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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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In re: )  
 ) Chapter 11  
GUITAR CENTER, INC. *et al.*,<sup>1</sup> )  
 ) Case No. 20-34656 (KRH)  
 )  
Debtors. ) (Joint Administration Requested)  
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**DEBTORS’ MOTION FOR ENTRY OF INTERIM  
AND FINAL ORDERS: (I) AUTHORIZING THE DEBTORS  
TO (A) CONTINUE AND RENEW THEIR INSURANCE POLICIES  
AND HONOR OBLIGATIONS THEREUNDER, AND (B) CONTINUE  
SURETY BOND PROGRAM; AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion (this “Motion”):

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Guitar Center Holdings, Inc. (3262); Guitar Center, Inc. (0862); Guitar Center Stores, Inc. (4340); GTRC Services, Inc. (9503); GC Business Solutions, Inc. (3928); Guitar Center Gift Card Company, LLC (3370); Music & Arts Instructor Services, LLC (7811); and AVDG, LLC (4440). The Debtors’ service address is 5795 Lindero Canyon Rd., Westlake Village, CA 91362.

### **Preliminary Statement**

1. The Debtors, known for their iconic Hollywood, California, Guitar Center music store and their family of brands, Guitar Center, Music & Arts, Musician’s Friend, and Woodwind and Brasswind, are the leading United States retailers of musical instruments and related products and services.

2. The Debtors have commenced these chapter 11 cases to implement a comprehensive restructuring pursuant to a restructuring support agreement and “prepackaged” chapter 11 plan *overwhelmingly supported by stakeholders spanning the Debtors’ capital structure, including:*

- holders of **100%** in aggregate principal amount of the Debtors’ senior secured superpriority notes;
- holders of over **71%** in aggregate principal amount of the Debtors’ senior secured notes;
- holders of **84%** in aggregate principal amount of the Debtors’ senior unsecured cash/PIK notes; and
- the holder of substantially all of the Debtors’ existing common equity.

3. The restructuring transactions contemplated by the Restructuring Support Agreement<sup>2</sup> and the Plan will allow the Debtors to achieve certain objectives that are critical to their survival: (a) to continue operations without interruption, including minimizing any potential adverse effects to the Debtors’ businesses, customers, employees, and trade partners; (b) to consummate an expedient emergence from these cases; and (c) to ensure ample liquidity and

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<sup>2</sup> Capitalized terms used but not otherwise defined in this Motion have the meanings given to such terms in the *Declaration of Tim Martin of Guitar Center, Inc., in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”).

emerge with a de-leveraged capital structure well-positioned for future success. The Debtors believe, and all of their major stakeholders resoundingly concur, that a smooth and fast path to Plan confirmation and emergence from chapter 11 is imperative as the Debtors strive to maximize the value of their operations and maintain their critical relationships with all of their key constituents. Delay and distraction will jeopardize those objectives.

4. The restructuring transactions are essential to the Debtors' survival during these difficult times. The Debtors are the largest national omni-channel musical instrument retailer, serving their customers in over 500 brick and mortar locations nationwide and through their direct sales websites. The Debtors employ approximately 13,000 people<sup>3</sup> and generated over \$2.3 billion in revenue in fiscal year 2019. Prior to the outbreak of the COVID-19 pandemic, the Debtors had been enjoying sustained comparable sales growth over 10 straight quarters. However, like many retailers, COVID-19 wiped out much of the Debtors' progress.

5. Despite the implementation of numerous cost saving measures, the liquidity constraints caused by the Debtors' significant debt burden and upcoming maturities, coupled with the economic upheaval created by the persistence of the COVID-19 pandemic, could not be resolved through short-term measures. By mid-summer 2020, the Debtors were working in earnest on a dual-track process to gauge potential investors' interest in making a new equity investment in Guitar Center and engage with the holders of the Debtors' outstanding funded indebtedness to explore potential long-term solutions to the Debtors' capital structure, hopefully with the benefit of some infusion of new capital.

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<sup>3</sup> Of the more than 8,750 employees that were furloughed at the peak of the COVID-19 pandemic, as of the Petition Date, only approximately 900 remain furloughed due to ongoing store closures and reduced hours.

6. On November 13, 2020, the Debtors and their key stakeholders executed the Restructuring Support Agreement outlining the key terms of the *Joint Pre-Packaged Chapter 11 Plan of Guitar Center, Inc. et al.* and comprehensive debtor in possession financing arrangements. The Restructuring Support Agreement provides for, among other things: (a) an equity infusion of up to \$165 million, from a consortium of parties including the Debtors' existing equity sponsor and two co-investors; (b) \$375 million in Debtor-In-Possession financing provided by certain of its existing noteholders and ABL lenders; (c) and a capital raise of \$335 million in new senior secured notes. The restructuring transactions will reduce the Debtors' overall funded debt burden by over \$800 million, while maintaining ordinary course operations and unimpairing all non-funded debt creditors.

7. In accordance with the Restructuring Support Agreement, on November 20, 2020, the Debtors commenced solicitation of votes on the Plan from the holders of claims in the two classes of claims entitled to vote—the senior secured noteholders and the senior unsecured cash/PIK noteholders.

8. Contemporaneously with the commencement of these cases, and in addition to the Plan and the disclosure statement for the Plan, the Debtors filed a number of motions seeking different types of “first day” relief. The First Day Motions are designed: (a) to protect and preserve the Debtors' key relationships with its employees, vendors, other supply chain participants, and customers; (b) to provide the Debtors with adequate and readily available liquidity to meet their needs during these cases, which were commenced during the critical holiday selling season; and (c) to establish a prompt and efficient schedule for Plan confirmation that will provide all parties with visibility into and certainty around the Debtors' quick emergence from chapter 11. With the

support of the vast majority of its capital structure already in hand, the Debtors believe they are in a prime position to achieve all of these objectives.

