and unconditional guarantee of payment, and each Guarantor hereby waives any defense of a surety or guarantor or any other obligor on any obligations arising in connection with or in respect of any of the following and hereby agrees that its obligations hereunder shall not be discharged or otherwise affected as a result of any of the following:

(i) the invalidity or unenforceability of any Loan Document, any of the Guaranteed Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Lender;

(ii) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by the Borrower or any other Person against the Lender;

(iii) the insolvency, bankruptcy arrangement, reorganization, adjustment, composition, liquidation, disability, dissolution or lack of power of the Borrower or any other Guarantor or any other Person at any time liable for the payment of all or part of the Guaranteed Obligations, including any discharge of, or bar or stay against collecting, any Guaranteed Obligation (or any part of them or interest therein) in or as a result of such proceeding;

(iv) any sale, lease or transfer of any or all of the assets of the Borrower or any other Guarantor, or any changes in the shareholders of the Borrower or any other Guarantor;

(v) any change in the corporate existence (including its constitution, laws, rules, regulations or power), structure or ownership of any Guarantor or in the relationship between the Borrower and any Guarantor;

(vi) the fact that any Cash Flow DIP Collateral or Lien contemplated or intended to be given, created or granted as security for the repayment of the Guaranteed Obligations shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other Lien, it being recognized and agreed by each of the Guarantors that it is not entering into this Agreement in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the Cash Flow DIP Collateral for the Guaranteed Obligations;

(vii) the absence of any attempt to collect the Guaranteed Obligations or any part of them from any Grantor; or

(viii) any other circumstance or act whatsoever, including any action or omission of the type described in Section 12.04 (with or without notice to or knowledge of the Borrower or such Guarantor), which constitutes, or might be construed to constitute, an equitable or legal discharge of the Borrower for the Guaranteed Obligations, or of such Guarantor under the guarantee contained in this Article XII, in bankruptcy or in any other instance (other than a defense of payment or performance).

(b) When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, the Lender may, but shall be under no obligation to, join or make a similar demand on or otherwise pursue or exhaust such rights and remedies as it may have against the Borrower, any other Guarantor or any other Person or against any collateral security or guarantee for the Guaranteed Obligations or any right of offset with respect thereto, and any failure by the Lender to make any such demand, to pursue such other rights or remedies or to collect any payments from the Borrower, any other Guarantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower, any other Guarantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Lender against any Guarantor. For the purposes hereof “demand” shall include the commencement and continuance of any legal proceedings.

Section 12.07 Reinstatement. The guarantee contained in this Article XII shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by any Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its Property, or otherwise, all as though such payments had not been made.

Section 12.08 Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Lender in accordance with the terms and conditions of the DIP Order, without set-off, deduction or counterclaim, in dollars, in immediately available funds, at the offices of the Lender.

Section 12.09 Releases. All guarantees provided for herein, and all Lien rights, powers and interests and guarantee benefits with respect thereto shall automatically terminate and be null and void immediately upon the date that the Commitments have expired or terminated and the principal of and interest, if applicable, on each Loan and all fees payable hereunder and any other Secured Obligations and all other amounts payable under the Loan Documents (other than contingent indemnification obligations for which no claim has been made) have been paid in full, and the Lender, at the written request and expense of the Borrower, will promptly take all steps and actions requested by the Borrower to evidence and more fully effect the foregoing termination, including the declaration of all such guarantees to be of no further force or effect.

ARTICLE XIII PRIORITY OF DIP LIENS; SECURITY AGREEMENT

Section 13.01 Generally. To secure payment of the Secured Obligations and Guaranteed Obligations, subject to the DIP Order, each of the Loan Parties hereby grants to the Lender liens upon, and security interests in, subject to the Carve-Out and priorities set forth in the DIP Order (the “DIP Liens”), in and to the Cash Flow DIP Collateral.

Section 13.02 Priority. The Loan Parties hereby covenant, represent and warrant that, upon entry of the DIP Order, the DIP Lien shall have the priority and liens set forth in the DIP Order, in each case subject to the Carve-Out and other liens as further described in the DIP Order.

