

Motion; and upon the First Day Declaration, the record of the Final Hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on a final basis to the extent provided herein.
2. The relief provided in the Interim Order is approved on a final basis.
3. The Debtors are authorized, in their discretion, subject to the terms of any cash collateral or financing order entered by the Court, to pay, in consultation with counsel to each of the Global Administrative Agent, the Second Lien Agent and the Ad Hoc Group of Second Lienholders and the Official Committee of Unsecured Creditors, the Shipping and Warehousing Claims and Miscellaneous Lien Claims in the ordinary course of business, *provided* that payments shall not exceed \$6.50 million on account of pre-petition Shipping and Warehousing Claims and \$4.00 million on account of pre-petition Miscellaneous Lien Claims during these chapter 11 cases without further order of the Court.

4. As a condition to receiving any payment pursuant to this Final Order, the Shippers, Warehousemen, and Lien Claimants shall waive and release at their sole expense any previously asserted lien on the assets of the Debtors. The Debtors are authorized to pay a particular Miscellaneous Lien Claim to the extent that they determine, in consultation with counsel to each of the Global Administrative Agent, the Second Lien Agent and the Ad Hoc Group of Second Lienholders and the Official Committee of Unsecured Creditors, that such Lien

Claimant has a valid contractual or statutory basis to assert or perfect a lien (or has already perfected such a lien) against the Debtors or their property. Any payment made pursuant to this Final Order shall not be deemed to be a waiver of any party's rights, including, without limitation, the Debtors, the Global Administrative Agent, the Second Lien Agent and the Ad Hoc Group of Second Lienholders and the Official Committee of Unsecured Creditors, regarding the extent, validity, perfection or possible avoidance of the related liens and payments.

5. The Debtors, in their discretion, shall undertake reasonable efforts to cause the Shippers, Warehousemen, and Lien Claimants to acknowledge in writing (a "Payment Agreement") that payment of their pre-petition claims is conditioned upon the applicable Shipper, Warehouseman, or Lien Claimant continuing to supply services to the Debtors on trade terms that, at a minimum, such Shipper, Warehouseman, or Lien Claimant provided to the Debtors during the six months prior to the Petition Date, or such other trade practices and programs that are at least as favorable to the Debtors as those in effect prior to the Petition Date, *provided that* the Debtors' right to negotiate more favorable trade terms with any Shipper, Warehouseman, or Lien Claimant as a condition to payment of any such pre-petition claim is reserved, *provided further* that the Debtors' failure to enter into a Payment Agreement shall not be and shall not be deemed to be a waiver of the Debtors' rights hereunder.

6. Any payment made pursuant to this Final Order is not intended and should not be construed as an admission as to the validity or priority of any claim or a waiver of the Debtors' rights to subsequently dispute such claim, and any such payment is not intended and should not be construed as an assumption of any executory contract or obligation of the Debtors.

7. The Debtors shall use reasonable efforts to ensure that any Payment Agreement provides that such Shipper, Warehouseman or Lien Claimant acknowledges that it is receiving

payment pursuant to this Final Order and agrees to continue providing services to the Debtors on the most favorable pre-petition terms provided to the Debtors, and if such Shipper, Warehouseman or Lien Claimant ceases provide services to the Debtors on the most favorable pre-petition terms, then any payments made to such Shipper, Warehouseman or Lien Claimant shall be deemed an avoidable post-petition transfer under Bankruptcy Code section 549 and, therefore, shall be recoverable by the Debtors in cash upon written request and upon recovery by the Debtors, such claim shall be reinstated as a pre-petition claim in the amount recovered by the Debtors.

8. The Debtors shall use reasonable efforts to ensure that any Payment Agreement provides that if there exists an outstanding post-petition balance due from the Debtors to such Shipper, Warehouseman or Lien Claimant, the Debtors may elect to recharacterize and apply any payments made pursuant to this Final Order to such outstanding post-petition balance and the Shipper, Warehouseman or Lien Claimant shall repay immediately in cash to the Debtors such paid amounts that exceed the post-petition obligations then outstanding and without any claim, right of set off or recoupment against the Debtors resulting thereby.

9. The Debtors shall maintain a summary list of all payments made on account of Shipping and Warehousing Claims and Miscellaneous Lien Claims, and the Debtors shall provide an updated copy of such list on a confidential basis to the U.S. Trustee, counsel to each of the Global Administrative Agent, the Second Lien Agent, the Ad Hoc Group of Second Lienholders and the Official Committee of Unsecured Creditors and separately to the financial advisors to each of the Global Administrative Agent, the Second Lien Agent, the Ad Hoc Group of Second Lienholders, and the Official Committee of Unsecured Creditors on Thursday of the first full week of each month. Each summary list delivered shall relate to the prior calendar

month (e.g., the summary list delivered during the first full week of May shall report the payments made on account of pre-petition Shipping and Warehousing Claims and Miscellaneous Lien Claims during April).

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

11. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, provided that sufficient funds are on deposit in the applicable accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Final Order.

12. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Final Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, the creation of an administrative priority claim on account of the pre-petition obligations sought to be paid, or the assumption or adoption of any contract or agreement under Bankruptcy Code section 365.

13. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, this Final Order shall be immediately effective and enforceable upon its entry.

14. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Final Order.

Wilmington, Delaware
Date: April 14, 2015



THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE