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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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:
In re: :
: **Chapter 11 Case No.**
:
STAR TRIBUNE HOLDINGS : **09-10244 (RDD)**
CORPORATION, et al., :
: **(Jointly Administered)**
:
Debtors.¹ :
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**DEBTORS' MOTION TO (I) AUTHORIZE THE USE OF CASH COLLATERAL,
(II) GRANT ADEQUATE PROTECTION TO CERTAIN PRE-PETITION
SECURED PARTIES, (III) GRANT RELATED RELIEF, (IV) SCHEDULE AN
INTERIM HEARING PURSUANT TO BANKRUPTCY RULE 4001 AND (V)
SCHEDULE A FINAL HEARING PURSUANT TO BANKRUPTCY RULE 4001**

Star Tribune Holdings Corporation (“**Star Tribune Holdings**”) and The Star
Tribune Company (“**Star Tribune**”) and, together with Star Tribune Holdings, the
“**Debtors**”) respectfully represent:

¹ The Debtors are Star Tribune Holdings Corporation and The Star Tribune Company. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

Background and Jurisdiction

1. On the date hereof (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have filed a motion seeking joint administration of these chapter 11 cases pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

2. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Affidavit of David W. Montgomery, Chief Financial Officer of Star Tribune, which is incorporated herein by reference.

3. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Summary of Relief Requested

4. By this Motion, the Debtors request, pursuant to sections 105, 361 and 363 of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), entry of an order substantially in the form attached hereto as Exhibit A (the “**Initial Interim Order**”): (a) authorizing use of cash collateral (as defined in section 363(a) of the Bankruptcy Code, “**Cash Collateral**”), (b) granting adequate protection to certain pre-petition secured parties, (c) granting related relief, (d) scheduling an interim hearing thereon on January 20, 2009 (the “**Interim Hearing**”), and (e) scheduling a final hearing

(the “**Final Hearing**”) thereon. In accordance with Bankruptcy Rule 4001, below is a concise statement² of the relief requested:

- i) Parties with Interest in Cash Collateral. The parties with interest in Cash Collateral are the Agents and the Lenders (each as defined below).
- ii) Purposes for the Use of Cash Collateral. The Debtors shall be permitted to use Cash Collateral to pay the expenses of the operation of their businesses in accordance with a cash collateral budget agreed to by the First Lien Agent (the “**Initial Budget**”). Initial Interim Order ¶¶ 4, 7(e). Currently, the Initial Budget only covers certain agreed upon expenses. In advance of the Interim Hearing, the Debtors, the First Lien Agent and the First Lien Lenders shall work cooperatively in an effort to develop a longer term budget for these cases.
- iii) Termination Date. Unless extended by consent or Court order, the use of Cash Collateral authorized herein shall terminate on January 21, 2009 (the “**Termination Date**”). Initial Interim Order ¶ 16. The First Lien Agent may extend the Termination Date at any time.
- iv) Adequate Protection. Adequate protection shall be granted as follows:
 - a) As security for and solely to the extent of any net post-petition diminution in the value (each such diminution, a “**Diminution in Value**”) of the First Lien Security Interests (as defined below), the First Lien Agent is hereby granted for its benefit and the benefit of the First Lien Lenders, (i) a first-priority security interest in and lien on all the pre- and post-petition property of the Debtors other than the Excluded Assets (as defined below) (the “**First Lien Adequate Protection Lien**”), subject and subordinate only to (A) any valid, enforceable, perfected and unavoidable liens on the Debtors’ assets and property in existence as of the Petition Date or duly perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code (other than the First Lien Security Interests) and (B) the Interim Carve-Out (as defined below), and (ii) an administrative claim (the “**First Lien Super-Priority Claim**”) as provided for in section 507(b) of the

² To the extent anything in this summary is inconsistent with the proposed Initial Interim Order, annexed hereto, the proposed Initial Interim Order shall control.

Bankruptcy Code. The First Lien Super-Priority Claim shall have recourse to all pre- and post-petition property of the Debtors other than the Excluded Assets (as defined below). Interim Order ¶ 7.

