

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

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In re:	:	
	:	
SHILOH INDUSTRIES, INC., <sup>1</sup>	:	Chapter 11
<i>et al.</i> ,	:	
	:	Case No. 20-____ (____)
Debtors.	:	(Joint Administration Requested)
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	:	
	x	

**MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS AUTHORIZING THEM TO PAY THE PREPETITION CLAIMS OF CERTAIN FOREIGN VENDORS**

The above-captioned debtors (collectively, the "Debtors"), pursuant to sections 105(a), 363 and 507(a)(7) of title 11 of the United States Code (the "Bankruptcy Code") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), hereby move (the "Motion") for entry of interim and final orders, in substantially the form attached hereto as Exhibit A (the "Proposed Order"): (i) authorizing them to pay the prepetition claims held by certain foreign vendors (each, a "Foreign Vendor") and certain amounts relating thereto and (ii) granting certain related relief. In support of this Motion, the Debtors incorporate the statements contained in the *Declaration of Jeffrey Ficks in Support of First-Day Pleadings*

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<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

(the "First Day Declaration") filed contemporaneously herewith and further respectfully state as follows:

### **Background**

#### **I. The Debtors and the Commencement of These Cases**

1. On the date hereof (the "Petition Date"), each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code.<sup>2</sup> The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are a global innovative solutions provider focusing on lightweighting technologies that provide environmental and safety benefits to the mobility market. The Debtors have a global network of manufacturing operations and technical centers in Asia, Europe and North America. The Debtors' multi-material solutions consist of a variety of alloys in aluminum, magnesium and steel grades, along with proprietary lines of noise and vibration reducing acoustic laminate products. The Debtors deliver these solutions in body structure, chassis and propulsion systems to original equipment manufacturers ("OEMs") and "Tier 1" suppliers in the automotive and commercial vehicle markets. For the twelve months ending October 31, 2019, the Debtors generated approximately \$1.045 billion in revenue.

3. Additional detail regarding the Debtors, their businesses and the commencement of these cases is set forth in the First Day Declaration.

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<sup>2</sup> This Court has jurisdiction to consider 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 as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

## II. The Debtors' Foreign Vendors

4. In the ordinary course of business, the Debtors purchase goods or services from vendors outside the United States that, as an actual or practical matter, may be the only supplier available to the Debtors. The vast majority of Foreign Vendors provide the Debtors with either (a) raw material suppliers, (b) essential parts that are included in the Debtors' products or (c) custom tools and equipment that allow the Debtors to create and assemble their products. These goods, and certain other goods and services, are essential for the Debtors to continue to provide quality products with the level of service their customers expect.

5. Foreign suppliers often have guarded reactions to the U.S. bankruptcy process and are unfamiliar or uncomfortable with the unique debtor in possession mechanism that is at the heart of chapter 11. A debtor seeking to explain this system and convince a Foreign Vendor, particularly an unsophisticated one, to continue shipment postpetition often is greeted with a high degree of skepticism and mistrust. Indeed, a risk exists that the nonpayment of a single invoice could cause a Foreign Vendor to completely sever its business relationship with the Debtors. Short of that, nonpayment of prepetition claims may cause the Foreign Vendors to utilize extreme caution and adopt a "wait-and-see attitude" in approaching the unfamiliar territory of chapter 11, resulting in costly delays in the shipment of additional goods.

6. In light of the potential for serious consequences if the Foreign Vendors do not continue to make uninterrupted and timely deliveries of goods—and the lack of any workable enforcement mechanism against these parties—the Debtors have determined, in the exercise of their business judgment, that payment of the Foreign Vendors' prepetition claims (as well as any foreign taxes, import/export fees, customs fees or duties related to such claims) (collectively, the "Foreign Vendor Claims") is essential to avoid costly disruptions to the

Debtors' operations and to preserve their ability to timely and adequately satisfy customer's expectations.