### **Background**

9. On the date of this Motion (the "Petition Date"), each Debtor commenced a chapter 11 case by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (as amended, the "Bankruptcy Code").

10. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

11. The Debtors have requested that their cases be consolidated for procedural purposes only and administered jointly. No request for the appointment of a trustee or examiner has been made and no official committee of unsecured creditors has been appointed.

12. A comprehensive description of the Debtors' business and operations, capital structure, and the events leading to the commencement of these cases can be found in the First Day Declaration filed contemporaneously with this Motion and which is incorporated in this Motion by reference.

### **Jurisdiction and Venue**

13. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

14. The bases for the relief requested in this Motion are sections 105(a), 363(b) and (c), 1107(a), and 1108 of the Bankruptcy Code, rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules"), and rule 9013-1 of the Local Rules

of the United States Bankruptcy Court for the Eastern District of Virginia (the “Local Bankruptcy Rules”).

15. The Debtors consent to the entry of a final order by this Court in connection with this Motion to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection with this Motion consistent with Article III of the United States Constitution.

### **Relief Requested**

16. By this Motion, the Debtors seek entry of interim and final orders, substantially in the forms annexed to this Motion as **Exhibit A** and **Exhibit B**, respectively: (a) authorizing the Debtors to (i) maintain prepetition insurance coverage, including renewing, supplementing, or purchasing new Insurance Policies in the ordinary course of business, (ii) pay all amounts that become due on account of the Insurance Policies, including (x) all premiums and all Insurance Broker fees, (y) all Insurance Deductibles, and (z) all Claims Administrator fees, all in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date, and (iii) continue their Surety Bond Program; and (b) granting certain related relief. In addition, the Debtors request that the Court schedule a final hearing twenty-one (21) days after the commencement of these cases to consider approval of the relief sought in this Motion on a final basis.

### **The Insurance Policies and Surety Bond Program**

#### **A. The Insurance Policies**

17. In the ordinary course of business, the Debtors maintain approximately twenty-eight (28) insurance policies (the “Insurance Policies”) that are administered by various third-party insurance carriers (the “Insurance Carriers”). A schedule of the Insurance Policies is annexed to

this Motion as **Exhibit C**.<sup>4</sup> The Insurance Policies provide coverage for, among other things, directors' and officers' liability, employment practices liability, fiduciary liability, crime, cyber liability, commercial automobile liability, commercial general liability, foreign liability, property, cargo, and pollution liability.<sup>5</sup> All of the Insurance Policies are held in the name of either Debtors Guitar Center Holdings, Inc. or Guitar Center, Inc. for the benefit of the other Debtors. The aggregate annual premiums for the Insurance Policies (including commissions paid to the Insurance Brokers (as defined below)) is approximately \$5,012,130.

18. The Insurance Policies are renewed on May 15th of each year for the annual period beginning thereon. With the exception of the Debtors' property, ocean cargo, and automobile Insurance Policies, the entire annual premium for each of the Insurance Policies is prepaid upon renewal on May 15th of each year. The premium for the Debtors' property Insurance Policy is paid in two installments in each of June and November. The premium for the Debtors' ocean cargo Insurance Policy is paid in three installments in each of May, August, and November. On November 25, 2020, approximately \$790,000 will become due on account of the final installment payments for the 2020 premiums with respect to the property and ocean cargo Insurance Policies. The annual premium for the Debtors' automobile Insurance Policy is paid in seven monthly installments from June through January, which cover the full 12-month period. The Debtors have

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<sup>4</sup> The descriptions of the Insurance Policies in this Motion constitute a summary only. The actual terms of the Insurance Policies and related agreements will govern in the event of any inconsistency with the description in this Motion. Due to the size and complexity of the Debtors' business, it is possible that certain of the Insurance Policies may have been inadvertently omitted from the list of Insurance Policies set forth on **Exhibit C**. Furthermore, the Debtors may, in the future, enter into new Insurance Policies not presently listed on **Exhibit C**. To the extent that the Debtors identify additional Insurance Policies or enter into new Insurance Policies not listed on **Exhibit C**, the Debtors seek authority to continue such Insurance Policies uninterrupted and honor, in the Debtors' discretion, the obligations related thereto.

<sup>5</sup> The Debtors also maintain insurance policies providing coverage for workers' compensation, employee medical, disability, and life insurance benefits. The Debtors have requested separate relief with respect to these insurance policies in the Debtors' *Motion for Entry of Interim and Final Orders: (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs; and (II) Granting Related Relief* filed contemporaneously with this Motion.

three remaining premium installment payments to make on their automobile Insurance Policy for the current coverage period. The payments will come due in December and January and total approximately \$166,300.<sup>6</sup> The Debtors believe that any installment payments may appropriately be allocated to the postpetition period, but to the extent that any such premium installments are determined to be on account of the prepetition period, the Debtors request authority to pay all such premiums as and when they become due.

19. Under certain of the Insurance Policies, the Debtors are required to pay various deductibles or retention amounts (collectively, the “Insurance Deductibles”). Under these Insurance Policies, the applicable Insurance Carriers may pay claimants first and then invoice the Debtors for the applicable Insurance Deductibles. The Insurance Carriers may have prepetition claims against the Debtors on account of these Insurance Deductibles. If the Debtors were to fail to pay any Insurance Deductibles, they could lose the applicable Insurance Policy or violate certain state laws. Accordingly, the Debtors seek authority to pay any outstanding Insurance Deductibles.

20. The Debtors seek authority to pay all amounts that become due on account of the Insurance Policies, including: (i) all premiums; and (ii) all Insurance Deductibles, in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date.

**B. The Insurance Brokers and Claims Administrator**

21. In certain instances, the Debtors employ insurance brokers and claims servicers to help manage their portfolio of Insurance Policies. The Debtors obtain the majority of their

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<sup>6</sup> The Debtors’ automobile Insurance Policy and worker’s compensation insurance policy are both covered by Zurich American Insurance Company (“Zurich”). Although the automobile Insurance Policy and the workers’ compensation insurance policy are two distinct policies, the annual premiums are paid on the same installment schedule. Therefore, for each month from June through January, the Debtors typically make a single payment of approximately \$290,000, which is the aggregate of the monthly automobile and the workers’ compensation installment amounts.



