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MEMORANDUM

March 2, 2009

To: Official Committee of Unsecured Creditors of Muzak Holdings LLC, *et al.* (the
"Committee")

From: Akin Gump Strauss Hauer & Feld LLP

Re: *In re Muzak Holdings LLC, et al.*, Summary of Pleadings Scheduled for
March 12, 2009 Hearing

I. ADMINISTRATIVE MOTIONS

1. "Sealing Motion" - Motion of the Debtors for Entry of an Order Authorizing the Debtors to File Certain Portions of Service Lists, Schedules of Assets and Liabilities and Statements of Financial Affairs Under Seal

By the Sealing Motion, the Debtors seek entry of an order authorizing the Debtors to redact: (i) certain portions of the Debtors' creditors' matrix (the "Creditor Matrix") to remove the identities of the Debtors' customers and certain key employees (the "Customer/Employee Information"); (ii) certain portions of affidavits and certificates of services filed during the course of these chapter 11 cases (the "Service Lists"); and (iii) certain limited portions of the Debtors' soon to be filed schedules of assets and liabilities and statement of financial affairs (collectively, the "Schedules and Statements") that contain certain employee compensation data and the Customer/Employee Information (together, the "Confidential Information").

The Debtors note that pursuant to certain Federal Rules of Bankruptcy Procedure and sections of the Bankruptcy Code, they are required to file or make available a Creditor Matrix containing all of their creditors with contact information, as well as schedules containing a list of all of their creditors and executory contracts. These lists will contain certain of the Debtors' customers, and the Debtors allege that serving their creditors with certain notices during these chapter 11 cases may result in disclosing the identity of their customers through related affidavits and certificates of service.

The Debtors assert that the identity of their customers is one of the primary assets of their estates. Accordingly, the Debtors contend that if such sensitive information becomes publicly available, the Debtors will be put at a competitive disadvantage, giving competitors insight into their customer base. In addition, the Debtors believe that the identity and compensation of certain key personnel should remain confidential to prevent competitors from soliciting these key personnel to the detriment of the Debtors businesses and estates.

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The Debtors request that the Court provide sole access to the unredacted copies of the Creditor Matrix, Schedules and Statements, and Service Lists to: (i) the United States Trustee; and (ii) the professionals engaged by (a) the Debtors' term loan lenders, (b) the agent for the Debtors' term loan lenders, and (c) the Committee.

II. FINANCING MOTIONS

1. **"Cash Collateral Motion" – Motion of the Debtors for Entry of Stipulated Interim and Final Orders (I) Authorizing Use of Cash Collateral, (II) Granting Adequate Protection, (III) Modifying the Automatic Stay, and (IV) Scheduling a Final Hearing**

By the Cash Collateral Motion, the Debtors seek entry of an interim order (the "Interim Cash Collateral Order") (i) authorizing the Debtors to use \$22.4 million in cash collateral (the "Cash Collateral") on an interim basis pending a final hearing on the Cash Collateral Motion; (ii) granting adequate protection to the Debtors' prepetition secured lenders (the "Prepetition Lenders") with respect to, *inter alia*, the Debtors' use of Cash Collateral and any diminution in the value of the Prepetition Lenders' interests in prepetition collateral (the "Prepetition Collateral"); (iii) prescribing the form and manner of notice and setting the time for a final hearing (the "Cash Collateral Final Hearing") to consider entry of a final order (the "Final Cash Collateral Order" and, together with the Interim Cash Collateral Order, the "Cash Collateral Order") granting the relief requested in the Cash Collateral Motion on a final basis; and (iv) granting related relief.

According to the Cash Collateral Motion, in the ordinary course of business, the Debtors use cash on hand and cash flow from operations (the "Cash Flow") to fund working capital, capital expenditures, and research and development efforts and for other general corporate purposes. The Debtors state that they continue to generate a positive Cash Flow and had accumulated approximately \$22.4 million in cash as of February 6, 2009. The Debtors maintain that this favorable cash position alleviates the need for additional funding, including debtor in possession financing.

The Debtors assert that an inability to use these funds during these chapter 11 cases could cripple the Debtors' business operations. Specifically, without the use of the Cash Collateral, the Debtors will not be able to pay their vendors, fund their payroll, pay professionals necessary for the successful reorganization of their business, or service their customers, all of which will cause immediate and irreparable harm to the Debtors' estates. The Debtors allege that in anticipation of filing these chapter 11 cases, they engaged in negotiations with the Prepetition Lenders to facilitate the continued use of the Cash Collateral. The Debtors submit that the proposed Final Cash Collateral Order is the product of these arms-length negotiations and constitutes an agreement by the Prepetition Lenders concerning the use of the Cash Collateral.

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A. The Debtors' Prepetition Secured Credit Facility

On April 15, 2005, Muzak LLC, as borrower, and Muzak Holdings LLC, as parent guarantor, entered into that certain credit agreement (the "Prepetition Credit Agreement") with Bear Sterns & Co. Inc., as sole lead arranger and sole bookrunner, Bear Stearns Corporate Lending Inc., as administrative and collateral agent (the "Original Agent") and the lenders from time to time party thereto. As part of the Prepetition Credit Agreement, the Prepetition Lenders agreed, subject to the terms and conditions set forth in the Prepetition Credit Agreement, to make certain loans to Muzak LLC, including a \$105 million senior secured term loan facility (the "Senior Credit Facility"). The obligations of Muzak LLC under the Senior Credit Facility are guaranteed by Muzak Holdings LLC and substantially all of Muzak LLC's direct and indirect subsidiaries, except for Electro-Systems Corporation and Muzak Heart & Soul Foundation. On November 12, 2008, the Original Agent resigned as administrative and collateral agent and JPMorgan Chase Bank was appointed successor. Prior to the Petition Date, the bank of New York Mellon was appointed successor administrative and collateral agent (the "Prepetition Agent") pursuant to the Senior Credit Facility.

To secure its obligations under the Senior Credit Facility, Muzak LLC granted to the Original Agent and the Prepetition Lenders a first priority security interest in, and lien upon (the "Prepetition Liens"), substantially all of the property of Muzak LLC, including tangible and intangible assets, and the capital stock of Muzak LLC's subsidiaries (the "Prepetition Collateral"). As of the Petition Date, approximately \$101.3 million remained outstanding under the Senior Credit Facility (such amount, in addition to any applicable fees and expenses as required under the Senior Credit Facility, the "Prepetition Obligations").

The Senior Credit Facility provided for quarterly installment payments of 0.25% of the original outstanding balance beginning in September 2005 until the final maturity date, which was originally April 15, 2008. On two separate occasions, the Prepetition Lenders agreed to extend the maturity date under the Secured Credit Facility. On March 16, 2007, in contemplation of a potential merger and subsequent or simultaneous sale to a third party, Muzak LLC amended the Senior Credit Facility to extend the maturity date from April 15, 2008 to January 19, 2009. On January 18, 2009, Muzak LLC and Muzak Holdings LLC entered into an agreement with the Prepetition Agent and Prepetition Lenders to further extend the maturity date to February 10, 2009.

B. Terms of the Use of Cash Collateral

The following is a summary of the salient terms of the Cash Collateral Order:

Specified Period: The period of time from the Petition Date through the date which is the earliest to occur of (i) the expiration of the

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Remedies Notice Period (defined below) or (ii) 11:59 p.m. (ET) on August 15, 2009.

Authorization to Use Cash Collateral:

The Debtors are authorized to use Cash Collateral during the Specified Period, up to the amounts, at the times, and for the purposes identified in the Budget, subject to the variances and limitations described in the Interim Cash Collateral Order.

