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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.	)	(Jointly Administered)
	)	
	)	

**FINAL ORDER: (I) APPROVING THE DEBTORS’  
 PROPOSED ADEQUATE ASSURANCE OF PAYMENT  
 FOR FUTURE UTILITY SERVICES; (II) PROHIBITING UTILITY  
 COMPANIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES;  
 (III) APPROVING THE DEBTORS’ PROPOSED PROCEDURES FOR RESOLVING  
 ADDITIONAL ASSURANCE REQUESTS; AND (IV) 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) approving the Proposed

<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.

Adequate Assurance of payment for future Utility Services; (b) prohibiting Utility Companies from altering, refusing, or discontinuing services; (c) approving the Adequate Assurance Procedures for resolving Additional Assurance Requests; and (d) 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 determined that the legal and factual bases set forth in the Motion 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 pay any prepetition Service Fees owed to the Utility Service Providers in the ordinary course of business.
3. The Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, shall constitute adequate assurance of

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

future payment as required by section 366 of the Bankruptcy Code, subject to the Adequate Assurance Procedures.

4. All Utility Companies, including those Utility Companies paid by the Landlords and Utility Service Providers on behalf of the Debtors or that may be added to the Utility Companies List after the date of this Final Order, are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these cases, or any perceived inadequacy of the Proposed Adequate Assurance.

5. The following Adequate Assurance Procedures are hereby approved:

- a. The Debtors will commence serving a copy of the Motion and the Final Order on each Utility Company within two (2) business days after entry of the Final Order.
- b. Subject to paragraphs (c)-(l) below, to the extent the Debtors have not already made such deposit following entry of the Interim Order, the Debtors will deposit \$662,184 into the Adequate Assurance Account as soon as practicable after entry of the Final Order. Each Utility Company shall be allocated funds from the Adequate Assurance Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Companies List as adequate assurance.
- c. If an amount on account of the Utility Services provided postpetition by a Utility Company remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Adequate Assurance Account by giving notice to:
  - i. the Debtors, Guitar Center, Inc., 5795 Lindero Canyon Rd., Westlake Village, CA 91362, Attn: Michael Pendleton, Esq.;
  - ii. proposed counsel to the Debtors, Milbank LLP, 55 Hudson Yards, New York, New York 10001, Attn: Michael W. Price, Esq. and Edward Linden, Esq.;
  - iii. proposed co-counsel to the Debtors, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, Attn: Tyler P. Brown, Esq.;

- iv. the Office of the United States Trustee for the Eastern District of Virginia, 701 East Broad Street, Suite 4304, Richmond, Virginia 23219, Attn: Kathryn R. Montgomery, Esq.;
  - v. counsel to the official committee of unsecured creditors (if any) appointed in these cases;
  - vi. counsel to the Carlyle Co-Investor, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn: Paul Basta (pbasta@paulweiss.com), Jacob Adlerstein (jadlerstein@paulweiss.com), and Douglas Keeton (dkeeton@paulweiss.com);
  - vii. counsel to the Brigade Co-Investor, Debevoise & Plimpton LLP, 919 Third Avenue, New York, New York 10022, Attn: Sidney P. Levinson (slevinson@debevoise.com), Kevin M. Schmidt (kmschmidt@debevoise.com), Daniel E. Stroik (destroik@debevoise.com), and Emily MacKay (efmackay@debevoise.com);
  - viii. counsel to the Sponsor Support Party, Kirkland & Ellis LLP, 2049 Century Park East, Los Angeles, California 90067, Attn: Anup Sathy (asathy@kirkland.com), Brad Weiland (bweiland@kirkland.com), and Kevin McClelland (kevin.mcclelland@kirkland.com); and
  - ix. counsel to (a) the Ad Hoc Group of Noteholders and (b) the Term DIP Lenders: (i) Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038, Attn: Kristopher M. Hansen (khansen@stroock.com), Jonathan D. Canfield (jcanfield@stroock.com), and Emily L. Kuznick (ekuznick@stroock.com); and (ii) McGuireWoods LLP, 800 East Canal Street, Richmond, Virginia, 23219, Attn: Douglas M. Foley (dfoley@mcguirewoods.com) and Sarah B. Boehm (sboehm@mcguirewoods.com) (collectively, the “Adequate Assurance Notice Parties”).
- d. Unless the Debtors and the requesting Utility Company otherwise resolve any dispute regarding such request, the Debtors will honor such request within five (5) business days after the date the request is received