7. The Debtors' management has carefully reviewed the facts and circumstances of their Foreign Vendors and has identified a narrow list of such vendors that could cause material business disruptions if the Debtors do not obtain the relief sought herein. The Debtors therefore seek authority to pay the prepetition claims of these Foreign Vendors on such terms and conditions as are appropriate in the Debtors' business judgment to avoid potential disruption to their business to the detriment of the Debtors' estates, stakeholders and reorganization prospects.

8. The Debtors estimate that the maximum amount to be paid to Foreign Vendors pursuant to the authority granted herein is approximately \$900,000, all of which the Debtors' are requesting authority to pay on an interim basis.

### **III. Conditions on Payment of Foreign Vendor Claims**

9. In an effort to ensure that the payment of each Foreign Vendor Claim provides the Debtors with a benefit to their estates, the Debtors may request that a recipient of payment upon any portion of a Foreign Vendor Claim (a "Foreign Vendor Payment") be required, to the extent applicable, to execute an agreement (a "Trade Agreement") whereby it agrees to provide the Debtors with (i) the continuance of the parties' existing business relationship; (ii) other business terms on a postpetition basis consistent with past practices, including the pricing of goods and services and the provision of equivalent levels of service, on terms at least as favorable as those extended in the normal course prior to the Petition Date, or on such other terms that are acceptable to the Debtors; and (iii) the release of goods or other assets of the Debtors in the Foreign Vendor's possession (collectively, the "Trade Terms"). The Trade Terms would be applicable throughout the pendency of the Debtors' chapter 11 cases.

10. If a Foreign Vendor that has executed a Trade Agreement accepts a Foreign Vendor Payment and fails to provide the Debtors with the requisite Trade Terms specified therein, then the Debtors' rights to treat such Foreign Vendor Payment as an unauthorized postpetition transfer and exercise any and all appropriate remedies are reserved.

**Basis for Relief Requested**

**I. The "Doctrine of Necessity" Provides the Basis for Granting the Requested Relief**

11. While the Foreign Vendor Claims the Debtors seek authority to pay are prepetition claims, the payment of the Foreign Vendor Claims is warranted under the doctrine of necessity. Section 363(b)(1) of the Bankruptcy Code provides as follows: "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate. . . ." 11 U.S.C. § 363(b)(1). A debtor's decision to use, sell, or lease assets outside the ordinary course of business must be based upon a sound business purpose. See In re Filene's Basement, LLC, No. 11-13511, 2014 WL 1713416, at \*12 (Bankr. D. Del. Apr. 29, 2014) ("Transactions under § 363 must be based upon the sound business judgment of the debtor or trustee."); In re Decora Indus., Inc., No. 00-4459, 2002 WL 32332749, at \*2 (D. Del. May 20, 2002) (a debtor satisfies the requirements of § 363(b)(1) through the "sound exercise of business judgment"); see also In re Chateaugay Corp., 973 F.2d 141, 143 (2d Cir. 1992) (holding that the use, sale, or lease of property of the estate is justified if it is supported by a good business reason).

12. Section 105(a) of the Bankruptcy Code provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a). Section 105(a) of the Bankruptcy Code grants bankruptcy courts broad authority and discretion to enforce the provisions of the Bankruptcy Code under equitable common law principles. The purpose of section 105 of the Bankruptcy Code is to ensure the bankruptcy court has the power "to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." 2 Collier on Bankruptcy ¶ 105.01 (16th ed. 2020).

13. Under the "doctrine of necessity," courts allow the immediate payment of prepetition claims where such payment is essential to the debtor's continued operations. See In re Lehigh & New England Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981) (recognizing that "if payment of a [prepetition] claim ... is essential to the continued operation of the [debtor,] ... payment may be authorized .... "); In re Motor Coach Indus. Int'l, No. 09-078 (SLR), 2009 U.S. Dist. LEXIS 10024, at \*7 n.5 (D. Del. Feb. 10, 2009) ("The 'doctrine of necessity' or 'necessity of payment' doctrine is a general rubric for the proposition that a court can authorize the payment of prepetition claims if such payment is essential to the continued operation of the debtor."); In re Just for Feet, 242 B.R. 821, 825 (D. Del. 1999) ("The Supreme Court, the Third Circuit and the District of Delaware all recognize the court's power to authorize payment of prepetition claims when such payment is necessary for the debtor's survival during chapter 11."); accord In re Boston & Me. Corp., 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors' continued operation).