Section 13.03 Identification of Collateral. No submission by a Loan Party to the Lender of a schedule or other particular identification of the Cash Flow DIP Collateral shall be necessary to grant to the Lender a DIP Lien upon, or to vest in the Lender security title to and a security interest in each and every item of Cash Flow DIP Collateral now existing or hereafter created or acquired, but rather such Lien, security title and security interest shall vest in the Lender immediately upon the creation or acquisition of any item of Cash Flow DIP Collateral hereafter created or acquired, without the necessity for any other or further action by any of the Loan Parties or the Lender.

Section 13.04 Further Assurances. Borrower at its sole expense will, and will cause each other Loan Party to, promptly execute and deliver to the Lender all such Security Instruments and other documents, agreements and instruments reasonably requested by the Lender (including using commercially reasonable efforts to obtain any Acknowledgment Agreements reasonably requested by the Lender) to comply with, cure any defects or accomplish the conditions precedent, covenants and agreements of Borrower or any other Loan Party, as the case may be, in the Loan Documents, including the Note, or to further evidence and more fully describe the Cash Flow DIP Collateral, or to correct any omissions in this Agreement or the Security Instruments, or to state more fully the obligations secured therein, or to perfect, protect or preserve any DIP Liens or the priority thereof, or to make any recordings, file any notices or obtain any consents (including using commercially reasonable efforts to obtain any Acknowledgment Agreements requested by the

Lender), all as may be reasonably necessary or appropriate, in the reasonable discretion of the Lender, to ensure that the Lender has a perfected security interest in substantially all of the Cash Flow DIP Collateral. In addition, at the Lender's written request, the Borrower, at its sole expense, shall enter into any Security Instruments or other documents (including using commercially reasonable efforts to obtain any Acknowledgment Agreements reasonably requested by the Lender), to evidence the DIP Liens on the Cash Flow DIP Collateral and provide any information so requested to identify any Cash Flow DIP Collateral, exhibits to mortgages in form and substance reasonably satisfactory to the Lender (which such exhibits shall be in recordable form for the applicable jurisdiction) or any other information requested in connection with the identification of any Cash Flow DIP Collateral, including without limitation, delivery of collateral documents, for recordation with the applicable recording offices.

Section 13.05 Financing Statements. The Borrower and Maverick hereby authorize the Lender to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Cash Flow DIP Collateral. The Borrower and Maverick hereby appoints the Lender as its true and lawful attorney-in-fact (without requiring the Lender to act as such), which power shall be coupled with an interest and irrevocable, for the limited purpose to prepare and record or file any Security Instruments, and to perform all other acts that the Lender deems appropriate, to establish, perfect, maintain and continue the DIP Liens upon the Cash Flow DIP Collateral.

Section 13.06 Additional Collateral; Additional Guarantors. If any Subsidiary becomes a Debtor, then Borrower shall promptly (and, in any event, within thirty (30) days after such date) cause such Subsidiary to guarantee the Secured Obligations pursuant to a joinder to this Agreement. In connection with any such guaranty, Borrower shall, or shall cause such Subsidiary to, (i) execute and deliver a joinder to this Agreement executed by such Subsidiary, (ii) pledge all of the Equity Interests of such new Subsidiary (including delivery (if applicable) of original certificates evidencing the Equity Interests of such Subsidiary, together with an appropriate undated stock powers for each certificate duly executed in blank by the registered owner thereof) and (iii) execute and deliver such other additional closing documents and certificates as shall reasonably be requested by the Lender.

[SIGNATURES BEGIN NEXT PAGE]

The parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

BORROWER:

FIRST GUARANTY MORTGAGE
CORPORATION

By: _____
Name: Aaron Samples
Title: CEO

MAVERICK:

MAVERICK II HOLDINGS, LLC

By: _____
Name: Aaron Samples
First Guaranty Mortgage Company,
As Sole Member of Maverick II Holdings,
LLC

LENDER:

LVS II SPE XXXIV LLC, as the Lender

By: _____

Name: Jason Steiner

Title: Authorized Person

**ANNEX I
LIST OF COMMITMENTS**

Name of Lender	Initial Term Loan Commitment¹	Delayed Draw Commitment²
LVS II SPE XXXIV LLC		
TOTAL	\$	\$

¹ To be effective upon entry of Interim DIP Order.