- b) As security for and solely to the extent of Diminution in Value of the Second Lien Security Interests (as defined below), the Second Lien Agent is hereby granted for its benefit and the benefit of the Second Lien Lenders, (i) a first-priority security interest in and lien on all the pre- and post-petition property of the Debtors other than the Excluded Assets (as defined below) (the “**Second Lien Adequate Protection Lien**”), subject and subordinate only to (A) the First Lien Security Interests, (B) the First Lien Adequate Protection Lien, (C) any valid, enforceable, perfected and unavoidable liens on the Debtors’ assets and property in existence as of the Petition Date (other than the Second Lien Security Interests) or duly perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code and (D) the Interim Carve-Out, and (ii) an administrative claim (the “**Second Lien Super-Priority Claim**”) as provided for in section 507(b) of the Bankruptcy Code. The Second Lien Super-Priority Claim shall, subject to the Interim Carve-Out, be an allowed claim against each Debtor (jointly and severally) with priority immediately junior to the First Lien Super-Priority Claim and priority over any and all other administrative expenses and all other claims against the Debtors. The Second Lien Super-Priority Claim shall be payable from and have recourse to all pre- and post-petition property of the Debtors other than the Excluded Assets. Interim Order ¶ 8.
- v) Interim Carve Out. The Debtors are authorized to use Cash Collateral to pay the following costs, fees and expenses (collectively, the “**Interim Carve-Out**”): (a) all fees required to be paid to the Clerk of the Bankruptcy Court or to the U.S. Trustee pursuant to section 1930(a) of title 28 of the United States Code and (b) all reasonable fees and expenses incurred by a trustee appointed pursuant to section 726(b) of the Bankruptcy Code in an amount not exceeding \$100,000 in the aggregate. Initial Interim Order ¶ 5. The First Lien Super-Priority Claim and the Second Lien Super-Priority Claim are junior to the Interim Carve-Out. Initial Interim Order ¶ 7(b), 8(b).
- vi) Excluded Assets. The “**Excluded Assets**” are (i) all claims and causes of action (collectively, “**Avoidance Actions**”), and all products and proceeds thereof, arising under or permitted by sections 502(d),

506(c), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code and any other avoidance claims and avoidance causes of action arising under or permitted by state or federal law, *provided* that, subject only to and effective upon entry of an order granting the relief requested following the Final Hearing, any proceeds or property recovered, unencumbered or otherwise the subject of successful Avoidance Actions (other than any Avoidance Action in which any Agent or Lender is a defendant, or in which any Pre-Petition Security Interest, Loan Document or payment thereunder is contested), whether by judgment, settlement or otherwise (“**Avoidance Proceeds**”), shall not be Excluded Assets, and (ii) any asset that the Debtors are prohibited by law or contract from encumbering. Interim Order ¶ 9.

Pre-Petition Secured Facilities

5. In March 2007, Snowboard Acquisition Corp. n/k/a Star Tribune, as borrower (the “**Borrower**”), and Star Tribune Holdings and certain non-debtor subsidiaries as guarantors (the “**Guarantors**”), the lenders signatory thereto from time to time (referred to as the “**First Lien Lenders**”), Credit Suisse, Cayman Islands Branch (“**Credit Suisse**”) as Administrative Agent, Collateral Agent, Swing Line Lender and an L/C Issuer (in such capacities, the “**First Lien Agent**”) entered into the First Lien Senior Secured Credit Agreement, dated as of March 5, 2007 (as heretofore amended, supplemented or otherwise modified, the “**First Lien Credit Agreement**” and, together with related loan and security documents, the “**First Lien Loan Documents**”).

6. Also in March 2007, the Borrower, the Guarantors, the lenders signatory thereto from time to time (referred to as the “**Second Lien Lenders**” and, together with the First Lien Lenders, the “**Lenders**”), Credit Suisse, as Administrative Agent, Collateral Agent, Swing Line Lender and an L/C Issuer (in such capacities, the “**Second Lien Agent**” and, together with the First Lien Agent, the “**Agents**”), entered into the Second Lien Senior Secured Credit Agreement, dated as of March 5, 2007 (as heretofore

amended, supplemented or otherwise modified, the “**Second Lien Credit Agreement**” and, together with related loan and security documents, the “**Second Lien Loan Documents**” and, collectively with the First Lien Loan Documents, the “**Loan Documents**”).

7. The obligations under the First Lien Credit Agreement and the Second Lien Credit Agreement (together, the “**Credit Agreements**”) are secured by security interests in and liens on (respectively, the “**First Lien Security Interests**” and the “**Second Lien Security Interests**” and, together, the “**Pre-Petition Security Interests**”) substantially all of the assets of the Debtors. Pursuant to the Loan Documents, the Second Lien Security Interests are junior and subordinate to the First Lien Security Interests.