Net Cash Flow Requirements:

For any week in the Budget, the amounts for each line item may vary so long as (i) the actual amount of Net Cash Flow¹ shall not fall below the amount set forth in the Budget measured on a repeating schedule of 4 week, 4 week, 5 week increments (with the first measurement date coming on the fourth Saturday following the Petition Date) with an allowed variance of 10% of Total Receipts; and (ii) for any 13 week period prior to any measurement date (with the first measurement date the thirteenth Saturday following the Petition Date and subsequent measurement dates on a repeating schedule of 4 week, 4 week, 5 week increments), the Debtors' Net Cash Flow over such 13 week period shall not fall below negative \$4,000,000.

Use:

During the Remedies Notice Period, the Debtors may use Cash Collateral in accordance with the terms and provisions of the Budget solely to meet payroll obligations, pay professional fees (subject to the Carve Out) and to pay expenses critical to the preservation of the Debtors and their estates as consented to by the Prepetition Agent and the Required Lenders, which consent shall not be unreasonably withheld.

Adequate Protection Liens:

The Debtors grant the Prepetition Agent, to the extent of any Diminution in Value,² additional and replacement continuing,

¹ "Net Cash Flow" is defined as Total Receipts minus Total Disbursements, excluding disbursements fees for (i) Professional Fees (as set forth in the Budget) and (ii) the cash payment of PIK Interest.

² "Diminution in Value" is defined as any diminution in value of the Prepetition Lenders' interests in the Prepetition Collateral (including Cash Collateral) resulting from the use of Cash Collateral, the use, sale or lease of Prepetition Collateral, the subordination of the Prepetition Liens to the Carve Out (as described below), and the imposition of the automatic stay.

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valid, binding, enforceable, non-avoidable and automatically perfected postpetition security interests in and liens under section 361(2) of the Bankruptcy Code (the “Adequate Protection Liens”) on the Postpetition Collateral, which includes all property of the Debtors existing on the Petition Date or acquired thereafter, except for the estates’ claims and causes of action under chapter 5 of the Bankruptcy Code, but including any causes of action under section 549 of the Bankruptcy Code. The Adequate Protection Liens are junior only to: (i) the Prepetition Liens; (ii) Permitted Encumbrances, which were expressly permitted by the Prepetition Credit Documents and were valid, properly perfected, non-avoidable and senior to the Prepetition Liens as of the Petition Date; and (iii) the Carve Out (defined below).

Adequate Protection
Superpriority Claim:

To the extent of any Diminution in Value of the Prepetition Collateral, the Debtors grant the Prepetition Agent and Prepetition Lenders superpriority administrative expense claims pursuant to sections 503(b) and 507(b) of the Bankruptcy Code (the “Adequate Protection Superpriority Claim”). However, the Interim Cash Collateral Order provides that the Adequate Protection Superpriority Claim shall not be satisfied from the Avoidance Actions or proceeds thereof, other than causes of action under section 549 of the Bankruptcy Code. The Adequate Protection Superpriority Claim is junior only to the Carve Out and the Prepetition Obligations.

Carve Out:

The Adequate Protection Liens and the Adequate Protection Superpriority Claim are junior to (i) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) and (ii) reasonable fees and expenses allowed and payable by order of the Court under sections 328, 330 or 331 of the Bankruptcy Code and any interim compensation procedures order, and payable as set forth in the Budget and up to amounts set forth in a monthly professional fee schedule (collectively, the “Allowed Professional Fees”). The Allowed Professional Fees will be calculated on a rolling, cumulative basis with a 10% variance and limited following a termination of the use of Cash Collateral, in an amount up to \$1,850,000 for the Debtors’

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professionals and \$490,000 for the Committee.

Adequate Protection Payments: The Debtors will pay the Prepetition Agent the following Adequate Protection Payments: (i) current cash payments of non-default rate interest, plus PIK Interest as provided in the Second Amendment; (ii) current cash payment of the reasonable and documented fees, costs and expenses of primary and local counsel to the Prepetition Agent, Bingham McCutchen LLP, as counsel to certain of the Prepetition Lenders, Reed Smith, LLP, as local counsel to certain of the Prepetition Lenders and Morgan Joseph & Co., Inc., as financial advisor to certain Prepetition Lenders;³ and (iii) continued maintenance and insurance on the Prepetition Collateral that is subject to the Adequate Protection Liens. The professionals entitled to receive payment of fees and expenses pursuant to this provision are not be required to comply with the U.S. Trustee fee guidelines, except to the extent provided in this provision, and such fees and expenses are not subject to allowance by the Court.

