

ENTERED

February 19, 2026

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

SAKS GLOBAL ENTERPRISES LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 26-90103 (ARP)

(Jointly Administered)

Ref. Docket Nos. 14 & 163

**FINAL ORDER (I) AUTHORIZING
GLOBAL DEBTORS TO PAY CERTAIN PREPETITION CLAIMS
OF CERTAIN CRITICAL VENDORS, AND 503(b)(9)
CLAIMANTS, (II) CONFIRMING ADMINISTRATIVE EXPENSE PRIORITY
OF OUTSTANDING ORDERS, AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the Global Debtors for the entry of interim and final orders, (a) authorizing, but not directing, the Global Debtors to pay certain prepetition Trade Claims and 503(b)(9) Claims, in the aggregate, inclusive of amounts paid pursuant to the Interim Order, an amount not to exceed the Final Order Cap, (b) confirming administrative expense priority of Outstanding Orders, and (c) granting related relief; and upon consideration of the First Day Declaration; and this Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b), and the *Order of Reference to Bankruptcy Judges* from the

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://cases.stretto.com/Saks>. The location of Debtor Saks Global Enterprises LLC’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 225 Liberty Street, 31st Floor, New York, NY 10281. Bradley Arant Boult Cummings LLP is proposed counsel for the following Debtors: Saks OFF 5TH Holdings LLC, Saks OFF 5TH LLC, Saks OFF 5TH Midco Partner Inc., and Luxury Outlets USA, LLC (collectively, the “SO5 Digital Debtors”). Haynes and Boone, LLP and Willkie Farr & Gallagher LLP are proposed counsel for the remaining Debtors (collectively, the “Global Debtors”).

² Capitalized terms used but otherwise not defined herein shall have the meanings ascribed to them in the Motion.

United States District Court for the Southern District of Texas, entered May 24, 2012; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of these Chapter 11 Cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having determined that it may enter an order consistent with Article III of the United States Constitution; and upon the record in these Chapter 11 Cases and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Global Debtors, their estates, and their creditors; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; 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 herein.
2. The Global Debtors are authorized, but not directed, in their discretion, exercised in good faith and consistent with the purposes of this Final Order, to pay, honor, or otherwise satisfy prepetition Trade Claims and 503(b)(9) Claims in the ordinary course of their business up to the Final Order Cap, inclusive of amounts paid pursuant to the Interim Order, on a final basis, subject to the terms and conditions set forth in this Final Order.
3. Nothing in this Final Order shall prejudice the Global Debtors' right to request authority to pay additional amounts on account of the Trade Claims and 503(b)(9) Claims, and the Global Debtors' right to seek such relief is expressly reserved. Nothing in this Final Order limits or impairs any vendor's rights to assert additional amounts owed.
4. The Global Debtors are authorized to undertake appropriate efforts to cause Critical Vendors to enter into Trade Agreements with the Debtors substantially similar to that annexed as

Exhibit 1 to this Final Order, as a condition of payment of each such Critical Vendor's Trade Claim, provided that the Global Debtors may, in their business judgment, negotiate, amend, or modify the form of Trade Agreement; provided, further, that the Global Debtors shall consult with the DIP Lenders prior to amending or modifying any executed Trade Agreement; provided, further, that the Global Debtors shall provide notice on a professionals' eyes only basis to proposed counsel to the Official Committee of Unsecured Creditors (the "Committee") of any material changes or amendments to the form of Trade Agreement. The Global Debtors are authorized, in their discretion and upon notice to the Committee, to make payments on account of a Trade Claim, subject to the other limits set forth herein, even in the absence of a Trade Agreement, if the Global Debtors determine, in their business judgment that failure to pay such Trade Claim is likely to harm the Debtors' business operations.

5. The form of Trade Agreement, substantially in the form attached to this Final Order as **Exhibit 1**, is approved in its entirety on a final basis. The Global Debtors are authorized to enter into any such Trade Agreements on a final basis. Any party that accepts payment from the Global Debtors on account of a Trade Claim shall be deemed to have agreed to the terms and provisions of this Final Order.