Insurance Policies through Hub International Insurance Services, Inc. (“Hub”) and Aon Risk Insurance Services West, Inc. (“Aon” and, together with Hub, the “Insurance Brokers”). The Insurance Brokers assist the Debtors in obtaining comprehensive insurance coverage for their operations in a cost-effective manner, manage renewal data, interact with the Insurance Carriers (including negotiating policy terms, provisions, and premiums), handle claims, and provide ongoing support throughout the applicable policy periods. The Debtors pay the Insurance Brokers annual fees for their services upon renewal of the Insurance Policies on May 15th of each year. The Debtors pay a \$200,000 annual fee to Aon and a \$100,000 annual fee to Hub.

22. Certain of the Insurance Policies are administered by a third-party claims administrator, Zurich (the “Claims Administrator”). The Claims Administrator manages processing and payment of claims asserted against the Debtors under these Insurance Policies, which involves, among other things, factual investigations into the asserted claims and settlement negotiations related thereto. The Debtors pay the Claims Administrator approximately \$100,000 per month.

23. The Debtors do not believe that they owe any fees to the Insurance Brokers or the Claims Administrator as of the Petition Date. Nevertheless, out of an abundance of caution, the Debtors are seeking authority to pay any fees owed to the Insurance Brokers and the Claims Administrator as they become due in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date.

**C. The Surety Bond Program**

24. In the ordinary course of business, the Debtors are required to provide surety bonds to certain third parties, mostly governmental or other public or regulatory agencies, to secure payment or performance of certain of the Debtors’ obligations on account of, among other things, duties, taxes, and fees for merchandise imported from foreign countries, contracts to install audio

and visual equipment, bids to provide musical instruments, and the purchase and sale of used goods (the “Surety Bond Program”). As of the Petition Date, the Debtors have thirty-two (32) outstanding surety bonds (the “Surety Bonds”) issued by various sureties (the “Sureties”). A schedule of the Surety Bonds is annexed to this Motion as **Exhibit D**.

25. The aggregate annual premiums for the Surety Bonds are approximately \$65,000. The Debtors remit annual premium payments when the bonds are issued or renewed. The Debtors do not believe any premiums are outstanding on account of the Surety Bonds as of the Petition Date. Nevertheless, the Debtors are seeking authority to pay any premiums on account of the Surety Bonds that may become due in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date.

26. Unlike Insurance Carriers, if the Sureties incur a loss on account of a posted Surety Bond, they are entitled to recover the full amount of that loss from the Debtors. To that end, the Debtors are party to indemnity agreements with the Sureties (the “Indemnity Agreements”) that set forth the Sureties’ right to recover from the Debtors in connection with each of the Surety Bonds. Pursuant to the Indemnity Agreements, the Debtors agreed to indemnify the Sureties from any loss, charge, claim, demand, cost, liability, or expense which the Sureties may incur on account of the issuance of the Surety Bonds. As of the Petition Date, the Debtors also maintain a \$1,050,000 standby letter of credit and a \$600,000 standby letter of credit as collateral to secure their obligations under two of the Indemnity Agreements.

27. To continue their operations during the pendency of these cases, the Debtors must be able to continue providing financial assurance to, among others, United States Customs and Border Protection. This requires the Debtors to maintain the existing Surety Bond Program, including paying bond premiums and any applicable fees in connection therewith as they come

due, maintaining collateral or increasing the amount of collateral to the extent required in connection with any Surety Bond issuance or renewal, renewing or potentially acquiring additional bonding capacity as needed in the ordinary course of business, and executing indemnity agreements, letters of credit, or providing cash collateral, as needed. Failing to provide, maintain, or timely replace their Surety Bonds will prevent the Debtors from undertaking essential functions related to their operations, such as shipping and importing goods.

28. As of the Petition Date, the Debtors do not believe that they owe any amounts to the Sureties on account of the Surety Bond Program. The Debtors are seeking authority to continue the Surety Bond Program in the ordinary course of business, including the payment of any obligations thereunder, without regard to whether such obligations accrued or arose before or after the Petition Date. The Debtors also seek authority to provide additional or new Surety Bonds and collateral to third parties as necessary to operate their business in the ordinary course.

#### **Basis for Relief**

29. Continuation of the Insurance Policies and the Surety Bond Program is critical to the Debtors' continued, uninterrupted operations and, as such, may be authorized under sections 363(b) and (c), 1107(a), and 1108 of the Bankruptcy Code, as well as pursuant to section 105(a) and the "doctrine of necessity."

**A. Section 363 of the Bankruptcy Code Authorizes the Debtors to Continue the Insurance Policies and the Surety Bond Program.**

30. Pursuant to section 363(c)(1) of the Bankruptcy Code, the Debtors may "enter into transactions . . . in the ordinary course of business" and "use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1).

31. As the postpetition maintenance of the Insurance Policies and Surety Bond Program is in the ordinary course of the Debtors' business, the Debtors respectfully submit that the

Bankruptcy Code authorizes them to continue their prepetition practices with respect to the Insurance Policies and the Surety Bond Program without further order from this Court.