² To be effective upon entry of Final DIP Order.

**EXHIBIT A
FORM OF NOTE**

\$[], 20[]

FOR VALUE RECEIVED, First Guaranty Mortgage Corporation, a Virginia corporation (the “Borrower”), hereby promises to pay to [] or its registered assigns (the “Lender”), at its principal office, the principal sum of [] Dollars (\$[]) (or such lesser amount as shall equal the aggregate unpaid principal amount of the Loans made by the Lender to the Borrower under the Credit Agreement (as hereinafter defined)), in lawful money of the United States of America and in immediately available funds, on the dates and in the principal amounts provided in the Credit Agreement, and to pay interest on the unpaid principal amount of each such Loan, at such office, in like money and funds, for the period commencing on the date of such Loan until such Loan shall be paid in full, at the rates per annum and on the dates provided in the Credit Agreement.

The date, amount and maturity of each Loan made by the Lender to the Borrower, and each payment made on account of the principal thereof, shall be recorded by the Lender on its books and, prior to any transfer of this Note, may be endorsed by the Lender on the schedules attached hereto or any continuation thereof or on any separate record maintained by the Lender. Failure to make any such notation or to attach a schedule shall not affect any Lender’s or the Borrower’s rights or obligations in respect of such Loans or affect the validity of such transfer by any Lender of this Note.

This Note is one of the Notes referred to in the Senior Secured Superpriority Debtor-in-Possession Term Loan Agreement, dated as of June [], 2022, among First Guaranty Mortgage Corporation, the Borrower, the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC evidences Loans made by the Lender thereunder (such agreement as the same may be amended, supplemented or restated from time to time, the “Credit Agreement”). Capitalized terms used in this Note have the respective meanings assigned to them in the Credit Agreement.

This Note is issued pursuant to, and is subject to the terms and conditions set forth in, the Credit Agreement and is entitled to the benefits provided for in the Credit Agreement and the other Loan Documents. The Credit Agreement provides for the acceleration of the maturity of this Note upon the occurrence of certain events, for prepayments of Loans upon the terms and conditions specified therein and other provisions relevant to this Note.

THIS NOTE AND ANY CLAIMS, CONTROVERSY, DISPUTES OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED ON, ARISING OUT OF OR RELATING HERETO SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Borrower has caused this Note to be issued as of the date first above written

FIRST GUARANTY MORTGAGE
CORPORATION

By: _____
Name: Aaron Samples
Title: CEO

Exhibit A - 1

EXHIBIT B
FORM OF BORROWING REQUEST

[____], 20[____]

First Guaranty Mortgage Corporation, a Virginia corporation (the “Borrower”), pursuant to Section 2.03 of the Senior Secured Superpriority Debtor-in- Possession Term Loan Agreement, dated as of June [], 2022, among First Guaranty Mortgage Corporation, the Borrower, the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC (such agreement as the same may be amended, supplemented or restated from time to time, the “Credit Agreement”) (unless otherwise defined herein, each capitalized term used herein is defined in the Credit Agreement), hereby requests a Loan as follows:

- (i) Aggregate amount of the requested Loan is \$[____];
- (ii) Date of the borrowing of such Loan is [____], 20[____];
- (iii) Use or uses of such Loans and the Sublimit applicable to such Loans is:
[____]
[____]
- (iv) Total Credit Exposure on the date hereof (i.e., outstanding principal amount of Loans without regard to the Loans requested hereby) is \$[____];
- (v) Each Sublimit Exposure on the date hereof is;
Operating Sublimit: \$[____]
Mortgage Loan Funding Sublimit: \$[____]
Pipeline Loan Sale Sublimit: \$[____]
- (vi) Pro forma total Credit Exposure on the date hereof (after giving effect to the requested Loans) is \$[____]; and
- (vii) Pro forma Sublimit Exposure on the date hereof (after giving effect to the requested Loans) is;
Operating Sublimit: \$[____]
Mortgage Loan Funding Sublimit: \$[____]
Pipeline Loan Sale Sublimit: \$[____]