6. All undisputed obligations related to the Outstanding Orders are granted administrative expense priority status in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

7. If a Critical Vendor refuses to supply goods and/or services to the Global Debtors on Customary Trade Terms (or such other terms as are agreed to by the parties) following receipt of payment on its Trade Claims, (regardless of whether such Critical Vendor has entered into a Trade Agreement), or fails to comply with any Trade Agreement entered into between such Critical

Vendor and the Global Debtors, then the Global Debtors may, in their discretion, and without further order of the Court: (a) declare that any Trade Agreement between the Global Debtors and such Critical Vendor is terminated; (b) declare that payments made to such Critical Vendor on account of its Trade Claims shall be deemed to have been in payment of then-outstanding or subsequently accruing postpetition claims of such Critical Vendor; and (c) with five (5) business days' prior written notice (which may be via email) to the affected Critical Vendor (unless a different notice period or no notice period has been agreed to between the parties) regarding the basis for the Global Debtors' determination, take any and all appropriate steps to recover any payment made to such Critical Vendor on account of its Trade Claim(s), including treating such payment as an avoidable postpetition transfer of property; provided, however, that, if requested, such Critical Vendor shall be entitled to notice and an opportunity to be heard as to any disputes with respect to the Global Debtors' exercise of the rights enumerated in this Paragraph 7; provided further, that in the event that the Global Debtors recover any such funds pursuant to this Paragraph 7, the claim of such Critical Vendor shall be reinstated as a prepetition claim in the amount so recovered, as if the Trade Agreement had never been entered into and the payment of the Critical Vendor's claim had not been made. Nothing herein shall constitute a waiver of the Global Debtors' rights to seek damages or other appropriate remedies against any breaching Critical Vendor, and all parties' rights (including any alleged breaching Critical Vendor) are fully reserved.

8. Notwithstanding the foregoing, the Debtors may, in their discretion, reinstate a Trade Agreement if:

- a. the underlying default under the Trade Agreement is fully cured by the Critical Vendor not later than five business days following the Global Debtors' notification to the Critical Vendor of such default; or
- b. the Global Debtors, in their discretion, reach a favorable alternative agreement with the Critical Vendor.

9. The authorization granted hereby to pay Trade Claims shall not create any obligation on the part of (a) the Global Debtors or their officers, directors, attorneys, or agents, (b) the Ad Hoc Group, or (c) the DIP Lenders, to pay the Trade Claims, and none of the foregoing persons shall have any liability on account of any decision by the Global Debtors not to pay a Trade Claim and nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect the Trade Claims to the extent they are not paid.

10. The amount of any Trade Claim set forth in a Trade Agreement shall be used only for purposes of determining a Critical Vendor's claim under this Final Order, shall not be deemed a claim allowed by the Court, and may be subject to further order of the Court. Notwithstanding payment of such Trade Claim in accordance with this Final Order, the rights of all interested persons (including the Committee) to object to such claim shall be fully preserved until further order of the Court. Further, signing a Trade Agreement containing a claim amount for purposes of this Final Order shall not excuse such Critical Vendor from filing a proof of claim in these cases on account of prepetition amounts that may remain unpaid.

11. A Critical Vendor who receives payment on account of a Trade Claim (whether or not such Critical Vendor signs a Trade Agreement) shall not, following such payment, (a) file or perfect a Lien on account of such Trade Claim, and any such Critical Vendor shall take all necessary action to remove any existing Lien relating to such Trade Claim, even if the Lien is against property of a non-Global Debtor; or (b) seek to reclaim goods previously shipped to the Global Debtors.

12. The execution of a Trade Agreement by the Global Debtors shall not be declared a waiver of any other cause of action, including avoidance actions, which may be held by the Global

Debtors, unless such waiver is explicitly set forth in the Trade Agreement. To the extent not waived in an executed Trade Agreement, all parties' rights, including the Committee's and the DIP Lenders', with respect to avoidance actions are fully preserved.

13. The Global Debtors' banks and other financial institutions (collectively, the "Banks") are authorized, when requested by the Global Debtors, in the Global Debtors' discretion, to honor and process checks or electronic fund transfers drawn on the Global Debtors' bank accounts to pay prepetition obligations authorized to be paid hereunder, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Banks may rely on the representations of the Global Debtors with respect to whether any check or other transfer drawn or issued by the Global Debtors prior to the Petition Date should be honored pursuant to this Final Order, and any such Banks shall not have any liability to any party for relying on such representations by the Global Debtors, as provided for in this Final Order.