32. Furthermore, pursuant to section 363(b) of the Bankruptcy Code, the Court may also authorize the Debtors to “use property of the estate . . . other than in the ordinary course of business.” 11 U.S.C. § 363(b)(1). Courts “apply the deferential business judgment test when analyzing transactions under § 363(b)(1).” *In re Alpha Nat. Res., Inc.*, 546 B.R. 348, 356 (Bankr. E.D. Va. 2016); *see also In re W.A. Mallory Co.*, 214 B.R. 834, 836 (Bankr. E.D. Va. 1997) (“This Court follows the ‘sound business purpose’ test when examining § 363(b) sales.”).<sup>7</sup> Under this deferential standard, “courts should defer to – should not interfere with – decisions of corporate directors upon matters entrusted to their business judgment except upon a finding of bad faith or gross abuse of their ‘business discretion.’” *Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc.*, 756 F.2d 1043, 1047 (4th Cir. 1985); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (“Overcoming the presumptions of the business judgment rule on the merits is a near-Herculean task.”); *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.”). Thus, if a transaction satisfies the business judgment rule, it should be approved under section 363(b) of the Bankruptcy Code. Under section 363(b), courts have authorized debtors in possession, among other things, to pay certain prepetition obligations when such payment was shown to be justified by the debtor’s sound business judgment. *See, e.g., In re Ionosphere Clubs*,

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<sup>7</sup> *See also In re Cont’l Airlines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063, 1070-71 (2d Cir. 1983); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999).

*Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (authorizing payment of prepetition obligations under section 363(b)).

33. Here, any interruption in insurance coverage or in the Surety Bond Program would expose the Debtors to a number of risks, including: (a) the possible incurrence of direct liability for the payment of claims that otherwise would have been covered by the Insurance Policies; (b) the possible incurrence of material costs and other losses that otherwise would have been reimbursed, such as attorneys' fees for certain covered claims; (c) the possible inability to obtain similar types and levels of insurance or surety bond coverage on terms as favorable as the present coverage; and (d) the possible incurrence of higher costs for re-establishing lapsed Insurance Policies or cancelled Surety Bonds or obtaining new coverage. In short, maintaining the Insurance Policies and the Surety Bond Program enables the Debtors to avoid the incurrence of significant liabilities and therefore represents a sound exercise of their business judgment.

34. Continuation of the Insurance Policies and the Surety Bond Program is also imperative to the Debtors' continued operation and ability to restructure. The non-payment of any premiums, deductibles, or related fees under or in connection with the Insurance Policies and the Surety Bond Program could result in one or more of the Insurance Carriers and the Sureties terminating or declining to renew their Insurance Policies or Surety Bonds, as applicable. If any of the Insurance Policies lapse without renewal, the Debtors could be exposed to substantial liability or property damages, to the detriment of their estates. If the Surety Bonds are terminated, the Debtors will not be able to continue importing the goods they sell in the United States. Under the current circumstances, it is not likely that the Debtors would be able to renew or replace the existing Insurance Policies or Surety Bonds on terms as favorable as those they currently enjoy.

35. Based on the foregoing, the Debtors respectfully submit that payment of their obligations relating to the Insurance Policies and the Surety Bond Program, including those arising or relating to the period before the Petition Date, is amply justified by their sound business judgment and, as such, this Court may authorize the Debtors to pay such obligations under section 363(b) of the Bankruptcy Code.

**B. Continuation of the Insurance Policies and the Surety Bond Program Is a Valid Exercise of the Debtors' Fiduciary Duties Under Sections 1107(a) and 1108 of the Bankruptcy Code.**

36. This Court should also authorize the relief requested in this Motion as a valid exercise of the Debtors' fiduciary duties under the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, L.L.C.*, 273 B. R. 487, 497 (Bankr. N.D. Tex. 2002); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232-33 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee."). Implicit in the fiduciary duties of any debtor in possession is the obligation to "protect and preserve the estate, including an operating business's going-concern value." *In re CoServ*, 273 B.R. at 497. Some courts have noted that there are instances in which a debtor can fulfill this fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *Id.* The *CoServ* court specifically noted that the preplan satisfaction of prepetition claims would be a valid exercise of the debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *Id.* at 498.

37. Additionally, Section 1112(b)(4)(C) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public" is "cause" for

mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C). Likewise, the operating guidelines for chapter 11 debtors issued by the U.S. Trustee (the “U.S. Trustee Operating Guidelines”) require that “[i]nsurance coverage must be kept current throughout the Chapter 11 case.” U.S. Trustee Operating Guidelines p. 5.

38. In addition, the Debtors require their skilled management team and members of the board of directors (the “Board”) to focus their efforts of the Debtors’ restructuring. Continuation of the Debtors’ directors’ and officers’ insurance coverage provides peace of mind and allows management and the Board to better focus on the potential avenues of restructuring. Absent such coverage, to which directors and officers are entitled in the ordinary course, the Debtors’ management team and the Board could be distracted from their duties if concerned that they could be subject to personal liability. Even worse, some key officers and directors could resign, leaving the Debtors with Board and management vacancies at a critical juncture. Attempting to replace such individuals may result in greater expense to the Debtors (*e.g.*, higher salaries), and the Debtors might never be able to fill the positions without providing directors’ and officers’ liability coverage. Such a disruption would drastically impair the Debtors’ reorganization efforts.

39. As explained above, continuation of the Insurance Policies and the Surety Bond Program is imperative to the Debtors’ continued operation and ability to restructure. The Debtors are required legally and contractually to maintain certain Insurance Policies and the Surety Bond Program, and the nature of the Debtors’ business makes it essential for them to maintain all Insurance Policies and the Surety Bond Program postpetition. Thus, in order for the Debtors to remain in compliance with their legal and contractual obligations, the Debtors must be able to maintain coverage under the Insurance Policies and the Surety Bond Program without disruption.

40. Thus, this is a proper exercise of the Debtors' fiduciary duties to the estates to continue paying all premiums, fees, or other obligations under the Insurance Policies and Surety Bond Program as and when they come due in the ordinary course, including those arising or relating to the period before the Petition Date.

**C. This Court May Also Rely on Its Equitable Powers to Grant the Requested Relief.**

41. In addition, courts have the authority to grant the relief requested in this Motion under section 105(a) of the Bankruptcy Code. Section 105(a) codifies bankruptcy courts' inherent equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Among other things, under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor's business. *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992); *In re Synteen Tech., Inc.*, 2000 WL 33709667, at \*2 (Bankr. D. S.C. Apr. 14, 2000); *see also Ionosphere Clubs Inc.*, 98 B.R. at 175-76 (noting that the bankruptcy court's ability to authorize payment of pre-petition debt under 105(a) is "not a novel concept"); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) ("[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code," but "[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.").

