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Debtor in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

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<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>TEXAS RANGERS BASEBALL PARTNERS,</b>	:	<b>Case No. 10-43400 (DML)-11</b>
	:	
<b>Debtor.</b>	:	
	:	
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**DEBTOR’S MOTION FOR INTERIM AND FINAL ORDERS PURSUANT TO  
SECTIONS 105(a), 363(b), AND 541 OF THE BANKRUPTCY  
CODE FOR AUTHORIZATION TO PAY PREPETITION SALES AND  
USE TAXES AND CERTAIN OTHER GOVERNMENTAL ASSESSMENTS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Texas Rangers Baseball Partners (“TRBP” or the “Debtor”), hereby files this motion (the “Motion”) seeking entry of an interim order (the “Interim Order”) for authorization to pay prepetition sales and use taxes and certain other governmental assessments pending the entry of a final order granting the relief sought herein (the “Final Order”), and scheduling a final

hearing (the "Final Hearing") to consider the relief requested herein on a final basis. In support of the Motion, the Debtor submits the Declaration of Kellie L. Fischer in Support of the Debtor's Chapter 11 Petition and Requests for First Day Relief (the "Fischer Declaration"), filed contemporaneously herewith, and respectfully represents as follows:

### **Background**

1. On the date hereof (the "Commencement Date"), the Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). The Debtor is authorized to continue to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

### **The Debtor's Business**

#### **TRBP Partnership Structure**

2. Texas Rangers Baseball Partners ("TRBP" or the "Debtor") owns and operates the Texas Rangers Major League Baseball Club, a professional baseball club (the "Texas Rangers") in the Dallas/Fort Worth Metroplex, pursuant to the Major League Constitution (the "Major League Constitution") and the Membership Agreement, dated as of November 18, 1960, by and between The American League of Professional Baseball Clubs, as assumed by the Office of the Commissioner of Baseball (the "BOC"), and WBC Baseball Club, Inc., as assumed by TRBP pursuant to an Assumption Agreement, dated as of June 16, 1998.

3. TRBP is a Texas general partnership, in which Rangers Equity Holdings, L.P. ("Rangers Equity LP"), a Delaware limited partnership, holds a 99% partnership interest and Rangers Equity Holdings GP, LLC ("Rangers Equity GP"), a Texas limited liability company, holds a 1% partnership interest. Rangers Equity GP is a wholly-owned subsidiary of Rangers Equity LP. Both Rangers Equity LP and Rangers Equity GP are holding companies

with no operating assets and are indirect, wholly-owned subsidiaries of HSG Sports Group LLC (“HSG”). HSG is a sports and entertainment holding company, which is an affiliate of, and indirectly controlled by, Thomas O. Hicks (“Mr. Hicks”). The Texas Rangers have had five owners since the team moved to Arlington in 1972. Mr. Hicks became the fifth owner in the history of the Texas Rangers on June 16, 1998, when HSG completed the acquisition of the franchise from the George W. Bush/Edward W. Rose partnership.

### **Major League Baseball**

4. With a history and tradition dating back to 1869, professional baseball is one of America’s oldest organized league sports. From April through the end of September every year, Major League Baseball (“MLB”) runs a 162-game regular season. MLB’s clubs are divided into two leagues (American and National) and six divisions (AL East, AL Central, AL West, NL East, NL Central and NL West).

5. The BOC, doing business as Major League Baseball, is an unincorporated association of its 30 member clubs. It is headquartered in New York City and is governed by the Major League Constitution. The primary purpose of the BOC is to undertake centralized activities on behalf of the 30 clubs. Among other things, the BOC hires and maintains the sport’s umpiring crews, and negotiates marketing, labor, and television contracts.

### **The Texas Rangers**

6. The Texas Rangers are located in the fourth largest metropolitan area and the largest metropolitan market with a single MLB franchise. The Texas Rangers are one of only 30 MLB franchises and one of two MLB clubs in the state of Texas and its bordering states. The Texas Rangers have a rich and colorful history and have established themselves as a young, up-and-coming contender supported by a strong fan base. The team’s executives have successfully combined players from their farm system with key veterans to produce a team that today is in

first place in the American League's West Division. Founded in 1961 as the second incarnation of the Washington Senators, the franchise moved to Texas in 1972 and currently competes in the American League West together with the Los Angeles Angels of Anaheim, the Oakland Athletics, and the Seattle Mariners.

7. The Texas Rangers' home field, the Rangers Ballpark in Arlington (the "Ballpark"), is located in Arlington, Texas and is an open-air, natural grass ballpark that was designed and built with tradition and intimacy in mind. The proximity of the fans to the action is one of the closest in MLB. The overall seating of the Ballpark is 49,170 seats on five levels, making it MLB's sixth largest ballpark.

#### **Prepetition Indebtedness**

8. Pursuant to that certain First Lien Credit Agreement and that certain Second Lien Credit Agreement (together, the "HSG Credit Agreement"), HSG and certain affiliates of HSG are indebted to the Lenders (as defined below) in the amount of \$525 million. The HSG Credit Agreement is guaranteed by certain of HSG's subsidiaries, although the guaranties of the Texas Rangers and the security interests securing them are limited to \$75 million (the "TRBP Guaranty Cap"). The First Lien Credit Agreement is secured by a first lien on substantially all of the assets of HSG and its affiliates including a pledge of the equity interests those entities have in their subsidiaries, including TRBP, and the Second Lien Credit Agreement is secured by a second lien on substantially all of the assets of HSG, its affiliates, including a pledge of the equity interests those entities have in their subsidiaries, including TRBP.

9. TRBP is also party to that certain Amended and Restated Secured Revolving Promissory Note, dated November 25, 2009, by TRBP in favor of Baseball Finance LLC, an affiliate of the BOC (the "Baseball Finance Note"). Pursuant to the Baseball Finance

Note, Baseball Finance agreed to make available to TRBP a secured revolving loan facility in an aggregate principal amount not to exceed \$25 million. The loans under the Baseball Finance Note are secured by liens on substantially all of the assets of TRBP that are junior in priority to the liens granted pursuant to the HSG Credit Agreement that are subject to the TRBP Guaranty Cap. As of the Commencement Date, approximately \$18.45 million in principal is outstanding under the Baseball Finance Note, plus accrued interest.

### **Events Leading to TRBP's Chapter 11 Filing**

10. Since 2005, TRBP has experienced, and continues to experience, cash flow deficiencies. For the entire period that Mr. Hicks has owned the Texas Rangers, he has provided financial support to the team through capital contributions and loans to HSG in excess of \$100 million.

11. Beginning in August 2008, HSG retained advisors to provide financial advice and assistance in connection with a capital raise, potential restructuring, or sale. While HSG and TRBP explored their options, TRBP continued to suffer operating losses. As a result of such losses, HSG was unable to service its \$525 million long-term debt obligations under the HSG Credit Agreement. On March 31, 2009, HSG failed to make a scheduled interest payment under the HSG Credit Agreement, and on April 7, 2009, the lenders to the HSG Credit Agreement (the "Lenders") accelerated the entire amount of indebtedness thereunder. As a result of the acceleration, the Lenders under the HSG Credit Agreement have claims against TRBP on account of TRBP's secured guaranty of \$75 million of such indebtedness, as discussed above.

### **Sale Process**

12. During the second half of 2008 and throughout 2009, HSG and TRBP, in conjunction with their advisors, pursued a variety of options for a capital raise or a sale of the Texas Rangers. Ultimately, they concluded that a sale of the Texas Rangers was the only viable

option. A lengthy and active marketing process culminated with an agreement among HSG, TRBP and Rangers Baseball Express LLC (the "Purchaser"), whose principals include the current President of the Texas Rangers, Nolan Ryan, and Chuck Greenberg, a sports lawyer and minor league club owner, dated as of January 23, 2010 (the "January APA"), governing the sale of the Texas Rangers franchise and certain related assets.

13. Pursuant to the terms of the January APA, consummation of the sale required, among other closing conditions, the consent of the Lenders pursuant to the terms of the HSG Credit Agreement. Despite HSG's, TRBP's, and the Purchaser's lengthy good faith negotiations with the Lenders following the execution of the January APA, the Lenders refused to consent to the transactions contemplated by the January APA and thus prevented TRBP from moving forward with the sale of the Texas Rangers. Ultimately, TRBP, in consultation with MLB, concluded that a chapter 11 filing designed to facilitate a sale of TRBP's assets to the Purchaser (the "Sale") pursuant to a prepackaged plan of reorganization ("the Prepackaged Plan") was the most efficient manner in which to consummate the Sale and was, therefore, in the best interests of the Texas Rangers franchise, its fans, MLB and all other parties involved, including TRBP's creditors. As described herein, the Prepackaged Plan will facilitate the sale of the Texas Rangers franchise to the Purchaser and the payment of all of TRBP's creditors in full, allowing the Texas Rangers franchise to compete successfully on and off the field with assurance of long-term financial stability.

#### **Asset Purchase Agreement**

14. On May 23, 2010, after further negotiation, in anticipation of the implementation and consummation of the Sale through a chapter 11 plan of reorganization, the parties to the January APA terminated the January APA and entered into that certain Asset

Purchase Agreement (the “Asset Purchase Agreement”) for the sale of the Texas Rangers franchise and certain related assets.<sup>1</sup>

15. Under the Asset Purchase Agreement, substantially all of the Debtor’s assets, including the Texas Rangers franchise and substantially all contractual rights related the operation of the Texas Rangers will be sold to the Purchaser. The aggregate consideration paid and obligations assumed by the Purchaser at the Closing will equal more than \$500 million. Pursuant to the Sale, the Purchaser will also assume virtually all of the obligations of the Texas Rangers, including deferred compensation obligations, sponsorship, ticketholder, employee and specified tax obligations, with the exception of certain excluded liabilities that will be paid under the Prepackaged Plan. Under the Asset Purchase Agreement and the Prepackaged Plan, TRBP also intends to assume and assign to the Purchaser all contracts relating to the Texas Rangers franchise, including all marketing, media, advertising, and merchandising contracts, all minor league and major league player contracts and certain real property Leases. The Sale anticipates a complete and orderly transition of the operations of the team — all tickets to games and other events will be fully honored, and all employees will keep their jobs. Although accomplished through a chapter 11 plan, the Sale will resemble in all significant respects the sale of any other sports franchise.

16. The Sale will allow TRBP’s creditors that are Lenders under the HSG Credit Agreement to recover 100 percent of their guaranty claims against TRBP. As described more fully below, subject to Court approval, the Sale is expected to be completed by mid-

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<sup>1</sup> A more thorough description of the Asset Purchase Agreement and the Prepackaged Plan are contained in the Declaration of Kellie L. Fischer in Support of Debtor’s Chapter 11 Petition and Request for First Day Relief, filed contemporaneously herewith and incorporated herein by reference.

summer, allowing the franchise to exit the chapter 11 process expeditiously in order to reduce any potential adverse impact to the Texas Rangers and its operations.

### **MLB Approval**

17. The Debtor, as a member of Major League Baseball, is subject to the rules and regulations of MLB. In particular, any sale of the Texas Rangers franchise cannot be consummated without first obtaining the requisite approval from the BOC and 75% of the MLB clubs. The sale of any MLB club must comply with the process set forth in the Major League Constitution and the MLB ownership guidelines. Accordingly, TRBP has worked very closely with MLB throughout the negotiation of the Asset Purchase Agreement and all related events leading to the filing of the chapter 11 case. As of the date hereof, the Debtor is not aware of any opposition by MLB or the requisite percentage of MLB clubs required to consent to the Sale.

### **The Prepackaged Plan**

18. As stated above, concurrently herewith, the Debtor has filed its Prepackaged Plan. The primary purpose of the Prepackaged Plan is to bridge the impasse between TRBP and the Lenders under the HSG Credit Agreement and to effectuate the Sale of the Texas Rangers franchise to the Purchaser and satisfy TRBP's creditors in full.

19. The Prepackaged Plan provides for the Sale to be consummated on the effective date (the "Effective Date") and sets forth the distribution that each class of the Debtor's creditors and equity holders is to receive on the Effective Date under the Prepackaged Plan. All TRBP's creditors will be paid in full under the Prepackaged Plan or have their claims assumed by the Purchaser under the Asset Purchase Agreement. Specifically, each holder of an (i) Allowed Priority Non-Tax Claim, (ii) Allowed First Lien Holder Claim, (iii) Allowed Second Lien Holder Claim, (iv) Allowed MLB Prepetition Claim, (v) Allowed Secured Tax Claim, (vi) Allowed Other Secured Claim, (vii) Allowed Assumed General Unsecured Claim,



(viii) Allowed Non-Assumed General Unsecured Claim, (ix) Allowed Emerald Diamond Claim, (x) Allowed Overdraft Protection Agreement Claim, (xi) Allowed Intercompany Claim, and (xii) Allowed TRBP Equity Interest (all as defined in the Prepackaged Plan) is unimpaired and will be paid in full.

20. Additionally, TRBP believes that the Purchaser will build on past team successes and that the future of the Texas Rangers will be in the hands of an ownership group that will be a good steward for the game.

21. TRBP believes that because the Prepackaged Plan satisfies in full all claims against TRBP, is supported by TRBP's equity holders, and will lead to the least disruption to the Texas Rangers' business of playing baseball, the Prepackaged Plan is in the best interests of the Texas Rangers franchise and all parties in interest.

#### **Jurisdiction**

22. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

#### **Relief Requested**

23. By this Motion, the Debtor requests entry of the Interim Order and Final Order, pursuant to sections 105(a), 363(b), and 541 of the Bankruptcy Code, authorizing the Debtor to pay all prepetition sales and use tax obligations and other certain governmental assessments of franchise fees to various state and local authorities (collectively, the "Taxing Authorities"), including those obligations subsequently determined upon audit to be owed for periods prior to the Commencement Date and those amounts paid by check prior to the Commencement Date that have not yet cleared. A list of the Taxing Authorities is annexed

hereto as Exhibit A.<sup>2</sup> Although the Debtor believes the list of Taxing Authorities set forth on Exhibit A is substantially complete, the relief requested herein is to be applicable with respect to all Taxing Authorities and is not limited to those Taxing Authorities listed on Exhibit A.

**A. Sales and Use Taxes**

24. In the normal course of business, the Debtor sells products directly to consumers in the form of tickets, merchandise, concessions, and other items. The Debtor is required to collect sales taxes (the "Sales Taxes") from such customers on behalf of the applicable Taxing Authorities. Typically, Sales Taxes accrue as tangible goods and services are sold to customers and are calculated based on a fixed statutory percentage of the sale price invoiced to the customer. The Debtor calculates the Sales Taxes and includes the Sales Taxes in the total amount paid by the customer for the tangible good or service. The Debtor then remits the collected Sales Taxes in one payment on the 20th of each month to the Texas Comptroller's Office, a Taxing Authority. This monthly payment is then divided by the Texas Comptroller's Office among the State of Texas, Tarrant County, Dallas County, the City of Arlington, the City of Fort Worth and the City of Dallas, each a Taxing Authority that levies Sales Taxes based on the statutory percentage of the sale price paid by the customer.

25. The Debtor also incurs and collects use taxes (the "Use Taxes," and together with the Sales Taxes, the "Sales and Use Taxes"). The Debtor incurs Use Taxes in connection with the purchase of taxable equipment and supplies for its own use, in circumstances where the vendor of such equipment and supplies is not required to collect a sales tax from the

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<sup>2</sup> The Debtor also remits taxes to taxing authorities in respect of federal, state, and local income taxes, social security, and Medicare that the Debtor withholds from employees' wages. Remittance of these taxes to the applicable taxing authorities is addressed in the Debtor's Motion Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004 for Authorization (i) To Pay Wages, Compensation, and Employee Benefits and (ii) For Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations, filed concurrently herewith.

Debtor. Generally, the Debtor remits the Use Taxes to the applicable Taxing Authorities on the same terms as its remits Sales Taxes. The Debtor primarily incurs Use Taxes in the State of Texas, but may also incur Use Taxes in the State of Arizona during spring training.

26. As of May 24, 2010, the Debtor estimates that approximately \$520,000 in Sales and Use Taxes, relating to the prepetition period will become due and owing to the Taxing Authorities in the ordinary course of business. This amount reflects Sales and Use Taxes accrued by the Debtor in the month May.

**B. Franchise Taxes**

27. The Debtor is required to pay franchise fees on its capital stock in certain states (the "Franchise Taxes"). The Franchise Taxes are typically paid annually to the applicable Taxing Authorities.

28. As of May 24, 2010, the Debtor estimates that it owes approximately \$13,500 to certain Taxing Authorities on account of Franchise Taxes, relating to the prepetition period.