Exhibit B - 1

- (viii) Location and number of the Borrower's account to which funds are to be disbursed is as follows:

The undersigned certifies that the undersigned is the [_____] of the Borrower, and that as such the undersigned is authorized to execute this certificate on behalf of the Borrower. The undersigned further certifies, represents and warrants on behalf of the Borrower that the Borrower is entitled to receive the requested Loan under the terms and conditions of the Credit Agreement.

FIRST GUARANTY MORTGAGE
CORPORATION

By: _____
Name: _____
Title: _____

**EXHIBIT C-1
FORM OF
EFFECTIVE DATE CERTIFICATE**

[____], 2022

The undersigned hereby certifies that the undersigned is the [] of First Guaranty Mortgage Corporation, a Virginia corporation (“Borrower”), and that as such the undersigned is authorized to execute this certificate on behalf of the Borrower. Pursuant to Sections 6.01(j), 6.01(k), 6.02(a) and 6.02(b) of the Senior Secured Superpriority Debtor-in- Possession Term Loan Agreement, dated as of June [], 2022, among the Borrower, the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC (such agreement as the same may be amended, supplemented or restated from time to time, the “Credit Agreement”), the undersigned represents and warrants, on behalf of Borrower and not individually, as follows (each capitalized term used herein having the same meaning given to it in the Agreement unless otherwise specified):

(a) The representations and warranties of Borrower and the Guarantors set forth in the Credit Agreement and in the other Loan Documents are true and correct on and as of the date hereof, except to the extent any such representations and warranties are expressly limited to an earlier date, in which case, such representations and warranties continue to be true and correct as of such specified earlier date.

(b) On the date hereof, immediately after giving effect to such Credit Event, no Default shall exist.

[Signature page follows]

EXECUTED AND DELIVERED as of the first date written above.

FIRST GUARANTY MORTGAGE
CORPORATION

By: _____
Name:
Title:

EXHIBIT C-2
FORM OF SECTION 8.01(D) CERTIFICATE

The undersigned hereby certifies that the undersigned is the [] of First Guaranty Mortgage Corporation, a Virginia corporation ("Borrower"), and that as such the undersigned is authorized to execute this certificate on behalf of the Borrower. With reference to the Senior Secured Superpriority Debtor-in- Possession Term Loan Agreement, dated as of June [], 2022, among the Borrower, the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC (such agreement as the same may be amended, supplemented or restated from time to time, the "Credit Agreement"), the undersigned represents and warrants as follows (each capitalized term used herein having the same meaning given to it in the Agreement unless otherwise specified):

- (a) There exists no Default or Event of Default [or specify Default and describe].
- (b) Attached hereto are the detailed computations necessary to determine whether the Borrower is in compliance with Section 9.01 as of the end of and during the fiscal quarter ending [_____].
- (c) [Select one of the following as applicable:] [There has been no change in GAAP or in the application thereof, in each case as GAAP was applied in the Financial Statements, (i) in the preparation of the Borrower's financial statements most-recently required to be delivered in accordance with Section 8.01(b) or (ii) that would affect the computation of any matter in Section 9.01] or [There has been one or more changes in GAAP or in the application thereof, in each case as GAAP was applied in the Financial Statements, (i) in the preparation of the Borrower's financial statements most-recently required to be delivered in accordance with Section 8.01(b) or (ii) that would affect the computation of any matter in Section 9.01, as follows and with the following effects: [specify].

EXECUTED AND DELIVERED this [_____] day of [_____].