42. Payments of critical prepetition claims not explicitly authorized by the Bankruptcy Code have also been authorized under the equitable "doctrine of necessity" or the "necessity of payment" doctrine. *See In re United Am., Inc.*, 327 B.R. 776, 781 (Bankr. E.D. Va. 2005) (acknowledging the doctrine of necessity "is a necessary deviation because otherwise there will be



no reorganization and no creditor will have an opportunity to recoup any part of its pre-petition claim”); *NVR L.P.*, 147 B.R. at 127 (“Under [section 105(a)] the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.”); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code “provides a statutory basis for payment of pre-petition claims” under the doctrine of necessity).

43. The doctrine of necessity is designed to foster debtors’ rehabilitation, which courts have recognized to be “the paramount policy and goal of Chapter 11.” *Ionosphere Clubs*, 98 B.R. at 176; *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of prepetition unsecured claims of toolmakers as “necessary to avert a serious threat to the Chapter 11 process”); *Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86 (S.D.N.Y. 1987) (approving bankruptcy court order authorizing payment of prepetition obligations).

44. Courts in the Fourth Circuit have applied the doctrine of necessity where payment of a prepetition claim (1) is “necessary for the successful reorganization of the debtor,” (2) falls within “the sound business judgment of the debtor,” and (3) will not “prejudice other unsecured creditors.” *In re United Am., Inc.*, 327 B.R. at 782; *see also In re Universal Fin., Inc.*, 493 B.R. 735, 738-40 (Bankr. M.D. N.C. 2013) (applying the *United Am.* three-part test); *In re Movie Gallery, Inc.*, 2010 Bankr. LEXIS 5819, at \*4 (E.D. Va. Mar. 23, 2010). Each of these three prongs is met here.

45. As explained above, continuing the Insurance Policies and the Surety Bond Program is both necessary to the Debtors’ reorganization and justified by the Debtors’ sound business judgment. In addition, the Debtors’ other unsecured creditors would not be harmed if

this Court grants this Motion because the value of preserving the Debtors' estates will inure to the benefit of the Debtors' estates and their creditors.

46. Based on all of the foregoing, this Court should grant the relief requested in this Motion. Similar relief has been granted by courts in this and other districts. *See, e.g., In re Ascena Retail Grp., Inc.*, No. 20-33113 (KRH), [Docket No. 448] (Bankr. E.D. Va. Aug. 27, 2020); *In re Le Tote, Inc.*, No. 20-33332 (KLP), [Docket No. 249] (Bankr. E.D. Va. Aug. 27, 2020); *In re Intelsat, S.A.*, No. 20-32299 (KLP), [Docket No. 279] (Bankr. E.D. Va. June 9, 2020); *In re Chinos Holdings, Inc.*, No. 20-32181 (KLP), [Docket No. 102] (Bankr. E.D. Va. May 5, 2020); *In re Pier 1 Imports, Inc.*, No. 20-30805 (KRH), [Docket No. 375] (Bankr. E.D. Va. Mar. 17, 2020); *In re Gymboree Grp., Inc.*, No. 19-30258 (KLP), [Docket No. 378] (Bankr. E.D. Va. Feb. 20, 2019); *In re Toys "R" Us, Inc.*, No. 17-34665 (KLP), [Docket No. 712] (Bankr. E.D. Va. Oct. 24, 2017).

**D. Cause Exists to Authorize the Financial Institutions to Honor Checks and Electronic Fund Transfers.**

47. The Debtors have sufficient funds to pay the amounts described in this Motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations, consensual use of cash collateral, and funds from debtor in possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Insurance Policies and Surety Bond Program. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that this Court authorize, but not direct, all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

**The Requirements of Bankruptcy Rule 6003 Are Satisfied**

48. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one (21) days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003.

49. For the reasons discussed above, authorizing the Debtors to: (a) continue the Insurance Policies, satisfy related payments, including any outstanding Insurance Deductibles, and renew, supplement, or purchase insurance coverage in the ordinary course of business; and (b) maintain their Surety Bond Program, as well as granting all other relief requested in this Motion, is integral to the Debtors’ ability to transition their operations into these cases. The relief requested is necessary in order for the Debtors to preserve their operations and assets and to ultimately maximize the value of their estates for the benefit of all stakeholders. Failure to receive the relief requested in this Motion during the first twenty-one (21) days of these cases would severely disrupt the Debtors’ operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and that the relief requested in this Motion should be granted immediately.

**Waiver of Bankruptcy Rule 6004(a) and 6004(h)**

50. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As set forth above, the relief requested in this Motion is essential to prevent immediate and irreparable damage to the Debtors’ operations, going concern value, and their efforts to pursue a resolution to these cases.

**Waiver of Memorandum of Points and Authorities**

51. The Debtors respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied

by a written memorandum of points and authorities as described in Local Bankruptcy Rule 9013-1(G).