Indemnity Account: The Debtors will establish an account in the control of the Prepetition Agent (the "Indemnity Account") to secure any reimbursement, indemnification or similar continuing obligations of the Debtors in favor of the Prepetition Agent or Prepetition Lenders. The Debtors will deposit \$500,000 into the Indemnity Account upon the first to occur of (i) the expiration of the Specified Period or (ii) the payment in full of the Prepetition Obligations. The Cash Collateral Order grants the Prepetition Agent and Prepetition Lenders a first priority lien on the Indemnity Account.

Milestones: The Debtors' failure to achieve the following constitutes an Event of Default under the Cash Collateral Order: (i) obtain a Final Cash Collateral Order on or before 40 days after the Petition Date; (ii) file a plan and disclosure statement, the form and substance of which are acceptable to the Prepetition Agent

³ The following caveat was inserted into the Interim Cash Collateral Order at the First Day Hearing: "provided that no party receiving notice filed an objection to such payment of such fees within the notice period."

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and Required Lenders, on or before May 5, 2009; (iii) obtain an order approving a disclosure statement, the form of which order and the form and substance of which disclosure statement shall be acceptable to the Prepetition Agent and Required Lenders, on or before June 15, 2009; or (iv) obtain a final order confirming a plan, the form and substance of which order and plan shall be acceptable to the Prepetition Agent and Required Lenders, on or before August 10, 2009.

Challenges to Prepetition Liens:

The Committee may use up to \$25,000 of its share of the Allowed Professional Fees to investigate the validity, enforceability, perfection, priority or extent of the Prepetition Liens or any other claims against the Prepetition Agent or the Prepetition Lenders within 60 days following the formation of the Committee.

The Committee or, if no Committee is appointed, any other party in interest granted standing other than the Debtors, may seek to object or challenge the validity, extent, priority or perfection of the security interests or liens of the Prepetition Agent or Prepetition Lenders, or the validity, allowability, fully secured status or amount of the Prepetition Obligations. The Committee must commence any contested matter or adversary proceeding raising such challenge within 60 days from the formation of the Committee. If no Committee is appointed, any party in interest with standing may raise such a challenge within 75 days following the date of entry of the Interim Order.

III. BUSINESS OPERATIONS OF THE DEBTORS

1. “Critical Vendor Motion” – Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to Pay or Honor Prepetition Claims and Obligations to Certain Vendors, Licensees, Licensors and Lien Claimants and Approving Procedures Related Thereto

Pursuant to the Critical Vendor Motion, the Debtors seek entry of an interim order (the “Interim Critical Vendor Order”) and final order (the “Final Critical Vendor Order”) (i) authorizing, but not directing, the Debtors to pay or honor prepetition claims and obligations to certain vendors, licensors and lien claimants (collectively, the “Critical Vendors”) in an aggregate

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amount not to exceed \$850,000 on an interim basis (the “Interim Critical Vendor Cap”) and \$1.7 million on a final basis (the “Final Critical Vendor Cap”); (ii) authorizing, but not directing, the Debtors to pay or honor prepetition claims and obligations to licensees (the “Licensees”); and (iii) approving procedures related thereto.

Based on their books and records as of the Petition Date, the Debtors estimate that they have approximately 588 vendors with outstanding prepetition claims in the amount of approximately \$1.6 million. Of these vendors, the Debtors have identified 12 vendors that are critical to the Debtors’ business operations (the “Sole Source Vendors”). The Sole Source Vendors have outstanding prepetition claims in the aggregate amount of approximately \$608,000 (the “Sole Source Vendor Claims”). In addition to the Sole Source Vendor Claims, the Debtors estimate that they have approximately 12 critical licensors with outstanding prepetition claims in the amount of approximately \$1.7 million (the “Licensor Claims”) and an unknown number of lien claimants with outstanding prepetition claims in the amount of approximately \$200,000 (the “Lien Claims” and, together with the Sole Source Vendor Claims and the Licensor Claims, the “Critical Vendor Claims”).