14. The Global Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with the relief granted herein.

15. The Global Debtors shall maintain a matrix/schedule of amounts directly or indirectly paid, subject to the terms and conditions of this Final Order, including the following information: (a) the names of the payee; (b) the amount of the payment; (c) the category or type of payment, as further described and classified in the Motion; (d) the Global Debtor or Global Debtors that made the payment; (e) the payment date; and (f) any amounts authorized under this Final Order but remain unpaid and the reason for such non-payment and/or delay. The Global Debtors

shall provide a copy of such matrix/schedule to counsel to the U.S. Trustee and, on a professionals' eyes only basis, counsel to the DIP Lenders, counsel to the Committee, and any committee appointed in these Chapter 11 Cases on a twice weekly basis until the Third Funding Date (as defined in the DIP Orders (defined below)), and thereafter on a weekly basis.

16. For the avoidance of doubt, this Final Order does not authorize payments to insiders (as such term is defined in section 101(31) of the Bankruptcy Code) or affiliates of an insider, of the Global Debtors. Nothing herein shall impair or prejudice the rights of the U.S. Trustee, the DIP Lenders, the Committee, or any other party in interest to object to and seek the return of any payment made pursuant to this Final Order to an insider of the Global Debtors, and all rights of the Global Debtors and the relevant insider are reserved to respond to any such objection.

17. Notwithstanding the relief granted in this Final Order, any payment made or to be made by the Global Debtors pursuant to the authority granted herein (including any authority that is subject to the Global Debtors' discretion), and any relief or authorization granted herein (including any authority that is subject to the Global Debtors' discretion), shall be subject to, in compliance with, and solely to the extent permitted by each interim and final order entered by the Court in respect of the *Global Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Global Debtors to Obtain Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* filed substantially contemporaneously herewith (collectively, such interim and final orders, the "DIP Orders"), including compliance with any documentation with respect to such financing and any budget or cash flow forecast in connection therewith and any other terms and conditions

thereof. Nothing herein is intended to modify, alter, or waive, in any way, any terms, provisions, requirements, or restrictions of the DIP Orders. To the extent there is any inconsistency between the terms of the DIP Orders and the terms of this Final Order or any action taken or proposed to be taken hereunder, the terms of the DIP Orders shall control in all circumstances.

18. Notwithstanding anything to the contrary in this Final Order or the Motion or its attachments, the priority status of a creditor's claim, including that of claims arising under section 503(b)(9) of the Bankruptcy Code, shall not be affected by whether such creditor executes a Trade Agreement or provides services or goods to the Debtors under Customary Trade Terms, or otherwise.

19. Subject to Paragraph 17 of this Final Order, nothing in this Final Order shall otherwise limit, restrict, or impair the Global Debtors' ability to remit, transfer, or pay proceeds of sales of goods owned by third parties (including concessionaires, consignors, or other parties operating under concession, license, or similar arrangements with the Global Debtors), which are being held by the Global Debtors for the benefit of such third parties or constitute the property of such third parties, back to such third parties. For the avoidance of doubt, such remittances shall not be subject to the Final Order Cap, the conditions precedent to payment set forth herein (including execution of Trade Agreements), or any other limitations or restrictions contained in this Final Order.

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

21. Nothing in this Final Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Global Debtor that did not exist as of the Petition Date, (b) alter or impair any security interest or perfection thereof, in favor of any person or entity,

that existed as of the Petition Date, or (c) create any rights in favor of, or enhance the status of, any claim held by any party.

22. Nothing in the Motion or this Final Order, or the relief granted herein (including any actions taken or payments made by the Global Debtors), is to be construed as: (a) an implication or admission as to the amount of, basis for, or validity of any claim against the Global Debtors under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Global 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 implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a concession by the Debtors that any lien (contractual, common, statutory, or otherwise) satisfied pursuant to this Final Order are valid (and all rights to contest the validity, extent, or perfection or to seek avoidance of all such liens are expressly reserved; (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) 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; (h) a waiver of the obligation of any party in interest to file a proof of claim; (i) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or other applicable law; or (j) a determination that remittance of proceeds owned by third parties constitutes payment of a claim under the Bankruptcy Code. Nothing in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

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

24. 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) and the Local Rules are satisfied by such notice.