### **Reservation of Rights**

52. Nothing contained in this Motion is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an admission that any particular claim is of a type described in this Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. If this Court grants the relief sought in this Motion, any payment made pursuant to this Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

### **Notice**

53. The Debtors will provide notice of this Motion to: (A) the Office of the United States Trustee, Attn: Kathryn R. Montgomery, Esq.; (B) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis; (C) counsel to (i) the ABL DIP Agent and (ii) the Term DIP Agent; (D) counsel to the Ad Hoc Group of Noteholders and the Term DIP Lenders; (E) counsel to the Prepetition ABL Agent; (F) counsel to the Sponsor Support Party; (G) counsel to (i) the Brigade Co-Investor and (ii) the Carlyle Co-Investor; (H) counsel to the Trustee under each of (i) the Superpriority Secured Notes Indenture, (ii) the Secured Notes Indenture, (iii) the 2018

Cash/PIK Notes Indenture, and (iv) the 2020 Cash/PIK Notes Indenture; (I) the Securities and Exchange Commission; (J) the Internal Revenue Service; (K) the United States Attorney's Office for the Eastern District of Virginia; (L) the office of the attorneys general for the states in which the Debtors operate; (M) the National Association of Attorneys General; (N) the Insurance Carriers; (O) the Insurance Brokers; (P) the Claims Administrator; (Q) the Sureties; and (R) all other parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

**No Prior Request**

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

*[Remainder of page intentionally left blank]*

WHEREFORE, the Debtors respectfully request that this Court enter the interim and final orders, substantially in the forms annexed to this Motion as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested in this Motion and such other relief as this Court deems appropriate under the circumstances.

Dated: November 21, 2020  
Richmond, Virginia

*/s/ Jennifer E. Wuebker*

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Justin F. Paget, Esq. (VSB No. 77949)

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-and-

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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**Exhibit A**

**Proposed Interim Order**

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Andrew M. Leblanc, Esq. (pro hac vice pending)  
Michael W. Price, Esq. (pro hac vice pending)  
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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	)	Chapter 11
GUITAR CENTER, INC. <i>et al.</i> , <sup>1</sup>	)	Case No. 20-34656 (KRH)
Debtors.	)	(Joint Administration Requested)

**INTERIM ORDER: (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE AND RENEW THEIR INSURANCE POLICIES AND HONOR OBLIGATIONS THEREUNDER, AND (B) CONTINUE SURETY BOND PROGRAM; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order: (a) authorizing, but not directing, the

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Guitar Center Holdings, Inc. (3262); Guitar Center, Inc. (0862); Guitar Center Stores, Inc. (4340); GTRC Services, Inc. (9503); GC Business Solutions, Inc. (3928); Guitar Center Gift Card Company, LLC (3370); Music & Arts Instructor Services, LLC (7811); and AVDG, LLC (4440). The Debtors’ service address is 5795 Lindero Canyon Rd., Westlake Village, CA 91362.

<sup>2</sup> Capitalized terms used but not otherwise defined in this Interim Order shall have the meanings given to them in the Motion.



Debtors to (i) maintain prepetition insurance coverage, including renewing, supplementing, or purchasing new Insurance Policies in the ordinary course of business; (ii) pay all amounts that become due on account of the Insurance Policies, including (x) all premiums and all Insurance Broker fees, (y) all Insurance Deductibles, and (z) all Claims Administrator fees, all in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date; and (iii) continue their Surety Bond Program; and (b) granting certain related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion and the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and this Court having found that venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the relief sought in the Motion were appropriate under the circumstances and that no other or further notice need be provided; and this Court having heard the statements in support of the relief requested in the Motion at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted in this interim order (the "Interim Order"); and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is granted on an interim basis as set forth in this Interim Order.
2. The final hearing (the "Final Hearing") on the Motion shall be held on \_\_\_\_\_, 2020, at \_\_\_: \_\_.m., prevailing Eastern Time. Any objections or responses to entry of a final

order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time on \_\_\_\_\_, 2020 (the “Objection Deadline”), and served on the Core Group, as defined in the *Order: (I) Establishing Certain Notice, Case Management, and Administrative Procedures; and (II) Granting Related Relief* [Docket No. \_].

3. If no objections or responses are timely filed and served as set forth herein, the Debtors shall, on or after the Objection Deadline, submit to this Court the final order, substantially in the form annexed to the Motion as **Exhibit B**, which final order may be entered with no further notice or need for the Final Hearing.

4. The Debtors are authorized, but not directed, to:

- (a) maintain prepetition insurance coverage, including renewing, supplementing, or purchasing new Insurance Policies in the ordinary course of business;
- (b) pay all amounts that become due on account of the Insurance Policies, without regard to whether such Insurance Policies are listed on **Exhibit C** to the Motion, including but not limited to: (i) all premiums and all Insurance Broker fees; (ii) all Insurance Deductibles; and (iii) all Claims Administrator fees, all in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date; and
- (c) maintain the Surety Bond Program without interruption, including paying premiums and any applicable fees in connection therewith as they come due, maintaining collateral or increasing the amount of collateral to the extent required in connection with any Surety Bond issuance or renewal, renewing or acquiring additional bonding capacity, performing under any indemnity agreements (including posting collateral as security), and executing indemnity agreements,

letters of credit, and other agreements in connection with the Surety Bond Program, in the ordinary course of business and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

5. For the avoidance of doubt, between entry of the Interim Order, but pending entry of the Final Order, the Debtors will not pay any amounts before they come due in accordance with past practice and will not accelerate any postpetition payments, without further order of the Court.

6. Notwithstanding anything to the contrary in this Interim Order, any payment made or action taken by any of the Debtors pursuant to the authority granted in this Interim Order must be in compliance with, and shall be subject to: (i) any interim or final order approving the Debtors' use of cash collateral and/or any postpetition financing facility (in either case, the "DIP Order"); and (ii) the documentation (including the budget) in respect of any such use of cash collateral and/or postpetition financing. To the extent there is any inconsistency between the terms of the DIP Order and this Interim Order, the terms of the DIP Order shall control.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved in this Interim Order are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. The Debtors are authorized, but not directed, to issue postpetition checks, and to issue postpetition fund transfer requests in replacement of any checks or fund transfer requests that

are dishonored as a consequence of the filing of these cases with respect to prepetition amounts owed in connection with the relief granted in this Interim Order.

9. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against any Debtor; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an admission that any particular claim is of a type described in the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law.

10. Nothing in this Interim Order or the Motion shall be construed as prejudicing the rights of the Debtors to dispute or contest the amount of or basis for any claims against the Debtors in connection with or relating to the Insurance Policies or the Surety Bond Program.