**Cause Exists to Authorize the Debtor's Payment of Prepetition Sales and Use Taxes, and Franchise Taxes**

29. Section 541 of the Bankruptcy Code provides that all the Debtor's legal and equitable interests in property as of the petition date are property of the bankruptcy estate. 11 U.S.C. §541. Section 363(b)(1) of the Bankruptcy Code provides that "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). Pursuant to section 105(a) of the Bankruptcy Code, the "court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The Debtor submits that ample cause exists to grant the relief requested.

30. Payment of the prepetition Sales and Use Taxes and Franchise Taxes is critical to the Debtor's continued and uninterrupted operations. Nonpayment of these obligations may cause Taxing Authorities to take precipitous action, including, but not limited to, filing liens, preventing the Debtor from conducting business in the applicable jurisdictions, or seeking to lift the automatic stay, any of which would disrupt the Debtor's day-to-day operations and could potentially impose significant costs on the Debtor's estates.

31. The requested relief is also justified because to the extent the Debtor has collected Sales Taxes from its customers, such funds must be held in trust by the Debtor for the benefit of the Taxing Authorities and do not constitute property of the Debtor's estate pursuant to section 541 of the Bankruptcy Code. *See, e.g., Begier v. IRS*, 496 U.S. 53, 59-61 (1990) (withholding taxes are property held by debtors in trust for another and, as such, are not property of debtors' estates); *City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95 (3d Cir. 1994) (withheld taxes were subject to a trust); *Al Copeland Enters., Inc. v. Texas*, 991 F.2d 233, 235 (5th Cir. 1993) (debtors' prepetition collection of sales taxes and interest thereon held subject to trust and not property of estate); *Tex. Comptroller of Pub. Accts. v. Megafoods Stores, Inc.*, (*In re Megafoods Stores, Inc.*), 163 F.3d 1063, 1067-68 (9th Cir. 1988) (under Texas law, state sales taxes collected created statutory trust fund, if traceable, and were not property of the estate); *Shank v. Wash. State Dep't of Revenue (In re Shank)*, 792 F.2d 829, 830 (9th Cir. 1986) (sales taxes required by state law to be collected by sellers from their customers are "trust fund" taxes). Because the Sales Taxes are not property of the Debtor's estate, these funds are not available for the satisfaction of creditors' claims.

32. Furthermore, the Sales and Use Taxes are afforded priority status under section 507(a)(8) of the Bankruptcy Code. 11 U.S.C. § 507(a)(8). As priority claims, such tax obligations must be paid in full before any general unsecured obligations of the Debtor may be

satisfied. Similarly, under the Prepackaged Plan, all creditors, including taxing authorities, will be paid in full. Consequently, the requested relief merely affects the timing of the Debtor's payment of Sales and Use Taxes and Franchise Taxes, not the amount paid in respect thereof.

33. In this Court's opinion in *In re CoServ*, while the Court articulated a high standard for paying general unsecured creditors outside of the Plan context, the Court noted that an exception existed for certain claims that are priority claims under the Bankruptcy Code. *In re CoServ, L.L.C.*, 273 B.R. 487, 493 (Bankr. N.D. Tex. 2002). The Court reasoned that the prepayment of priority claims does not raise the same issues as prepayment of select general unsecured claims. Specifically, because priority claims are entitled to payment in full ahead of general unsecured creditors, the only parties that could be affected by the early and full payment of priority claims are parties that are senior to those priority creditors, particularly professionals (which are entitled to priority status under section 507(a)(1)) and secured creditors. *Id.* at 494. Thus, paying priority claims early in a chapter 11 case, "non-payment of which could impair a debtor's ability to operate," may be justified. *Id.* Other Courts in this Circuit have agreed that prepayment of priority creditors does not implicate the typical concerns that exist for prepaying other general unsecured creditors early in the case, namely that doing so would "(1) effect a different priority scheme than the priorities established by Congress in the Bankruptcy Code . . . , and (2) result in an unfair and impermissible discrimination among holders of general unsecured claims." *CEI Roofing*, 315 B.R. at 60 (citing *CoServ*, 273 B.R. at 494).

34. In *CEI Roofing* the court authorized payment of prepetition employee wage claims to the extent that such claims would have been entitled to priority status, and likely payment in full, at the time of plan confirmation, *see* 11 U.S.C. § 503(a)(3), because early payment of the claims was "common sense" in that it prevented the debtors' employees from leaving and thus preserved their businesses. *In re CEI Roofing, Inc.*, 315 B.R. 50, 61 (Bankr.

N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)). Because claims entitled to priority status will likely be paid in full, courts frequently authorize early payment of priority status claims when such timing and early payment is intended to prevent some harm or to procure some benefit for the estate. *See id.* at 60–61 (stating that as long as higher priority creditors fail to timely object, authorization of early payment in full of priority claims does not trigger concerns of upsetting the priority scheme of the Bankruptcy Code nor of unfairly discriminating amongst general unsecured creditors); *see also CoServ*, 273 B.R. at 483 (implying that a bankruptcy court may authorize early payment of prepetition claims accorded priority treatment in instances where nonpayment could impair a debtor’s ability to operate); *Equalnet Comms. Corp.*, 258 B.R. 368, 370 (Bankr. S.D. Tex. 2000) (stating that a court may authorize pre-plan payment of certain priority status claims, to the extent the Bankruptcy Code affords priority status to such claims, because “the need to pay these claims in an ordinary course of business time frame is simple common sense”). Similar justification exists for authorizing payment of tax claims that would be to the extent that such claims would have been entitled to priority status, and likely payment in full, at the time of plan confirmation, *see* 11 U.S.C. § 503(a)(8).