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

Signed: February 19, 2026

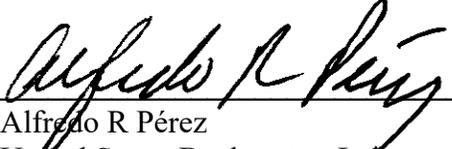

Alfredo R Pérez
United States Bankruptcy Judge

Exhibit 1

THIS TRADE AGREEMENT IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF A CHAPTER 11 PLAN. ACCEPTANCE OR REJECTION OF A CHAPTER 11 PLAN MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT FOR ANY SUCH CHAPTER 11 PLAN. THE INFORMATION IN THIS TRADE AGREEMENT IS SUBJECT TO CHANGE. THIS TRADE AGREEMENT IS NOT AN OFFER TO SELL ANY SECURITIES AND IS NOT SOLICITING AN OFFER TO BUY ANY SECURITIES.

TRADE AGREEMENT

Saks Global Enterprises LLC (the “Company”), on the one hand, and the supplier identified in the signature block below (the “Supplier”), on the other hand, hereby enter into the following trade agreement (this “Trade Agreement”) dated as of the latest date in the signature blocks below.

Recitals

WHEREAS on January 13, 2026 (the “Petition Date”) and January 14, 2026, the Company and certain of its indirect and direct subsidiaries and related entities (collectively, the “Debtors”) ¹ filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of Texas (the “Court”).

WHEREAS on January 14, 2026, the Court entered that certain *Interim Order (I) Authorizing Global Debtors to Pay Certain Prepetition Claims of Certain Critical Vendors and 503(b)(9) Claimants; (II) Confirming Administrative Expense Priority of Outstanding Orders; and (III) Granting Related Relief* (the “Interim Trade Claimant Order”) [Docket No. 163] authorizing the Global Debtors on an interim basis, under certain conditions, to pay the prepetition claims of certain suppliers, including the Supplier, subject to the terms and conditions set forth therein.²

WHEREAS prior to the Petition Date, the Supplier delivered goods to the Company and/or performed services for the Company, and the Company paid the Supplier for such goods and/or services, according to Customary Trade Terms (as defined herein).

WHEREAS the Company and the Supplier (each a “Party,” and collectively, the “Parties”) agree to the following terms as a condition of payment on account of certain prepetition claims the Supplier may hold against the Company.

Agreement

1. Recitals. The foregoing recitals are incorporated herein by reference as if set forth at length herein.

¹ For the avoidance of doubt, “Debtors” means, collectively, the Global Debtors and the SO5 Digital Debtors.

² Capitalized terms used but not defined herein shall have the meanings set forth in the Interim Trade Claimant Order.

2. Supplier Payment. The Supplier hereby agrees to accept payment in the amount of \$[●] on account of amounts due and owing as of the Petition Date by the Company to the Supplier (the “Agreed Supplier Claim”) in full and final satisfaction of any and all prepetition amounts outstanding. Within five (5) business days following: (i) execution of this Trade Agreement, the Company shall pay the Supplier \$[●], representing [●]percent ([●]%) of the Agreed Supplier Claim (without interest, penalties, or other charges) (such payment, the “Initial Supplier Payment”) and (ii) acceptance of the first shipment of goods and/or services performed following execution of this Trade Agreement, the Company shall pay the Supplier \$[●], representing the remaining [●]percent ([●]%) of the Agreed Supplier Claim (without interest, penalties, or other charges) (such payment, the “Remaining Supplier Payment” and together with the Initial Supplier Payment, the “Supplier Payment”), as such invoices become due and payable, in full and final satisfaction of the Agreed Supplier Claim.