14. Recently, in dicta, the Supreme Court of the United States endorsed motions seeking to pay certain prepetition claims early in a chapter 11 case in order to "enable a successful reorganization and make even the disfavored creditors better off." See Czyzewski v. Jevic Holding Corp., 137 S. Ct. 973, 985 (2017) ("Courts, for example, have approved first-day wage orders that allow payment of employees' prepetition wages, *critical vendor orders that allow payment of essential suppliers' prepetition invoices* and roll-ups that allow lenders who continue financing the debtor to be paid first on their prepetition claims. In doing so, these courts have usually found that the distributions at issue would enable a successful reorganization and make even the disfavored creditors better off.") (internal citations and quotation marks omitted) (emphasis added).

15. The bankruptcy court's exercise of its authority under the "doctrine of necessity" is appropriate to carry out certain statutory provisions of chapter 11—specifically sections 1107(a), 1108 and 363(b)(1) of the Bankruptcy Code—which collectively authorize a debtor in possession to maintain and operate the debtor's business and use estate property outside of the ordinary course of business. Indeed, a debtor in possession operating a business under section 1108 of the Bankruptcy Code has a duty to protect and preserve the value of its business, and prepetition claims may be paid if necessary to perform the debtor's duty. See In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim."). See also Just for Feet, 242 B.R. at 824-25 (authorizing, under the "necessity of payment doctrine," the "payment of prepetition claims" outside of plan because such claims were "essential to the continued operation of the debtor"). "[M]ost courts will allow [the payment of prepetition claims] under the 'doctrine of necessity,' if the debtor establishes that in its business judgment making such payments is critical

to the survival of the debtor's business." In re Friedman's Inc., No. 09-10161 (CSS), 2011 Bankr. LEXIS 4500, at \*7 (Bankr. D. Del. Nov. 30, 2011).

16. The relief requested herein is necessary for the Debtors to preserve and maximize the value of their estates for their stakeholders. The Debtors operate in a highly competitive sector. As such, the Debtors cannot afford any material disruptions of their business operations or present anything less than a "business as usual" appearance to the public. Ensuring the continuity of the Debtors' supply chain, notwithstanding the commencement of these cases, is an essential component of ensuring the Debtors are able to consummate a going concern sale of their assets.

17. In some cases, literally no other vendor or supplier can supply such required goods or services. In other cases, substitute goods from other potential vendors or suppliers may theoretically be available, but these alternate vendors or suppliers cannot provide goods or services that meet the Debtors' requirements for quality, quantity or reliability, or cannot ensure availability on a cost-efficient and timely basis. As a result, the Debtors are unable to rely on these theoretical alternate sources to supply these essential goods. Under these circumstances, the Debtors believe that it is essential that they obtain authorization to pay such Foreign Vendors to ensure that their essential services continue without any interruption on a postpetition basis.

18. Furthermore, if the Debtors are not granted the relief requested herein, the Debtors' stakeholders may question the Debtors' ability to maintain "business as usual" operations and relationships with their stakeholders during the short duration of these chapter 11 cases. As stated previously, the Debtors operate in a highly competitive industry, and their continued success depends on maintaining the confidence of their key stakeholder groups. Any



loss of confidence among these stakeholders could jeopardize important and valuable employee, customer and vendor relationships and harm the Debtors' chapter 11 estates. Under these circumstances, approval of the requested relief is appropriate and is necessary to avoid irreparable harm to the Debtors' estates. Moreover, the Debtors believe that certain of the Foreign Vendors may be entitled to administrative priority pursuant to section 503(b)(9) of the Bankruptcy Code. To the extent that the Foreign Vendors are entitled to administrative priority, the payment of such claims will not deplete the pool of assets generally available to other unsecured creditors.