FIRST GUARANTY MORTGAGE
CORPORATION

By: _____
 Name: _____
 Title: _____

EXHIBIT D

RESERVED

Exhibit D - 1

EXHIBIT E-1
U.S. TAX COMPLIANCE CERTIFICATE

(For Lenders that are not U.S. Persons That Are Not Partnerships for U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Superpriority Debtor-in- Possession Term Loan Agreement, dated as of June [], 2022, among First Guaranty Mortgage Corporation (the “Borrower”), the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC (the “Lender”) (such agreement as the same may be amended, supplemented or restated from time to time, the “Credit Agreement”).

Pursuant to the provisions of Section 5.01 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent (10%) shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) the interest payments in question are not effectively connected with a U.S. trade or business conducted by the undersigned or are effectively connected but are not includible in the undersigned’s gross income for U.S. federal income tax purposes under an income tax treaty.

The undersigned has furnished the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and (2) the undersigned shall have at all times furnished the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT E-2
U.S. TAX COMPLIANCE CERTIFICATE

(For Lenders that are not U.S. Persons That Are Partnerships for U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Superpriority Debtor-in- Possession Term Loan Agreement, dated as of June [], 2022, among First Guaranty Mortgage Corporation (the “Borrower”), the Guarantors from time to time party thereto, and LVS II SPE XXXIV LLC (the “Lender”) (such agreement as the same may be amended, supplemented or restated from time to time, the “Credit Agreement”).

Pursuant to the provisions of Section 5.01 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent (10%) shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) the interest payments in question are not effectively connected with a U.S. trade or business conducted by the undersigned or are effectively connected but are not includible in the undersigned’s gross income for U.S. federal income tax purposes under an income tax treaty.

The undersigned has furnished the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form), or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form) from each such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower, and (2) the undersigned shall have at all times furnished the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Exhibit E-1 - 1

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT B

First Guaranty Mortgage Corporation
Initial DIP Budget

(\$ in millions)

DIP Budget														
Week Ending:	3-Jul-22	10-Jul-22	17-Jul-22	24-Jul-22	31-Jul-22	7-Aug-22	14-Aug-22	21-Aug-22	28-Aug-22	4-Sep-22	11-Sep-22	18-Sep-22	25-Sep-22	Cumulative
Week Number:	1	2	3	4	5	6	7	8	9	10	11	12	13	
Asset Sales/Recoveries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3.3	\$ -	\$ -	\$ -	\$ 2.4	\$ -	\$ -	\$ 5.6
Operating Disbursements	(0.1)	(1.5)	(3.5)	(1.5)	(0.6)	(3.0)	(0.4)	(1.2)	(0.4)	(2.4)	(0.3)	(0.6)	(0.3)	(15.7)
Debtor Professionals	-	-	-	-	(5.5)	-	-	-	-	(3.4)	-	-	-	(8.9)
Lender Professionals	-	-	-	-	(1.0)	-	-	-	-	(0.8)	-	-	-	(1.8)
Committee Professionals	-	-	-	-	(0.4)	-	-	-	-	(0.2)	-	-	-	(0.6)
Net Cash Flow	(0.1)	(1.5)	(3.5)	(1.5)	(7.5)	(3.0)	2.9	(1.2)	(0.4)	(6.7)	2.1	(0.6)	(0.3)	(21.3)
Cash Rollforward														
Beginning Balance	\$ 4.3	\$ 15.2	\$ 13.7	\$ 10.1	\$ 8.6	\$ 12.1	\$ 9.1	\$ 12.0	\$ 10.9	\$ 10.5	\$ 3.8	\$ 5.9	\$ 5.2	\$ 4.3
Net Cash Flow	(0.1)	(1.5)	(3.5)	(1.5)	(7.5)	(3.0)	2.9	(1.2)	(0.4)	(6.7)	2.1	(0.6)	(0.3)	(21.3)
Borrowings/(Repayments)	11.0	-	-	-	11.0	-	-	-	-	-	-	-	-	22.0
Ending Balance/(Funding Need)	\$ 15.2	\$ 13.7	\$ 10.1	\$ 8.6	\$ 12.1	\$ 9.1	\$ 12.0	\$ 10.9	\$ 10.5	\$ 3.8	\$ 5.9	\$ 5.2	\$ 5.0	\$ 5.0