35. Under the circumstances of this prepackaged case, the same principles that support the conclusions in *CoServ* and *CEI Roofing* that payment of prepetition claims may not be prohibited – *i.e.*, the fact such payment does not upset the priority scheme or result in discrimination among holders of general unsecured claims – support a conclusion that the payment of the various tax obligations should be authorized. Further, because all creditors are being paid in full under the Prepackaged Plan, none of them are prejudiced or have their priorities affected as a result of the payment of the Sales and Use Taxes, Franchise Taxes or Other Governmental Assessments.

36. Moreover, many federal and state statutes hold officers of collecting entities personally liable or criminally responsible for certain taxes owed by those entities. To the extent that any Sales and Use Taxes remain unpaid by the Debtor, the Debtor's officers may be subject to lawsuits or criminal prosecution during the pendency of this chapter 11 case. The threat of a lawsuit or criminal prosecution, and any ensuing liability, would distract the Debtor and its personnel from important tasks, to the detriment of all parties in interest. The dedicated and active participation of the Debtor's officers and other employees is not only integral to the Debtor's continued, uninterrupted operations, but also essential to the orderly administration of this chapter 11 case. Accordingly, the Debtor submits that the proposed relief is in the best interests of the Debtor's estate.

37. Bankruptcy courts in this and other jurisdictions have entered orders granting relief similar to the relief requested herein. *See, e.g., In re Pilgrim's Pride Corp.*, Case No. 08-45664 (DML) (Bankr. N.D. Tex. Dec. 1, 2008); *In re Renaissance Hospital – Grand Prairie, Inc.*, Ch. 11 Case No. 08-43775-11 (DML) (Bankr. N.D. Tex. Sept. 4, 2008); *In re Home Interiors & Gifts, Inc.*, Ch. 11 Case No. 08-31961 (BJH) (Bankr. N.D. Tex. May 12, 2008); *In re Crescent Resources, LLC*, Case No. 09-11507 (CAG) (Bankr. W.D. Tex. June 10, 2009); *In re Sharper Image Corp.*, Ch. 11 Case No. 08-10322 (KG) (Bankr. D. Del. Feb. 20, 2008); *In re Buffets Holdings, Inc.*, Ch. 11 Case No. 08-10141 (MFW) (Bankr. D. Del. Jan. 23, 2008).<sup>3</sup> The Debtor submits that similar relief is warranted in these chapter 11 cases.

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<sup>3</sup> [Because of the voluminous nature of the unreported orders cited herein, they are not annexed to this Motion. Copies of these orders are available upon request of Debtor's counsel.]

**Request for Authority for Banks to Honor  
and Pay Checks Issued and Electronic Funds  
Transferred to Pay Sales and Use Taxes and Franchise Taxes**

38. As part of its cash management system, the Debtor maintains disbursement accounts (collectively, the “Disbursement Accounts”) at various banks and other financial institutions (collectively, the “Banks”). The Debtor draws upon funds in its Disbursement Accounts to satisfy obligations arising from the Sales and Use Taxes, and Franchise Taxes. The Debtor requests that the Court authorize and direct the Banks and any other applicable financial institutions to receive, process, honor, and pay any and all checks drawn or electronic funds transferred to pay the Sales and Use Taxes, and Franchise Taxes, whether such checks were presented prior to or after the Commencement Date. The Debtor also seeks authority to issue new postpetition checks, or effect new electronic funds transfers, on account of such claims to replace any prepetition checks or electronic funds transfer requests that may be dishonored or rejected as a result of the commencement of the Debtor’s chapter 11 cases. The Debtor submits that it has sufficient liquidity to pay such amounts as they become due in the ordinary course of the Debtor’s businesses.

**Reservation of Rights**

39. Nothing in this Motion should be construed as impairing the Debtor’s rights to contest the amount of any Sales and Use Taxes or Franchise Taxes that may be owed to any Taxing Authority, and the Debtor expressly reserves all of its rights with respect thereto.

40. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver of the Debtor’s or any party in interest’s rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court’s



order is not intended and should not be construed as an admission to the validity of any claim or a waiver of the Debtor's rights to dispute such claim subsequently.

**Waiver of Bankruptcy Rule 6003**

41. Bankruptcy Rule 6003 provides that, except to the extent that relief is necessary to avoid the immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition. As detailed above and as set forth in the Fischer Declaration, to the extent relief requested herein requires use of property of the Debtor's estate outside the ordinary course of business, the Debtor submits that such relief is necessary to avoid immediate and irreparable harm to the Debtor and its estate and, accordingly, submit that Bankruptcy Rule 6003 is satisfied.

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

42. Unless the Court orders otherwise, Bankruptcy Rule 6004(a) requires the Debtor provide 21 days notice to all creditors and certain other parties in interest of the use of property outside the ordinary course of business. Moreover, unless the Court orders otherwise, Bankruptcy Rule 6004(h) automatically stays for 14 days any order granting such relief. As described above and in the Fischer Declaration, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtor that would otherwise be caused by a delay in the relief requested herein. Therefore, the Debtor requests the Court waive (i) the notice requirements under Bankruptcy Rule 6004(a) and (ii) the stay of the order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

**The Relief Requested is Appropriate**

43. The requested relief is further supported by the prepackaged nature of this case. As set forth above and in greater detail in the Fischer Declaration, the Prepackaged Plan contemplates the payment of all classes in full, in cash, or reinstates the claims and equity interest of all classes. The most critical and complex task required to effectuate a successful reorganization — the negotiation and formulation of a chapter 11 plan of reorganization — has already been accomplished. Thus, the Debtor respectfully submits that given the backdrop of this case, the relief requested herein is appropriate inasmuch as such relief will assist the Debtor to move towards expeditious confirmation of the Prepackaged Plan with the least possible disruption or harm to its business. Based on the foregoing, the Debtor submits that the relief requested is necessary and appropriate, is in the best interests of its estates and creditors, and should be granted in all respects.