3. Agreement to Supply.

a. The Supplier shall supply goods to and/or perform services for the Company, and the Company shall accept and pay for goods and/or services from the Supplier (to the extent the Company seeks such services) for the duration of the Global Debtors’ chapter 11 cases based on the following terms: those trade terms at least as favorable to the Company as those practices and programs (including credit limits, pricing, cash discounts, timing of payments, allowances (as may be incorporated or contemplated by any agreements between the Parties or based on historic practice, as applicable), product mix, availability, and other programs) in place in the 12 months prior to the Petition Date, or are otherwise acceptable to the Company in light of customary industry practices, except for any partial payments or other payments (or assurances) the Company made with respect to any unfinished product[, and/or as set forth in the supplemental terms attached hereto as Exhibit A] (the “Customary Trade Terms”). [In the event of any conflict or inconsistency between any other Customary Trade Terms and the terms set forth in Exhibit A, the terms of Exhibit A shall govern and control.] “Duration of the Global Debtors’ chapter 11 cases” means the earlier of: (a) the effective date of a chapter 11 plan in the Global Debtors’ chapter 11 cases; (b) the closing of a sale of all or a material portion of the Global Debtors’ assets pursuant to Bankruptcy Code section 363 resulting in a cessation of the Global Debtors’ business operations; (c) the commencement of a liquidation of the Global Debtors or conversion of the Global Debtors’ chapter 11 cases to cases under chapter 7 of the Bankruptcy Code; or (d) a dismissal of the Global Debtors’ chapter 11 cases.

b. The Customary Trade Terms may not be modified, adjusted, or reduced in a manner adverse to the Company except as agreed-to in writing by the Parties.

c. The Parties shall continue to honor any existing allowances, credits, contractual obligations, or balances that were accrued as of the Petition Date and shall apply all such allowances, credits, or balances towards the Company’s future orders in the ordinary course of business.

d. The Supplier shall continue all shipments of goods to the Company in the ordinary course and shall fill orders for goods requested by the Company in the ordinary course of business pursuant to the Customary Trade Terms.

e. All purchase orders placed by the Company are governed by the terms and conditions set forth in the Saks Global Vendor Standards Manual and any addenda, and the Saks Global Purchase Order Terms and Conditions.

4. Other Matters.

As long as the Supplier Payment is made in accordance with this Trade Agreement and the Company does not exercise its rights in Section 5(a):

a. The Supplier agrees that it shall not require a lump-sum payment upon the effective date of a plan in the Company's chapter 11 cases on account of any outstanding administrative claims the Supplier may assert arising from the delivery of postpetition goods or services, to the extent that payment of such claims is not yet due. The Supplier agrees that such claims will be paid in the ordinary course of business after confirmation of a plan pursuant to the Customary Trade Terms then in effect.

b. The Supplier will not separately seek payment from the Company on account of any prepetition claim (including, without limitation, any reclamation claim or any claim pursuant to section 503(b)(9) of the Bankruptcy Code) in excess of the Supplier Payment, which shall be paid in accordance with the terms of this Trade Agreement and any plan confirmed in the Global Debtors' chapter 11 cases.

c. The Supplier will not file or otherwise assert against the Company, its assets, or any other person or entity or any of their respective assets or property (real or personal) any lien, regardless of the statute or other legal authority upon which the lien is asserted, related in any way to any prepetition amounts allegedly owed to the Supplier by the Company. Furthermore, if the Supplier has filed or asserted such a lien prior to entering into this Trade Agreement, the Supplier will promptly take all necessary actions to remove such liens or revoke such assertions, as applicable.

5. Breach.

a. In the event that the Company pays the Supplier Payment and Supplier fails to satisfy its undisputed obligations arising under this Trade Agreement (a "Supplier Breach"), upon written notice to the Supplier describing the nature of the Supplier's defaults hereunder (which the Supplier shall have the right to dispute in accordance with Section 7(d)) and the Supplier's failure to cure such default within five (5) business days of such notice, the Supplier shall promptly pay to the Company immediately available funds in an amount equal to, at the election of the Company, the Supplier Payment or any portion of the Supplier Payment which cannot be recovered by the Company from the postpetition receivables then owing to the Supplier from the Company. The Supplier agrees and acknowledges that irreparable damage would occur in the event of a Supplier Breach and remedies at law would not be adequate to compensate the Company. Accordingly, the Supplier agrees that the Company shall have the right, in addition to any other rights and remedies existing in its favor, to an injunction or injunctions to prevent breaches of the provisions of this Trade Agreement and to enforce its rights and obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive relief and/or other equitable relief. The right to equitable relief, including

specific performance or injunctive relief, shall exist notwithstanding, and shall not be limited by, any other provision of this Trade Agreement. The Supplier hereby waives any defense that a remedy at law is adequate and any requirement to post bond or other security in connection with actions instituted for injunctive relief, specific performance, or other equitable remedies.

b. In the event that the Company recovers the Supplier Payment pursuant to Section 5(a) hereof or otherwise, the Agreed Supplier Claim shall be reinstated as if the Supplier Payment had not been made. and the Supplier shall be authorized to file a proof of claim for the amounts due and owing as of the Petition Date by the Company to the Supplier.