The Proposed Use of Cash Collateral

8. The Debtors do not currently require post-petition financing, but they do require the use of the cash generated in the ordinary course of their businesses. To the extent that any cash generated by the Debtors’ businesses constitutes the Cash Collateral of any of the Lenders, the Debtors submit that such Lenders are adequately protected against diminution by (i) the grant of replacement liens (to the extent of such diminution) on substantially all of the Debtors’ assets, (ii) the allowance of a super priority claim (to the extent of such diminution) and (iii) the avoidance of the immediate and near-total destruction in the value of the Pre-Petition Security Interests that would occur should the Debtors be denied the use of the cash generated by their businesses.

9. Based upon the accelerated nature of the commencement of these chapter 11 cases, the Debtors and the First Lien Lenders were not able to conclude their

negotiations with respect to long-term use of Cash Collateral. The First Lien Agent³ on behalf of the First Lien Lenders, however, has consented to the Debtors' use of Cash Collateral in accordance with the Initial Budget through the Termination Date in order to allow the parties the opportunity to negotiate the terms and conditions of the Debtors' use of Cash Collateral on a more permanent basis.

10. The Debtors do not have any currently available sources of funds to carry on the operation of their businesses other than the Cash Collateral. The Debtors require working capital to continue their operations. As one of Minnesota's key news media providers, any interruption in the Debtors' ability to provide service to their customers could have a devastating impact upon the Debtors. The uncertainty concerning the Debtors' financial condition could also greatly reduce their ability to procure goods and services from vendors critical to the successful operation of their business.

11. If the Debtors are unable to access sufficient operating liquidity to meet their post-petition obligations on a timely basis, there will be immediate and irreparable harm to their businesses and their estates (including to the Lenders themselves). In light of the foregoing, the Debtors have determined, in the exercise of their sound business judgment, that they require the use of Cash Collateral for the maintenance and preservation of their property, the operation of their businesses, the payment of expenses attendant thereto and the costs and expenses of administering these chapter 11 cases. The Debtors hereby request authority to use the Cash Collateral to make such essential

³ Pursuant to that certain Intercreditor Agreement dated as of March 5, 2007 between and among the Debtors and the Agents (the "**Intercreditor Agreement**"), the Second Lien Agent has agreed, on behalf of itself and the Second Lien Lenders, that it would "raise no objection" to the Debtors' use of Cash Collateral if the First Lien Agent consented to such use. Intercreditor Agreement ¶6.1.

payments as employee salaries, payroll, taxes and to pay the costs and expenses of administering these chapter 11 cases, all in compliance with the Initial Budget.

12. The material terms of the use of Cash Collateral are summarized in paragraph 4 of this Motion.

The Proposed Use of Cash Collateral Should Be Approved

13. Pursuant to section 363(c)(2) of the Bankruptcy Code, a debtor may not use 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.” 11 U.S.C. § 363(c)(2). This standard is easily satisfied here because, as noted above, the First Lien Agent on behalf of the First Lien Lenders has consented to the use of Cash Collateral consistent with the terms of the Initial Interim Order.

14. Moreover, even had the First Lien Agent not so consented, the Debtors submit that the continued use of Cash Collateral would nonetheless be appropriate because the Lenders are adequately protected. The Bankruptcy Code does not define “adequate protection” but rather sets forth three nonexclusive examples:

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by –

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity’s interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant

results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

11 U.S.C. § 361.

15. Adequate protection is determined on a case-by-case basis. *See In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986). The critical purpose of adequate protection is to guard against the diminution of a secured creditor's interest in its collateral during the period when such collateral is being used by the debtor in possession. *See 495 Cent. Park*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992) ("The goal of adequate protection is to safeguard the secured creditor from diminution in the value of its interest [during the chapter 11 reorganization]."); *Beker*, 58 B.R. at 736; *In re Hubbard Power & Light*, 202 B.R. 680, 685 (Bankr. E.D.N.Y. 1996). Here, it is clear that the Lenders are adequately protected.