with funds from the Adequate Assurance Deposit. To the extent a Utility Company receives a disbursement from the Adequate Assurance Deposit, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Company (including any additional amounts deposited upon disbursement to any Utility Company) shall be returned to the Debtors no later than five (5) business days following the earlier of: (a) reconciliation and payment by the Debtors of such Utility Company's final invoice in accordance with applicable non-bankruptcy law following the termination of the Debtors' receipt of Utility Services from such Utility Company; and (b) the effective date of any plan confirmed in these cases.
- f. Any Utility Company desiring additional assurance of payment in the form of deposits, prepayments, or otherwise must serve a request for such additional assurance (an "Additional Assurance Request") on the Adequate Assurance Notice Parties.
- g. Any Additional Assurance Request must: (a) be in writing; (b) identify the location for which the applicable Utility Services are being provided; (c) summarize the Debtors' payment history relevant to the affected account(s), including any security deposits; (d) certify the amount equal to the two weeks' cost of the Utility Services such Utility Company provides to the Debtors, calculated as a historical average over the twelve (12) month period ending on the Petition Date; (e) certify that the Utility Company does not already hold a Prepetition Deposit equal to or greater than the cost of two weeks of its services; and (f) set forth why the Utility Company believes that the Proposed Adequate Assurance is not sufficient.
- h. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall promptly negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.
- i. The Debtors may, in their sole discretion and without further order from this Court, resolve any Additional Assurance Request by mutual agreement with a Utility Company and, in connection with such agreement, the Debtors may provide to the applicable Utility Company additional adequate assurance of payment, including, but not limited to, cash deposit, prepayment, or other form of security if the Debtors determine that such additional adequate assurance is reasonable.
- j. If the Debtors and the Utility Company are not able to reach a resolution within fourteen (14) days of receipt of the Additional Assurance Request, the Debtors will request a hearing before the Court (a "Determination Hearing") to determine, pursuant to section 366(c)(3) of the Bankruptcy

Code, the adequacy of the assurance of payment with respect to such Utility Company.

- k. Pending the Determination Hearing, the applicable Utility Company shall be prohibited from altering, refusing, or discontinuing its Utility Services on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.
- l. Unless a Utility Company serves an Additional Assurance Request on the Debtors and the Adequate Assurance Notice Parties, such Utility Company shall be: (a) deemed to have received “satisfactory” adequate assurance of payment in compliance with section 366 of the Bankruptcy Code; and (b) forbidden to discontinue, alter, or refuse services to, or discriminate against, the Debtors on account of any unpaid prepetition charges, or require additional assurance of payment other than the Proposed Adequate Assurance.

6. Unless and until a Utility Company serves an Additional Assurance Request on the Debtors and the Adequate Assurance Notice Parties, such Utility Company shall be: (a) deemed to have received adequate assurance of payment “satisfactory” to such Utility Company in compliance with section 366 of the Bankruptcy Code; and (b) forbidden to discontinue, alter, or refuse services to, or discriminate against, the Debtors on account of any unpaid prepetition charges, or require additional assurance of payment.

7. Upon termination of such Utility Services, which, for the avoidance of doubt, will occur five (5) days following the applicable Utility Company’s receipt of the Termination Notice, the Debtors are authorized, in their sole discretion, to withdraw the Adequate Assurance Deposit provided for the benefit of the applicable Utility Company. Following such withdrawal, the applicable Utility Company shall immediately return to the Debtors any unused portion of any Prepetition Deposit provided by the Debtors to such Utility Company.

8. The Utility Companies are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures; *provided*,

*however*, that nothing herein shall prejudice the right of a Utility Company to propose alternative procedures by filing a motion and after notice and hearing.

9. The Debtors are authorized, following the giving of two weeks' notice to the affected Utility Company and receiving no objection from such Utility Company, to add or remove any Utility Company from the Utility Companies List, and the Debtors shall add to or subtract from the Adequate Assurance Deposit an amount equal to one-half of the Debtors' average monthly cost for each Utility Company subsequently added to or removed from the Utility Companies List, as applicable, as soon as practicable. If an objection to the foregoing is received, the Debtors shall request a hearing before this Court at the next omnibus hearing date or such other date that the Debtors and the applicable Utility Company may agree. The Debtors shall not deduct from the Adequate Assurance Deposit the amount set aside for any Utility Company that the Debtors seek to delete from the Utility Companies List unless and until the two-week notice period has passed and the Debtors have not received an objection from such Utility Company to its deletion from the Utility Companies List, or until any such objection has been resolved either consensually or by order of this Court.

10. The Debtors shall serve any Utility Company that is subsequently added to the Utility Companies List with a copy of the Final Order within three (3) business days, and shall deposit one-half of the Debtors' average monthly utility expense in the Adequate Assurance Account for the benefit of such subsequently added Utility Company. The terms of the applicable order and the Adequate Assurance Procedures shall apply to any such subsequently added Utility Company.



11. The relief granted in this Final Order is binding on all Utility Companies providing Utility Services to the Debtors and is not limited to those entities listed on the Utility Companies List.

12. The Debtors' service of the Motion upon any Utility Company shall not constitute an admission or concession that any such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

13. 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.

14. 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.

15. 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 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.

16. 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 Utility Services or Utility Companies, including the Utility Service Agreements, and related Service Fees, and the Utility Service Providers.

17. 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.

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

19. 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.

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

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

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

23. 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: December 11, 2020  
Richmond, Virginia

/s/ Kevin R. Huennekens  
THE HONORABLE KEVIN R. HUENNEKENS  
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: December 11, 2020

WE ASK FOR THIS:

/s/ Jennifer E. Wuebker

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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**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.

/s/ Jennifer E. Wuebker