**Notice**

44. No trustee, examiner or statutory creditors' committee has been appointed in this chapter 11 case. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for the Northern District of Texas; (ii) the Debtor's thirty largest unsecured creditors; (iii) counsel to the Purchaser; (iv) counsel to Major League Baseball, (v) counsel to the Major League Baseball Players Association (vi) counsel to JPMorgan Chase Bank, N.A., as administrative agent under the First Lien Credit Facility, (vii) counsel to GSP Finance LLC, as successor in interest to Barclays Bank PLC, as administrative agent under the Second Lien Credit Facility, (viii) Taxing Authorities, and (ix) the Banks. The Debtor respectfully submits that no further notice of this Motion is required.

**No Previous Request**

45. No previous request for the relief sought herein has been made by the Debtor to this or any other Court.

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

Dated: May 24, 2010  
Fort Worth, Texas

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Proposed Attorneys for Debtor and  
Debtor in Possession

**EXHIBIT A**

State	Entity	Street or P.O. Box	City	State	Zip Code
Arkansas	Department of Finance and Administration, Withholding Tax Section	P.O. Box 8055	Little Rock	AR	72203
Arizona	Department of Revenue	P.O. Box 29009	Phoenix	AZ	85038
California	Employment Development Department	P.O. Box 2068	Rancho Cordova	CA	95741
Ohio	Central Collection Agency, Division of Taxation	205 W. Saint Clair Avenue	Cleveland	OH	44113
Colorado	Colorado Department of Revenue	1375 Sherman Street	Denver	CO	80261
Michigan	Treasurer City of Detroit Income Tax	P.O. Box 67000	Detroit	MI	48267
Iowa	Department of Revenue	1305 E. Walnut	Des Moines	IA	50319
Illinois	Illinois Revenue	100 West Randolph Street	Chicago	IL	60601
Missouri	City Treasurer	P.O. Box 840101	Kansas City	MO	64184
Louisiana	Louisiana Department of Revenue	P.O. Box 91017	Baton Rouge	LA	70821
Maryland	Comptroller of Maryland, Revenue	Revenue Administration Center	Annapolis	MD	21411
Massachusetts	Massachusetts Department of Revenue	19 Staniford Street	Boston	MA	02114
Minnesota	Minnesota Department of Revenue	600 North Robert Street	St. Paul	MN	55101
Michigan	Michigan Department of Treasury	P.O. Box 30774	Lansing	MI	48909
Missouri	Missouri Department of Revenue, Taxation Division	P.O. Box 999	Jefferson City	MO	65108
Nebraska	Nebraska Department of Revenue	P.O. Box 98915	Lincoln	NE	68509

State	Entity	Street or P.O. Box	City	State	Zip Code
New Jersey	New Jersey Department of the Treasury, Division of Taxation	P.O. Box 269	Trenton	NJ	08695
New Mexico	State of New Mexico Taxation and Revenue Department	P.O. Box 2527	Santa Fe	NM	87504
North Carolina	North Carolina Department of Revenue	P.O. Box 871	Raleigh	NC	27602
Ohio	Ohio Department of Taxation	P.O. Box 347	Columbus	OH	43216
Oklahoma	Oklahoma Tax Commission	2501 North Lincoln Blvd	Oklahoma City	OK	73194
Oregon	Oregon Department of Revenue	P.O. Box 14800	Salem	OR	97309
Pennsylvania	Department of Revenue	Dept. 280904	Harrisburg	PA	17128
Utah	Utah State Tax Commission	210 N 1950 W	Salt Lake City	UT	84134
Arizona Unemployment	Arizona Department of Economic Security	P.O. Box 6028	Phoenix	AZ	85005
California Unemployment	State of California, Employment Development Department	P.O. Box 826880	Sacramento	CA	94280
Oklahoma Unemployment	Oklahoma Employment Security Commission	P.O. Box 52004	Oklahoma City	OK	73152
North Carolina Unemployment	Employment Security Commission of North Carolina Unemployment Insurance Division	P.O. Box 26504	Raleigh	NC	27611
Washington Unemployment	Employment Security Department	P.O. Box 34729	Seattle	WA	98124
Texas Unemployment	Texas Workforce Commission	P.O. Box 149037	Austin	TX	78714

<b>State</b>	<b>Entity</b>	<b>Street or P.O. Box</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
Futa	Internal Revenue Service		Ogden	UT	84201
Federal	Internal Revenue Service		Ogden	UT	84201
Medicare	Internal Revenue Service		Ogden	UT	84201
Social Security	Internal Revenue Service		Ogden	UT	84201

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

	-----X	
<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>TEXAS RANGERS BASEBALL PARTNERS</b>	:	<b>Case No. 10-43400 (DML)-11</b>
	:	
<b>Debtor.</b>	:	
	:	
	-----X	

**INTERIM ORDER PURSUANT TO SECTIONS 105(a), 363(b), AND 541 OF THE  
BANKRUPTCY CODE FOR PAYMENT OF PREPETITION SALES AND  
USE TAXES AND CERTAIN OTHER GOVERNMENTAL ASSESSMENTS**

Upon the motion (the "Motion"), dated May 24, 2010, of Texas Rangers Baseball Partners, as debtor and debtor in possession in the above-captioned chapter 11 case (the "Debtor"), pursuant to sections 105(a) and 363(b) and 541 of the Bankruptcy Code,<sup>1</sup> for entry of an interim order (the "Interim Order") and a final order authorizing payment of Prepetition sales and use taxes and certain other governmental assessments, all as more fully described in the

<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.