16. First and foremost, it is clear that replacement liens (such as the ones that are provided herein to the Lenders) are specifically referenced in the Bankruptcy Code as an appropriate form of adequate protection. 11 U.S.C. § 361(2). Moreover, courts have considered the preservation and enhancement of collateral to be a critical component of adequate protection. Indeed, courts have even approved the priming of pre-petition security interests by a debtor-in-possession financing, because the pre-petition lenders were adequately protected by the reorganization value of the Debtors. In determining the sufficiency of adequate protection, courts have considered "whether the value of the

debtor's property will increase as a result" of the use of the post-petition financing. 495 *Cent. Park*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992). Thus, for purposes of determining the sufficiency of adequate protection here, the Court should evaluate the difference between what the Lenders' collateral would be worth with and without the use of Cash Collateral. *See id.* at 631 (priming loan approved because "there is no question that the [collateral] would be improved by the proposed [expenditures] and that an increase in value will result. In effect, a substitution occurs in that the money spent . . . will be transferred into value. This value will serve as adequate protection."); *see also In re Ledgemere Land Corp.*, 125 B.R. 58, 62 (Bankr. D. Mass. 1991) (priming loan approved when "the chance of a decline in the value of the property is more than offset by the likelihood of enhancement in value due to the Debtor's construction and marketing plans."); *In re Sky Valley, Inc.*, 100 B.R. 107, 114 (Bankr. N.D. Ga. 1988) ("an increase in the value of the collateral . . . resulting from superpriority financing could result in adequate protection.") (citation omitted), *aff'd*, 99 B.R. 117 (N.D. Ga. 1989).

17. As set forth above, the Debtors' ability to maintain business relationships with their customers and vendors and to meet payroll and other critical operating expenses is essential to the value of the Debtors' businesses. Indeed, absent use of the Cash Collateral, the Debtors' businesses will be brought to an immediate halt, with disastrous consequences for the Debtors and their estates and creditors. Use of the Cash Collateral is therefore of the utmost importance to the preservation and maintenance of the value of the Debtors.

The Interim Approval Should Be Granted

18. Bankruptcy Rule 4001(b) provides that a final hearing on a motion to use cash collateral may not be commenced earlier than 15 days after the service of such motion. Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and authorize the use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate pending a final hearing.

19. Pursuant to Bankruptcy Rule 4001(b), the Debtors request that the Court conduct an expedited preliminary hearing on the Motion and (a) authorize the Debtors to use the Cash Collateral in order to (i) maintain and finance the ongoing operations of the Debtors and (ii) avoid immediate and irreparable harm and prejudice to the Debtors' estates and all parties in interest, (b) schedule an Interim Hearing on the relief requested herein and (c) schedule a Final Hearing on the relief requested herein

20. Absent authorization from the Court to use Cash Collateral on an initial interim basis pending Interim and Final Hearings, the Debtors will be immediately and irreparably harmed. As set forth above, the Debtors' ability to use Cash Collateral is critical to the orderly resolution of these chapter 11 cases. Without immediate liquidity provided by the use of Cash Collateral, the Debtors will simply be unable to conduct normal business operations, and their estates, creditors, and equity holders will be immediately and irreparably harmed.

21. Promptly upon the entry of the Initial Interim Order, the Debtors will serve a copy of the Initial Interim Order and this Motion on (a) the Office of the United States Trustee for the Southern District of New York (the "**U.S. Trustee**"), (b) those

creditors holding the five largest secured claims against the Debtors' estates on a consolidated basis, (c) those creditors holding the 30 largest unsecured claims against the Debtors' estates on a consolidated basis, (d) the Internal Revenue Service, (e) attorneys to the agent for the Debtors' first lien pre-petition lenders, (f) attorneys to an ad hoc committee of the Debtors' second-lien pre-petition lenders and (g) Avista Capital Partners (collectively, the "**Notice Parties**").

22. The deadline to file an objection ("**Objection**") to the Motion in advance of the Interim Hearing shall be 1:00 p.m. (prevailing Eastern Time) on January 19, 2009 (the "**Objection Deadline**"). An Objection shall be considered only if, on or before the Objection Deadline, it is (a) filed with the Court and (b) served upon and actually received by (i) the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Brian S. Masumoto, (ii) attorneys for the Debtors, Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Timothy E. Graulich and (iii) attorneys to the agent for the Debtors' first lien pre-petition lenders, Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022, Attn: Mark A. Broude.