19. Courts in this District and elsewhere have authorized the payment of the prepetition claims of a debtor's foreign vendors where the payment of such claims is essential to the debtor's continued operations. See, e.g., In re Sharper Image Corp., No. 08-10322 (KG) (Bankr. D. Del. Feb. 20, 2008) (authorizing debtors to pay claims of foreign vendors in their sole discretion up to an established cap); In re Dura Automotive Sys., Inc., No. 06-11202 (KJC) (Bankr. D. Del. October 31, 2006) (interim order) (same); In re Dana Corp., No. 06-10354 (BRL) (Bankr. S.D.N.Y. May 22, 2006) (same).<sup>3</sup>

## **II. Request for Authority for Banks to Honor and Pay Checks and Funds Transfers Related to Essential Supplier Claims**

20. In addition, by this Motion, the Debtors request that all applicable banks and other financial institutions (collectively, the "Banks") be authorized, when requested by the Debtors, to receive, process, honor and pay any and all checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to, Foreign Vendor Claims, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition

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<sup>3</sup> The unreported orders cited herein are not attached to this Motion. Copies of these orders are available upon request to proposed counsel to the Debtors.

Date, provided that sufficient funds are available in the applicable accounts to make the payments. The Debtors represent that these checks are drawn on identifiable disbursement accounts and can be readily identified as relating directly to the authorized payment of Foreign Vendors. Accordingly, the Debtors believe that checks other than those relating to authorized payments will not be honored inadvertently.

21. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any claim on any grounds; (iii) a promise to pay any claim; or (iv) an implication or admission that any particular claim against the Debtors would constitute a Foreign Vendor Claim or that any vendor is a Foreign Vendor.

### **III. Requests for Immediate Relief & Waiver of Stay**

22. Pursuant to Rules 6003(b) and 6004(h) of the Bankruptcy Rules, the Debtors seek (i) immediate entry of an order granting the relief sought herein and (ii) a waiver of any stay of the effectiveness of such an order. Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding . . . a motion to pay all or part of a claim that arose before the filing of the petition." Accordingly, where the failure to grant any such requested relief would result in immediate and irreparable harm to the Debtors' estates, the Court may allow the Debtors to pay all or part of a claim that arose before the Petition Date prior to the twenty-first day following the Petition Date.

Bankruptcy Rule 6004(h) 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."

23. As set forth above and in the First Day Declaration, the honoring and payment of the Foreign Vendor Claims is necessary to prevent the immediate and irreparable damage to the Debtors' retail operations, going-concern value and ability to reorganize that would result from a collapse of customer confidence in the Debtors. Accordingly, the Debtors submit that ample cause exists to justify: (i) the immediate entry of an order granting the relief sought herein; and (ii) a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h) and any notice under 6004(a) to the extent they apply.

#### **Consent to Jurisdiction**

24. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

#### **Notice**

25. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors' fifty largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions; and (iii) counsel to the Debtors' proposed postpetition secured lenders. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order, granting the relief requested herein on an interim basis; (ii) enter a final order, granting

the relief requested herein on a final basis; and (iii) grant such other and further relief as the Court may deem proper.

Dated: August 30, 2020  
Wilmington, Delaware

Respectfully submitted,

/s/ Daniel J. DeFranceschi

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PROPOSED ATTORNEYS FOR DEBTORS

**EXHIBIT A**

**Proposed Order**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In re: :
SHILOH INDUSTRIES, INC.,<sup>1</sup> : Chapter 11
et al., :
Debtors. : Case No. 20-\_\_\_\_ (\_\_\_\_)
: (Joint Administration Requested)
:
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INTERIM ORDER AUTHORIZING THE DEBTORS TO
PAY THE PREPETITION CLAIMS OF CERTAIN FOREIGN VENDORS