Motion; and upon consideration of the Declaration of Kellie L. Fischer in Support of the Debtor's Chapter 11 Petition and Requests for First Day Relief (the "Fischer Declaration"); and the Court having considered the Motion at an interim hearing on \_\_\_\_\_, 2010 (the "Interim Hearing"); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and due and proper notice of the Interim Hearing to consider the relief requested therein having been provided to: (i) the Office of the United States Trustee for the Northern District of Texas; (ii) the Debtor's thirty largest unsecured creditors; (iii) counsel to the Purchaser; (iv) counsel to Major League Baseball; (v) counsel to the Major League Baseball Players Association; (vi) counsel to JPMorgan Chase Bank, N.A., as administrative agent under the First Lien Credit Facility; (vii) counsel to GSP Finance LLC, as successor in interest to Barclays Bank PLC, as administrative agent under the Second Lien Credit Facility; (viii) the Taxing Authorities, and (ix) the Banks (collectively, the "Notice Parties"), and no further notice being necessary; and the legal and factual bases set forth in the Motion establishing just and sufficient cause to grant the relief requested therein; and the relief granted herein being in the best interests of the Debtor, its estate, creditors, and all parties in interest; and the relief granted herein being necessary to avoid immediate and irreparable harm; and the Court having held the Interim Hearing with the appearances of interested parties noted in the record of the Interim Hearing; and upon the entire record and all of the proceedings before the Court, the Court hereby ORDERS that:

1. The Motion is granted to the extent set forth herein on an interim basis.

2. Pursuant to this Interim Order, the Debtor is authorized, but not required, to pay any amounts due to parties, including, but not limited to, those Taxing Authorities listed on Exhibit A annexed to the Motion (the “Taxing Authorities”) that become due and payable by the Debtor prior to entry of a final order on the Motion (the “Interim Period”) consistent with the practices and policies in effect as of the commencement of the Debtor’s chapter 11 case, including, without limitation, through the issuance of postpetition checks.

3. The Debtor’s Banks or other financial institutions are authorized and directed to process, honor, and pay any checks drawn or electronic funds transfers requested on the Debtor’s account to pay the Sales and Use Taxes and Franchise Taxes, to the extent any exist, and the costs and expenses incident thereto, whether those checks or electronic funds transfer requests were presented prior to or after the Commencement Date; *provided however*, that such checks or electronic funds transfers are identified by the Debtor as relating directly to the authorized payment of the Sales and Use Taxes and Franchise Taxes authorized to be paid pursuant to this Order, in each case solely to the extent that there exist sufficient funds to make such payments or other transfers; *provided* that in no event shall any such bank or other financial institution that takes any such action either (i) at the direction of the Debtor, (ii) in good faith belief that the Court has authorized such action consistent with the implementation of reasonable item handling procedures, or (iii) as a result of an innocent mistake made despite the implementation of reasonable item handling procedures, be deemed in violation of this Order or have liability in connection therewith.

4. The Debtor is authorized to issue replacement checks, resubmit electronic funds transfers, or otherwise make payments to any Taxing Authority on account of Sales and

Use Taxes and Franchise Taxes authorized to be paid pursuant to this Order without the need for further Court approval.

5. Nothing herein constitutes (i) an admission as to the validity of any claim against the Debtor or (ii) a waiver of the Debtor's or any party in interest's rights to subsequently dispute any claim of the Taxing Authorities under applicable nonbankruptcy law.

6. Nothing contained in the Motion or in this Order (i) constitutes an assumption or rejection of any executory contract or agreement between the Debtor and any third party or (ii) requires the Debtor to make any of the payments authorized herein.

7. Any objections to the Motion ("Objections") on a final basis shall be in writing, filed with the Clerk of the United States Bankruptcy for the Northern District of Texas, Fort Worth Division together with proof of service thereof, set forth the name of the objector, the nature and amount of any claim or interest asserted by the objector against the estate or property of the Debtor, and state the legal and factual basis for such Objection. Any such Objections should be served upon the following parties so as to be received no later than \_\_\_\_\_ .m. (Central Time) on \_\_\_\_\_, 2010 at \_\_:\_\_ .m. (the "Objection Deadline"): (i) counsel to the Debtor, Weil, Gotshal & Manges LLP, 200 Crescent Court, Suite 300, Dallas, Texas 75201, Attn: Martin A. Sosland, Esq. and Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Ronit J. Berkovich, Esq.; (ii) counsel to the Purchaser, Foley & Lardner LLP, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, Attn: Mary K. Braza, Esq. and Kevin R. Schulz, Esq. and Foley & Lardner LLP, 321 North Clark Street, Suite 2800, Chicago, Illinois 60610, Attn: Michael J. Small, Esq.; (iii) counsel to the Purchaser, Barlow Garsek & Simon, LLP, 3815 Lisbon Street, Fort Worth, Texas 76107, Attn: Robert A. Simon, Esq.; (iv) counsel to the Purchaser, Sherrard, German & Kelly, P.C., 28th Floor, Two PNC Plaza, 620

Liberty Avenue, Pittsburgh, Pennsylvania 15222, Attn: David J. Lowe, Esq.; (v) counsel to the Committee, if one shall have been appointed; (vi) the U.S. Trustee, 1000 Commerce Street, Room 976, Dallas, Texas 75242, Attn: Lisa L. Lambert, Esq.; (vii) counsel to JPMorgan Chase Bank, N.A., Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022, Attn: Ronan Wicks, Esq. and David Teh, Esq.; (viii) counsel to GSP Finance LLC, Clifford Chance US LLP, 31 West 52nd Street, New York, New York 10019, Attn: Jason P. Young, Esq.; (ix) counsel to MLB, Paul Weiss Rifkind Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn: Stephen J. Shimshak, Esq., Jordan E. Yarett, Esq. and Philip A. Weintraub, Esq.; and (x) the Office of the Commissioner of Baseball, 245 Park Avenue, New York, New York 10167, Attn: Thomas J. Ostertag, Esq.