Notice

23. No trustee, examiner, or creditors' committee has been appointed in these chapter 11 cases. The Debtors have served notice of this Motion on the Notice Parties.

No Previous Request

24. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

New York, New York
Dated: January 15, 2009

By: /s/ Marshall S. Huebner
Marshall S. Huebner
Timothy E. Graulich
Lynn I. Poss

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*Proposed Counsel to the Debtors
and Debtors in Possession*

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
:
: **Chapter 11 Case No.**
STAR TRIBUNE HOLDINGS :
CORPORATION, et al., : **09-10244 (RDD)**
:
: **(Jointly Administered)**
Debtors.¹ :
----- X

**INITIAL INTERIM ORDER (I) AUTHORIZING THE USE OF
CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION
TO CERTAIN PRE-PETITION SECURED PARTIES, (III) GRANTING
RELATED RELIEF, (IV) SCHEDULING AN INTERIM HEARING,
AND (V) SCHEDULING A FINAL HEARING**

Upon the motion (the “**Motion**”),² dated January 15, 2009, of Star Tribune Holdings Corporation (“**Star Tribune Holdings**”) and The Star Tribune Company (“**Star Tribune**”) and, together with Star Tribune Holdings, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Cases**”) pursuant to sections 105, 361, 362, 363(c)(2), 364(e) and 552 of the Bankruptcy Code, and Bankruptcy Rules 2002, 4001 and 9014, seeking, among other things:

- (a) authorization for the Debtors to use cash collateral in which any First Lien Lender or Second Lien Lender (each as defined below) has an interest pursuant to any Loan Document;

¹ The Debtors are Star Tribune Holdings Corporation and The Star Tribune Company. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

(b) the granting of adequate protection to each lender (collectively, the “**First Lien Lenders**”) under and in connection with (i) the First Lien Senior Secured Credit Agreement dated as of March 5, 2007 (as amended, supplemented or otherwise modified from time to time, the “**First Lien Credit Agreement**”) among Snowboard Acquisition Corp. n/k/a Star Tribune, as borrower (the “**Borrower**”), each lender party thereto and Credit Suisse, as administrative agent and collateral agent (the “**First Lien Agent**”) and (ii) each loan document executed in connection with the First Lien Credit Agreement (collectively with the First Lien Credit Agreement, the “**First Lien Loan Documents**”);

(c) the granting of adequate protection to each lender (collectively, the “**Second Lien Lenders**” and, together with the First Lien Lenders, the “**Lenders**”) under and in connection with (i) the Second Lien Senior Secured Credit Agreement dated as of March 5, 2007 (as amended, supplemented or otherwise modified from time to time, the “**Second Lien Credit Agreement**”) among the Borrower, each lender party thereto and Credit Suisse, as administrative agent and collateral agent (the “**Second Lien Agent**” and, together with the First Lien Agent, the “**Agents**”) and (ii) each loan document executed in connection with the Second Lien Credit Agreement (collectively with the Second Lien Credit Agreement, the “**Second Lien Loan Documents**” and, collectively with the First Lien Loan Documents, the “**Loan Documents**”);

(d) pursuant to Bankruptcy Rule 4001, that a initial interim hearing (the “**Initial Interim Hearing**”) on the Motion be held before this Court to consider entry of this Initial Interim Order;

(e) pursuant to Bankruptcy Rule 4001, that an interim hearing (the “**Interim Hearing**”) on the Motion be held before this Court on January 20, 2009 to consider entry of an interim order authorizing the use of cash collateral and granting adequate protection to the Lenders; and

(f) that this Court schedule a final hearing (the “**Final Hearing**”) to consider entry of a final order authorizing the use of cash collateral and granting adequate protection to the Lenders.

Due and appropriate notice of the Motion, the relief requested therein and the Initial Interim Hearing having been served by the Debtors on the thirty largest unsecured creditors of the Debtors (on a consolidated basis), each Agent and the Office of the United States trustee for the Southern District of New York (the “**U.S. Trustee**”).

The Initial Interim Hearing having been held by this Court on January 16, 2009.

Upon the record made by the Debtors at the Initial Interim Hearing and after due deliberation and consideration and sufficient cause appearing therefor,

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Jurisdiction and Venue.* This Court has subject-matter jurisdiction over the Cases, the Motion and the parties and property affected hereby pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. *Notice.* Under the circumstances, the notice given by the Debtors of the Motion and the Initial Interim Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy Rule 4001(b) and Local Bankruptcy Rule 4001-2.