6. Notice.

If to the Supplier:
[Insert Supplier Address]

If to the Company:
225 Liberty Street, 31st Floor, New York, NY 10281

-and-

If to Proposed Counsel and Co-Counsel to the Global Debtors:
Willkie Farr & Gallagher LLP
787 7th Avenue, New York, NY 10019
Facsimile: (212) 728-8000
Attn: Allyson B. Smith and Zachary Charlton
E-mail: absmith@willkie.com; zcharlton@willkie.com

-and-

Haynes and Boone, LLP
1221 McKinney Street, Suite 4000, Houston, TX 77010
Facsimile: (713) 547 2600
Attn: Kelli Stephenson Norfleet
E-mail: kelli.norfleet@haynesboone.com

7. Representations and Acknowledgements. The Parties agree, acknowledge and represent that:

a. the Parties have reviewed the terms and provisions of the [Interim/Final] Trade Claimant Order and this Trade Agreement and consent to be bound by such terms and that this Trade Agreement is expressly subject to the procedures approved pursuant to the [Interim/Final] Trade Claimant Order;

b. any payments made on account of the Agreed Supplier Claim shall be subject to the terms and conditions of the [Interim/Final] Trade Claimant Order;

c. if the Supplier refuses to supply goods or services to the Company as provided herein or otherwise fails to perform any of its obligations hereunder, the Company may exercise all rights and remedies available under the Interim Trade Claimant Order, the Bankruptcy Code, or applicable law; and

d. in the event of disagreement between the Parties regarding whether a breach has occurred, either Party may apply to the Court on an emergency basis for a determination of their relative rights, in which event, no action may be taken by either Party, including, but not limited to, the discontinuing of shipment of goods from the Supplier to the Company or the withholding of the Supplier Payment or ordinary course payments, until a ruling of the Court is obtained.

8. Confidentiality. In addition to any other obligations of confidentiality between the Supplier and Company, the Supplier agrees to hold in confidence and not disclose to any party: (a) this Trade Agreement and any of its terms; and (b) any and all payments made by the Company pursuant to this Trade Agreement (collectively, the “Confidential Information”), except that Supplier may disclose this Trade Agreement to its attorneys, insurers, auditors, lenders, and professionals, each of whom shall maintain the confidentiality of this Trade Agreement; *provided* that if any party seeks to compel the Supplier’s disclosure of any or all of the Confidential Information, through judicial action or otherwise, or the Supplier intends to disclose any or all of the Confidential Information, the Supplier shall promptly provide the Company with written notice so that the Company may seek an injunction, protective order or any other available remedy to prevent such disclosure; *provided, further*, that, if such remedy is not obtained, the Supplier shall furnish only such information as the Supplier is legally required to provide.

9. Miscellaneous.

a. The undersigned signatories hereby represent and warrant that: (i) they have full authority to execute this Trade Agreement on behalf of the respective Parties; (ii) the respective Parties have full knowledge of, and have consented to, this Trade Agreement; and (iii) they are fully authorized to bind that Party to all of the terms and conditions of this Trade Agreement.

b. This Trade Agreement sets forth the entire understanding of the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements between them. This Trade Agreement may not be changed, modified, amended or supplemented, except in a writing signed by both Parties.

c. Signatures by facsimile or electronic signatures shall count as original signatures for all purposes.

d. This Trade Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

e. The Parties hereby submit to the exclusive jurisdiction of the Court to resolve any dispute with respect to or arising from this Trade Agreement.

f. This Trade Agreement shall be deemed to have been drafted jointly by the Parties, and any uncertainty or omission shall not be construed as an attribution of drafting by any Party.

[Signature Page Follows]

AGREED AND ACCEPTED AS OF THE LATEST DATE SET FORTH

BELOW:

[COMPANY]

[SUPPLIER]

By: [●]
Title: [●]

By: [●]
Title: [●]:

Date:

[Exhibit A]