8. If an Objection to the Motion is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Court may enter a final order approving the Motion without a hearing.

9. If an Objection to the Motion is received by the Objection Deadline, a hearing will be held on \_\_\_\_\_ \_\_, 2010 at \_\_.m. to consider the relief requested herein on a final basis (the "Final Hearing") and, following the conclusion of the Final Hearing, the relief granted herein shall remain in effect with respect to the Interim Period.

10. Rule 6003 of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

11. Rules 6004(a) and (h) of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

12. The Debtor shall serve this Order within three business days of its entry on the parties in interest identified in Local Rule 2002.1, including the Notice Parties.

13. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

14. The terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

###END OF ORDER###

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

	-----X	
<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>TEXAS RANGERS BASEBALL PARTNERS</b>	:	<b>Case No. 10-43400 (DML)-11</b>
	:	
<b>Debtor.</b>	:	
	:	
	-----X	

**FINAL ORDER PURSUANT TO SECTIONS 105(a), 363(b), AND 541 OF THE  
BANKRUPTCY CODE FOR PAYMENT OF PREPETITION SALES AND  
USE TAXES AND CERTAIN OTHER GOVERNMENTAL ASSESSMENTS**

Upon the motion (the "Motion"), dated May 24, 2010, of Texas Rangers Baseball Partners, as debtor and debtor in possession in the above-captioned chapter 11 case (the "Debtor"), pursuant to sections 105(a) and 363(b) and 541 of the Bankruptcy Code,<sup>1</sup> for entry of an interim order and a final order (the "Final Order") authorizing payment of Prepetition sales and use taxes and certain other governmental assessments, all as more fully described in the

\_\_\_\_\_  
<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Motion; and upon consideration of the Declaration of Kellie L. Fischer in Support of the Debtor's Chapter 11 Petition and Requests for First Day Relief (the "Fischer Declaration"); and the Court having considered the Motion at an interim hearing on \_\_\_\_\_, 2010, and having entered an order granting interim relief required in the Motion (the "Interim Order") and scheduled a final hearing on the Motion, and the Court having conducted the final hearing on \_\_\_\_\_, 2010 (the "Final Hearing"); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and due and proper notice of the Final Hearing to consider the relief requested therein having been provided to: (i) the Office of the United States Trustee for the Northern District of Texas; (ii) the Debtor's thirty largest unsecured creditors; (iii) counsel to the Purchaser; (iv) counsel to Major League Baseball; (v) counsel to the Major League Baseball Players Association; (vi) counsel to JPMorgan Chase Bank, N.A., as administrative agent under the First Lien Credit Facility; (vii) counsel to GSP Finance LLC, as successor in interest to Barclays Bank PLC, as administrative agent under the Second Lien Credit Facility; and (viii) the Taxing Authorities; and (ix) the Banks (collectively, the "Notice Parties"), and no further notice being necessary; and the legal and factual bases set forth in the Motion establishing just and sufficient cause to grant the relief requested therein; and the relief granted herein being in the best interests of the Debtor, its estate, creditors, and all parties in interest; and the relief granted herein being necessary to avoid immediate and irreparable harm; and the Court having held the Final Hearing with the appearances of interested parties noted in the record of the Final Hearing;

and upon the entire record and all of the proceedings before the Court, the Court hereby

ORDERS that:

1. The Motion is granted to the extent set forth herein on a final basis.
2. In addition to the relief granted in the Interim Order, the Debtor is authorized, but not required, to pay all amounts due to parties, including, but not limited to, those Taxing Authorities listed on Exhibit A annexed to the Motion (the "Taxing Authorities") consistent with the practices and policies in effect as of the commencement of the Debtor's chapter 11 case, including, without limitation, through the issuance of postpetition checks.
3. The Debtor's Banks or other financial institutions are authorized and directed to process, honor, and pay any checks drawn or electronic funds transfers requested on the Debtor's account to pay the Sales and Use Taxes and Franchise Taxes, to the extent any exist, and the costs and expenses incident thereto, whether those checks or electronic funds transfer requests were presented prior to or after the Commencement Date; *provided however*, that such checks or electronic funds transfers are identified by the Debtor as relating directly to the authorized payment of the Sales and Use Taxes and Franchise Taxes authorized to be paid pursuant to this Order, in each case solely to the extent that there exist sufficient funds to make such payments or other transfers; *provided* that in no event shall any such bank or other financial institution that takes any such action either (i) at the direction of the Debtor, (ii) in good faith belief that the Court has authorized such action consistent with the implementation of reasonable item handling procedures, or (iii) as a result of an innocent mistake made despite the implementation of reasonable item handling procedures, be deemed in violation of this Order or have liability in connection therewith.



4. The Debtor is authorized to issue replacement checks, resubmit electronic funds transfers, or otherwise make payments to any Taxing Authority on account of Sales and Use Taxes and Franchise Taxes authorized to be paid pursuant to this Order without the need for further Court approval.

5. Nothing herein constitutes (i) an admission as to the validity of any claim against the Debtor or (ii) a waiver of the Debtor's or any party in interest's rights to subsequently dispute any claim of the Taxing Authorities under applicable nonbankruptcy law.

6. Nothing contained in the Motion or in this Order (i) constitutes an assumption or rejection of any executory contract or agreement between the Debtor and any third party or (ii) requires the Debtor to make any of the payments authorized herein.

7. Rule 6003 of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

8. Rules 6004(a) and (h) of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor.

9. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.

10. The terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

###END OF ORDER###