3. *Findings Regarding the Use of Cash Collateral.*

(a) Good cause has been shown for the entry of this Initial Interim Order.

(b) The Debtors have an immediate need to use cash collateral to permit, among other things, the orderly continuation of the operation of their businesses. The access of the Debtors to sufficient working capital and liquidity through the use of cash collateral and other financial accommodations is vital to the preservation and maintenance of the going concern values of the Debtors and to a successful reorganization of the Debtors.

(c) The terms of the use of cash collateral are fair and reasonable and constitute reasonably equivalent value and fair consideration.

(d) Absent granting the relief sought by this Initial Interim Order, the Debtors' estates will be immediately and irreparably harmed. The use of cash collateral in accordance with this Initial Interim Order is therefore in the best interest of the Debtors' estates.

4. *Use of Cash Collateral.* The Debtors shall not use any cash collateral (as defined in section 363(a) of the Bankruptcy Code) that is subject to any Pre-Petition Security Interest ("**Cash Collateral**") except as permitted herein or as otherwise approved by this Court. Subject to the terms and conditions of this Initial Interim Order, the Debtors are hereby authorized to use Cash Collateral during the period (the "**Initial Interim Period**") from the Petition Date through January 21, 2009, and the Lenders are directed promptly to turn over to the Debtors all Cash Collateral received or held by them.

5. *Interim Carve-Out.* The Debtors are also authorized to use Cash Collateral to pay the following costs, fees and expenses (collectively, the “**Interim Carve-Out**”): (a) all fees required to be paid to the Clerk of the Bankruptcy Court or to the U.S. Trustee pursuant to section 1930(a) of title 28 of the United States Code and (b) all reasonable fees and expenses incurred by a trustee appointed pursuant to section 726(b) of the Bankruptcy Code in an amount not exceeding \$100,000 in the aggregate.

6. *Adequate Protection of Interests.* Each Lender is entitled, pursuant to sections 361, 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of its Pre-Petition Security Interests for and equal in amount to the net post-petition diminution in the value (each such diminution, a “**Diminution in Value**”) of the Pre-Petition Security Interests of such Lender during the Initial Interim Period, calculated in accordance with section 506(a) of the Bankruptcy Code, including, without limitation, any Diminution in Value resulting from the sale, lease or use by the Debtors of property (including, without limitation, Cash Collateral) subject to any Pre-Petition Security Interest and the stay of enforcement of any Pre-Petition Security Interest arising from section 362 of the Bankruptcy Code. For the avoidance of doubt, to the extent it is determined that the First Lien Lenders were undersecured as of the Petition Date, the Diminution in Value of the Second Lien Security Interests shall conclusively be deemed to be zero.

7. *First Lien Adequate Protection.* As adequate protection, the First Lien Agent, on behalf of itself and the First Lien Lenders, is hereby granted the following (collectively, the “**First Lien Adequate Protection**”):

(a) Adequate Protection Lien. As security for and solely to the extent of any Diminution in Value of the liens and security interests granted to the First Lien Agent for the benefit of the First Lien Lenders pursuant to the First Lien Loan Documents (the “**First Lien Security Interests**”) during the Initial Interim Period, the First Lien Agent is hereby granted for its benefit and the benefit of the First Lien Lenders, effective and perfected as of the date of entry of this Initial Interim Order and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements, a first-priority security interest in and lien on all the pre- and post-petition property of the Debtors other than the Excluded Assets (the “**First Lien Adequate Protection Lien**”), subject and subordinate only to (i) any valid, enforceable, perfected and unavoidable liens on the Debtors’ assets and property in existence as of the Petition Date or duly perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code (other than the First Lien Security Interests) and (ii) the Interim Carve-Out.

(b) Super-Priority Claim. To the extent of any Diminution in Value of the First Lien Security Interests during the Initial Interim Period, the First Lien Agent, on behalf of itself and the First Lien Lenders, is hereby granted an administrative claim (the “**First Lien Super-Priority Claim**”) as provided for in section 507(b) of the Bankruptcy Code. The First Lien Super-Priority Claim shall, subject to the Interim Carve-Out, be an allowed claim against each Debtor (jointly and severally) with priority over any and all administrative expenses and all other claims against the Debtors, now existing or hereafter arising, of any kind

whatsoever, including, without limitation, all other administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all other administrative expenses or other claims arising under any other provision of the Bankruptcy Code, including, without limitation, sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726 or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed First Lien Super-Priority Claim shall be payable from and have recourse to all pre- and post-petition property of the Debtors other than the Excluded Assets.

(c) Reasonable Fees and Expenses. The Debtors shall promptly pay or reimburse the reasonable costs and expenses of the First Lien Agent's financial and legal advisors accrued during the Initial Interim Period in accordance with the First Lien Credit Agreement, including without limitation, Latham & Watkins, LLP, in accordance with the arrangements existing immediately prior to the Petition Date.

(d) Information. During the Initial Interim Period, the Debtors shall continue to provide the First Lien Agent with (i) financial and other reporting substantially in compliance with the First Lien Credit Agreement, (ii) access to the Debtors' business premises to the extent permitted under the First Lien Credit Agreement and (iii) other additional information as the First Lien Agent may reasonably request from time to time. Any information provided pursuant to this paragraph 7(d) shall be subject to the confidentiality provisions of the First Lien Credit Agreement, which provisions shall remain in full force and effect.

(e) Compliance With Initial Budget. Except as otherwise expressly provided in this Initial Interim Order, any further order of this Court or with the consent of the First Lien Agent, Cash Collateral may only be used for the purposes identified in the initial budget agreed to by the First Lien Agent and described on the record to the Court (as may be modified or updated from time to time with the prior written consent of the First Lien Agent or upon order of the Court, the “**Initial Budget**”).

8. *Second Lien Adequate Protection*. As adequate protection, the Second Lien Agent, on behalf of itself and the Second Lien Lenders, is hereby granted the following (collectively, the “**Second Lien Adequate Protection**” and, collectively with the First Lien Adequate Protection, the “**Adequate Protection**”):

(a) Adequate Protection Lien. Subject to paragraph 6 herein, as security for and solely to the extent of any Diminution in Value of the liens and security interests granted to the Second Lien Agent for the benefit of the Second Lien Lenders pursuant to and in connection with the Second Lien Loan Documents during the Initial Interim Period (the “**Second Lien Security Interests**”), the Second Lien Agent is hereby granted for its benefit and the benefit of the Second Lien Lenders, effective and perfected as of the date of entry of this Initial Interim Order and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements, a junior security interest in and lien on all the pre- and post-petition property of the Debtors other than the Excluded Assets (the “**Second Lien Adequate Protection Lien**”), subject and subordinate only to (i) the First Lien

Security Interests, (ii) the First Lien Adequate Protection Lien, (iii) any valid, enforceable, perfected and unavoidable liens on the Debtors' assets and property in existence as of the Petition Date (other than the Second Lien Security Interests) or duly perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code and (iv) the Interim Carve-Out.

(b) Super-Priority Claim. Subject to paragraph 6 and to the extent of any Diminution in Value of the Second Lien Security Interests during the Initial Interim Period, the Second Lien Agent, on behalf of itself and the Second Lien Lenders, is hereby granted an administrative claim (the "**Second Lien Super-Priority Claim**") as provided for in section 507(b) of the Bankruptcy Code. The Second Lien Super-Priority Claim shall, subject to the Interim Carve-Out, be an allowed claim against each Debtor (jointly and severally) with priority immediately junior to the First Lien Super-Priority Claim and priority over any and all other administrative expenses and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under any other provision of the Bankruptcy Code, including, without limitation, sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726 or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed Second Lien Super-Priority

Claim shall be payable from and have recourse to all pre- and post-petition property of the Debtors other than the Excluded Assets.

9. *Excluded Assets.* The “**Excluded Assets**” are (i) all claims and causes of action (collectively, “**Avoidance Actions**”), and all products and proceeds thereof, arising under or permitted by sections 502(d), 506(c), 544, 545, 547, 548, 549 and 550 of the Bankruptcy Code and any other avoidance claims and avoidance causes of action arising under or permitted by state or federal law, *provided* that, subject only to and effective upon entry of an order granting the relief requested following the Final Hearing, any proceeds or property recovered, unencumbered or otherwise the subject of successful Avoidance Actions (other than any Avoidance Action in which any Agent or Lender is a defendant, or in which any Pre-Petition Security Interest, Loan Document or payment thereunder is contested), whether by judgment, settlement or otherwise (“**Avoidance Proceeds**”), shall not be Excluded Assets, and (ii) any asset that the Debtors are prohibited by law or contract from encumbering.