This matter coming before the Court on the Motion of the Debtors for an Interim
Order Authorizing Them to Pay the Prepetition Claims of Certain Foreign Vendors
(the "Motion"),<sup>2</sup> filed by the above captioned debtors (collectively, the "Debtors"); the Court
having reviewed the Motion and the First Day Declaration and having considered the statements
of counsel and the evidence adduced with respect to the Motion at a hearing before the Court
(the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter
pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this District pursuant to 28 U.S.C.
§ 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iv) notice of the Motion

<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer
identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die &
Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh
Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings
International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571),
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Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471),
Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC
(4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these
chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the
Motion.

and the Hearing was sufficient under the circumstances and (v) good cause exists to waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; after due deliberation the Court having determined that the relief requested in the Motion is necessary and essential for the Debtors' reorganization and that such relief is in the best interests of the Debtors, their estates and their creditors; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Debtors are authorized, but not required, to pay, in their sole discretion and without further order of this Court, Foreign Vendor Claims in an aggregate amount not to exceed \$900,000. Nothing in this paragraph shall be construed as requiring the Debtors to make a payment to a particular creditor or claimant.
3. The Debtors may require any Foreign Vendor to provide the Debtors with:  
(i) the continuance of the parties' existing business relationship; (ii) other business terms on a postpetition basis consistent with past practices, including the pricing of goods and services and the provision of equivalent levels of service, on terms at least as favorable as those extended in the normal course prior to the Petition Date, or on such other terms that are acceptable to the Debtors; and (iii) the release to the Debtors of goods or other assets of the Debtors in the Foreign Vendor's possession (collectively, the "Trade Terms"). The Trade Terms shall be applicable throughout the pendency of the Debtors' chapter 11 cases.
4. If a Foreign Vendor that has executed a Trade Agreement accepts a Foreign Vendor Payment and fails to provide the Debtors with the requisite Trade Terms specified therein, then the Debtors' rights to treat such Foreign Vendor Payment as an unauthorized postpetition transfer and exercise any and all appropriate remedies are reserved.

For the avoidance of doubt, nothing in this provision affects such Foreign Vendor's rights to contest the Debtors' position and exercise of remedies.

5. Nothing in the Motion or this Order, nor the Debtors' payment of claims pursuant to this Order, shall be deemed or construed as: (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any claim on any grounds; (iii) a promise to pay any claim; (iv) an implication or admission that any particular claim against the Debtors is a Foreign Vendor Claim or that any vendor is an Foreign Vendor; or (v) a request to assume any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

6. The Banks are authorized, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to Foreign Vendor Claims, whether such checks were presented or fund transfer requests were submitted prior to or after the Petition Date, provided that funds are available in the Debtors' accounts to cover such checks and fund transfers. The Banks are authorized to rely on the Debtors' designation of any particular check or funds transfer as approved by this Order.

7. The requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Order.

8. This Interim Order shall be immediately effective and enforceable upon its entry. To the extent that it may be applicable, the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice requirements of Bankruptcy Rule 6004(a) are hereby waived.

9. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.



10. A final hearing to consider the relief requested in the Motion shall be held on \_\_\_\_\_, 2020 at \_\_\_\_\_ (prevailing Eastern Time) and any objections or responses to the Motion shall be filed and served on or prior to \_\_\_\_\_, 2020 at \_\_\_\_\_ (prevailing Eastern Time).

11. Notwithstanding anything to the contrary included herein, (i) any payment made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any order approving debtor-in-possession financing (a "DIP Order"), and (ii) any claim for which payment is authorized pursuant to this Order that is treated as an administrative expense of the Debtors' estates shall be and is subject and subordinate to any and all claims, liens, security interests, and priorities granted to the DIP Agents (as defined in the DIP Order) in accordance with and subject to the terms of the applicable DIP Order, and payment on any such claim shall be subject to any and all restrictions on payments in the DIP Order and any other order of the Court authorizing the Debtors' use of cash collateral.

12. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Interim Order.