11. The Motion satisfies the requirements of Bankruptcy Rule 6003(b).

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

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

14. The requirement under Local Bankruptcy Rule 9013-1(G) to file a memorandum of points and authorities in connection with the Motion is waived.

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order.

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

Dated: \_\_\_\_\_, 2020  
Richmond, Virginia

---

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

---

Tyler P. Brown, Esq. (VSB No. 28072)  
Justin F. Paget, Esq. (VSB No. 77949)  
Jennifer E. Wuebker, Esq. (VSB No. 91184)  
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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**CERTIFICATION OF ENDORSEMENT**  
**UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

**Exhibit B**

**Proposed Final Order**

Dennis F. Dunne, Esq. (pro hac vice pending)  
Andrew M. Leblanc, Esq. (pro hac vice pending)  
Michael W. Price, Esq. (pro hac vice pending)  
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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

---

In re:	)	
	)	Chapter 11
GUITAR CENTER, INC. <i>et al.</i> , <sup>1</sup>	)	Case No. 20-20-34656 (KRH)
	)	
Debtors.	)	(Joint Administration Requested)

---

**FINAL ORDER: (I) AUTHORIZING THE DEBTORS TO  
(A) CONTINUE AND RENEW THEIR INSURANCE POLICIES  
AND HONOR OBLIGATIONS THEREUNDER, AND (B) CONTINUE  
SURETY BOND PROGRAM; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of a final order: (a) authorizing, but not directing, the

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Guitar Center Holdings, Inc. (3262); Guitar Center, Inc. (0862); Guitar Center Stores, Inc. (4340); GTRC Services, Inc. (9503); GC Business Solutions, Inc. (3928); Guitar Center Gift Card Company, LLC (3370); Music & Arts Instructor Services, LLC (7811); and AVDG, LLC (4440). The Debtors' service address is 5795 Lindero Canyon Rd., Westlake Village, CA 91362.

<sup>2</sup> Capitalized terms used but not otherwise defined in this Final Order shall have the meanings given to them in the Motion.



Debtors to (i) maintain prepetition insurance coverage, including renewing, supplementing, or purchasing new Insurance Policies in the ordinary course of business; (ii) pay all amounts that become due on account of the Insurance Policies, including (x) all premiums and all Insurance Broker fees, (y) all Insurance Deductibles, and (z) all Claims Administrator fees, all in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date; and (iii) continue their Surety Bond Program; and (b) granting certain related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion and the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and this Court having found that venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the relief sought in the Motion were appropriate under the circumstances and that no other or further notice need be provided; and this Court having heard the statements in support of the Motion at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted in this final order (the "Final Order"); and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is

**HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis as set forth in this Final Order.
2. The Debtors are authorized, but not directed, to:

- (a) maintain prepetition insurance coverage, including renewing, supplementing, or purchasing new Insurance Policies in the ordinary course of business;
- (b) pay all amounts that become due on account of the Insurance Policies, without regard to whether such Insurance Policies are listed on Exhibit C to the Motion, including but not limited to: (i) all premiums and all Insurance Broker fees; (ii) all Insurance Deductibles; and (iii) all Claims Administrator fees, all in the ordinary course, without regard to whether such obligations accrued or arose before or after the Petition Date; and
- (c) maintain the Surety Bond Program without interruption, paying premiums and any applicable fees in connection therewith as they come due, maintaining collateral or increasing the amount of collateral to the extent required in connection with any Surety Bond issuance or renewal, renewing or acquiring additional bonding capacity, performing under any indemnity agreements (including posting collateral as security), and executing indemnity agreements, letters of credit, and other agreements in connection with the Surety Bond Program, in the ordinary course of business and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

3. Notwithstanding anything to the contrary in this Final Order, any payment made or action taken by any of the Debtors pursuant to the authority granted in this Final Order must be in compliance with, and shall be subject to: (i) any interim or final order approving the Debtors' use of cash collateral and/or any postpetition financing facility (in either case, the "DIP Order"); and (ii) the documentation (including the budget) in respect of any such use of cash collateral and/or

postpetition financing. To the extent there is any inconsistency between the terms of the DIP Order and this Final Order, the terms of the DIP Order shall control.

4. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved in this Final Order are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order, without any duty of further inquiry and without liability for following the Debtors' instructions.

5. The Debtors are authorized, but not directed, to issue postpetition checks, and to issue postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of the filing of these cases with respect to prepetition amounts owed in connection with the relief granted in this Final Order.

6. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an admission that any particular claim is of a type described in the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or

(g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law.

7. Nothing in this Final Order or the Motion shall be construed as prejudicing the rights of the Debtors to dispute or contest the amount of or basis for any claims against the Debtors in connection with or relating to the Insurance Policies or the Surety Bond Program.

8. The Motion satisfies the requirements of Bankruptcy Rule 6003(b).

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

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

11. The requirement under Local Bankruptcy Rule 9013-1(G) to file a memorandum of points and authorities in connection with the Motion is waived.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2020  
Richmond, Virginia

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

---

Tyler P. Brown, Esq. (VSB No. 28072)  
Justin F. Paget, Esq. (VSB No. 77949)  
Jennifer E. Wuebker, Esq. (VSB No. 91184)  
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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**CERTIFICATION OF ENDORSEMENT**  
**UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