10. *Reservation of Rights of First Lien Agent.* Under the circumstances and given that the adequate protection provided herein is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Lenders. However, in the event of a material change of circumstances, the First Lien Agent may request further or different adequate protection, and the Debtors or any other party may contest any such request.

11. *Preservation of Rights Granted Under the Initial Interim Order.*

(a) During the Initial Interim Period, no claim or lien having a priority superior to or *pari passu* with those granted by this Initial Interim Order to the First Lien Agent on behalf of the First Lien Lenders shall be granted or allowed while any portion of the First Lien Debt remains outstanding, unless (i) the First Lien Agent has consented in writing to such grant or allowance or (ii) such superior or *pari passu* claim or lien is permitted under the First Lien Loan Documents.

(b) During the Initial Interim Period, the liens and security interests included in the First Lien Adequate Protection shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code or (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise, except to the extent permitted hereunder.

(c) If an order dismissing any of the Cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, (i) such order shall provide, in accordance with sections 105 and 349 of the Bankruptcy Code, that until all First Lien Debt shall have been paid and satisfied in full, the First Lien Adequate Protection shall (A) continue in full force and effect, (B) remain binding on all parties in interest and (C) maintain the priorities and status provided in this Initial Interim Order and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to in clause (i).

(d) If any or all of the provisions of this Initial Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacatur shall not affect (i) the validity of Adequate Protection obligations incurred prior to the actual receipt of written notice by each Agent of the effective date of such reversal, stay, modification or vacatur or (ii) the validity or enforceability of any lien or priority authorized or created hereby or pursuant to the Adequate Protection. Notwithstanding any such reversal, stay, modification or vacatur, any use of Cash Collateral prior to the actual receipt of written notice by each Agent of the effective date of such reversal, stay, modification or vacatur shall be governed in all respects by the original provisions of this Initial Interim Order, and each Agent and each Lender shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code and this Initial Interim Order with respect to all uses of Cash Collateral and all Adequate Protection.

12. *Priorities Among Lenders.* Notwithstanding anything to the contrary herein or in any other order of this Court, in determining the relative priorities and rights of the Lenders (including, without limitation, the relative priorities and rights of the Lenders with respect to Adequate Protection granted hereunder), such priorities and rights shall continue to be governed by the Loan Documents.

13. *Limitation on Charging Expenses Against Collateral.* Subject only to and effective upon entry of an order granting the relief requested following the Final Hearing, except to the extent of the Interim Carve-Out, no expenses of administration of the Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or

other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Lenders' collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law without the prior written consent of the applicable Agents and applicable Lenders, as the case may be, and no such consent shall be implied from any other action, inaction, or acquiescence by any of the Agents or the Lenders.

14. *Order Governs.* In the event of any inconsistency between the provisions of this Initial Interim Order and the Motion, the provisions of this Initial Interim Order shall govern.

15. *Binding Effect; Successors and Assigns.* The provisions of this Initial Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including, without limitation, each Agent, each Lender, the Creditors' Committee, each Debtor and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors) and shall inure to the benefit of each Agent, each Lender, each Debtor and their respective successors and assigns.

16. *Interim Hearing.* The Interim Hearing will be held by this Court on January 20, 2009 at _____ .m. (prevailing Eastern time).

17. *Notice.* The Debtors shall promptly mail copies of this Initial Interim Order (which shall constitute adequate notice of the Interim Hearing) to the parties having been given notice of the Initial Interim Hearing, to any party that has filed a request for notices with this Court. Any party in interest objecting to the relief sought at the Interim Hearing shall file a written objection, which shall be served upon (a) Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall

S. Huebner and Timothy E. Graulich, attorneys for the Debtors, (b) Latham & Watkins, LLP, 885 Third Avenue, New York, New York 10022, Attn: Mark A. Broude, attorneys for the First Lien Agent and (c) the U.S. Trustee, and shall be filed with the Clerk of the United States Bankruptcy Court, Southern District of New York, in each case to allow actual receipt by the foregoing no later than January 19, 2009 at 1:00 p.m. (prevailing Eastern time).

New York, New York
Dated: _____, 2009

UNITED STATES BANKRUPTCY JUDGE