---

**Exhibit C**

**Insurance Policies**

<b>Insurance Coverage</b>	<b>Insurance Carrier</b>	<b>Policy Number</b>	<b>Effective Dates</b>
Directors & Officers (Primary)	Illinois Union Insurance Company	G25622753004	5/15/20-5/15/21
Directors & Officers (1st Excess)	Houston Casualty Company	14MG20A14643	5/15/20-5/15/21
Directors & Officers (2nd Excess)	Landmark American Insurance Company (RSUI)	LHS687066	5/15/20-5/15/21
Directors & Officers (3rd Excess)	XL Specialty Insurance Company	ELU167539-20	5/15/20-5/15/21
Directors & Officers (4th Excess)	Continental Casualty Company	652225250	5/15/20-5/15/21
Directors & Officers (5th Excess)	Axis Insurance Company	P-001-000362660-01	5/15/20-5/15/21
Directors & Officers (6th Excess)	North American Specialty Insurance Company (Swiss Re)	PMX1000022-02	5/15/20-5/15/21
Directors & Officers (7th Excess)	AIG Specialty Insurance Company	01-347-82-08	5/15/20-5/15/21
Directors & Officers (8th Excess, Side A DIC)	Underwriters at Llyods	B1230FC10907A20	5/15/20-5/15/21
Directors & Officers (9th Excess), Side A DIC	Capitol Indemnity Corporation	DO20201047-01	5/15/20-5/15/21
Directors & Officers (10th Excess), Side A DIC	Wesco Insurance Company	EUW1843177-00	5/15/20-5/15/21
Employment Practices Liability	Lloyds of London	B1230FC10967A20	5/15/20-5/15/21
Fiduciary Liability	Federal Insurance Company	81479387	5/15/20-5/15/21
Crime	XL Specialty Insurance Company	ELU167534-20	5/15/20-5/15/21
Cyber	Lloyd's of London Beazley	B0595EO1491802019	11/15/19-5/15/21
Excess Cyber	Lloyd's of London Canopus	CYT20190015	11/15/19-5/15/21
Commercial Auto	Zurich	BAP 557412107	5/15/20-5/15/21
Commercial General Liability	Twin City Fire Insurance Company - Hartford (admitted)	13 ECS OF6869	5/15/20-5/15/21
Commercial General Liability (Special Events)	Atlantic Specialty Insurance Company	GL0516801	5/15/20-5/15/21

<b>Insurance Coverage</b>	<b>Insurance Carrier</b>	<b>Policy Number</b>	<b>Effective Dates</b>
Commercial General Liability (Comm, Vid, Photos)	Atlantic Specialty Insurance Company	GL0516701	5/15/20-5/15/21
DICE Portfolio (Comm, Photos Only)	Atlantic Specialty Insurance Company	DI0269001	5/15/20-5/15/21
Commercial Excess Liability	Allied World Insurance Company	0308-9984	5/15/20-5/15/21
Commercial Excess Liability	American Guarantee and Liability Company	AXF2517886-00	5/15/20-5/15/21
Commercial Excess Liability	Indemnity Insurance Co of North America	XANG71130095003	5/15/20-5/15/21
Foreign Package	ACE American Insurance Company	PHFD38454663 005	5/15/20-5/15/21
Property	Factory Mutual Insurance Company	1065695	5/15/20-5/15/21
Cargo	Affiliated FM Insurance Company	CUSA0042407	5/15/20-5/15/21
Contractors Professional & Pollution Liability	Allied World National Assurance Company	0311-1368	5/15/20-5/15/21

**Exhibit D**

**Surety Bonds**

	<b>Bond Number</b>	<b>Surety</b>	<b>Debtor</b>	<b>Type</b>	<b>Bond Amount</b>
1.	0506101	International Fidelity Insurance Company	Guitar Center, Inc.	Second Hand Dealer Bond	\$1,000.00
2.	0506102	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
3.	0506103	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
4.	0506104	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
5.	0506121	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$5,000.00
6.	0506126	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
7.	0506137	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$10,000.00
8.	0520128	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$2,000.00
9.	0520129	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
10.	0520130	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$5,000.00
11.	0520131	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$1,000.00
12.	0548208	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$500.00
13.	0605387	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$200.00
14.	0626472	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$10,000.00



	<b>Bond Number</b>	<b>Surety</b>	<b>Debtor</b>	<b>Type</b>	<b>Bond Amount</b>
15.	0636813	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$2,500.00
16.	0642248	International Fidelity Insurance Company	Guitar Center Stores, Inc.,	Second Hand Dealer Bond	\$1,000.00
17.	0667974	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Nevada Tax Bond	\$84,434.00
18.	0679028	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$5,000.00
19.	0702166	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$10,000.00
20.	800038011	One Beacon Insurance Company	AVDG, LLC	Contractor Bond	\$399,957.52
21.	800038046	One Beacon Insurance Company	AVDG, LLC	Contractor Bond (Bond of Qualifying Individual)	\$12,500.00
22.	800038049	One Beacon Insurance Company	AVDG, LLC	Contractor Bond	\$963,000.00
23.	800050381	One Beacon Insurance Company	AVDG, LLC	Contractor Bond	\$1,194,174.00
24.	800050386	One Beacon Insurance Company	AVDG, LLC	Contractor Bond	\$46,865.00
25.	800050387	One Beacon Insurance Company	AVDG, LLC	General Contractor License Bond	\$10,000.00
26.	800050389	One Beacon Insurance Company	AVDG, LLC	Contractor Bond	\$56,135.00
27.	800050391	One Beacon Insurance Company	AVDG, LLC	Contractor Bond (Bond of Qualifying Individual)	\$12,500.00
28.	ILIFSU0739876	International Fidelity Insurance Company	AVDG, LLC	Contractor Bond	\$15,000.00
29.	ILIFSU0739877	International Fidelity Insurance Company	AVDG, LLC	Contractor Bond	\$100,000.00

	<b>Bond Number</b>	<b>Surety</b>	<b>Debtor</b>	<b>Type</b>	<b>Bond Amount</b>
30.	ILIFSU0743113	International Fidelity Insurance Company	Guitar Center Stores, Inc.	Second Hand Dealer Bond	\$10,000.00
31.	20C0009MR	Southwest Marine And General Insurance Company	Musician's Friend, Inc.	Customs Bond	\$600,000
32.	20C000G91	Southwest Marine And General Insurance Company	Guitar Center Stores, Inc.	Customs Bond	\$1,200,000