A. Identifying Critical Vendors

The Debtors and their advisors identified the Critical Vendors using the following criteria: (i) whether the vendor is a “sole-source” provider; (ii) whether alternative vendors can provide similar goods or services on better, or equal, terms; (iii) whether the Debtors have sufficient inventory to continue operations while a replacement vendor, if any, could be found; (iv) whether the failure to pay amounts owed would cause the Debtors to incur higher costs or cause the Debtors to lose significant sales or future revenue; (v) whether an agreement exists that would compel the vendor to maintain its commercial relationship with the Debtors and, if so, whether the enforcement thereof could be accomplished in a timely and cost-efficient manner without unduly disrupting the Debtors’ business; (vi) whether an existing agreement includes and contemplates a vendor’s provision of goods and services that the Debtors rely upon to effectively operate; (vii) whether certain quality specifications or other requirements of the Debtors’ customers prevent the Debtors from obtaining a vendor’s products or services from alternative sources; (viii) whether a vendor meeting the foregoing criteria is able or likely to refuse to ship products to the Debtors postpetition if its prepetition balances are not paid; and (ix) whether certain vendors may be entitled to request an administrative expense priority claim under section 503(b)(9) of the Bankruptcy Code to the extent they delivered, and the Debtors received, goods within the 20 day period prior to the Petition Date.

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B. Critical Vendor Conditions of Payment

In return for payment of Critical Vendor Claims, the Debtors propose to obtain (i) favorable trade credit terms for the postpetition delivery of goods and services; and/or (ii) an acknowledgement that the Critical Vendor will agree to continue to provide services that fall outside the scope of an existing contract in accordance with prepetition practice and custom. With respect to Critical Vendors without contracts in place, the Debtors propose to condition payment upon the Critical Vendor's agreement to continue to supply goods and services on terms that are acceptable to the Debtors in light of historical practices between the parties (the "Customary Trade Terms") and, with respect to Critical Vendors that are party to prepetition contracts with the Debtors that do not encompass the entire array of services provided (the "Non-Contract Services"), the Debtors propose to condition payment upon agreement of the Critical Vendors in writing to provide the Debtors with the Non-Contract Services in accordance with prepetition practice and custom.

The Debtors additionally propose to enter into letter agreements (each, a "Critical Trade Agreement"), in their discretion, with each Critical Vendor that include, without limitation, the following terms:

- (a) The amount of such Critical Vendor's estimated prepetition trade claims, accounting for any setoffs, other credit and discounts thereto, shall be mutually determined in good faith by the Critical Vendor and Debtor, but such amount will be used only for the purposes of the Critical Trade Agreement and will not be determinative of the amount the claim;
- (b) The Critical Vendor's agreement to (i) be bound by the normal and customary trade terms, practices and programs which were most favorable to the Debtors and in effect for the period within 180 days of the Petition Date; or (ii) continue to provide the Debtors with the Non-Contract Services on terms as least as favorable as those that were in effect prepetition;
- (c) The Critical Vendor's agreement not to file or otherwise assert against the Debtors, their estates, or any other person or entity, or any of their respective assets or property (real or personal) any lien (each, a "Lien") related in any way to any remaining prepetition amounts allegedly owed to the Critical Vendor by the Debtors arising from goods provided to the Debtors prior to the Petition Date, and that, to the extent that the Critical Vendor has previously obtained such a Lien, the Critical Vendor shall immediately take all necessary actions to remove such Lien;
- (d) The Critical Vendor's acknowledgement that it has reviewed the terms and provisions of the Critical Vendor Order and consents to be bound thereby;

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- (e) The Critical Vendor's agreement not to separately assert or otherwise seek payment for reclamation claims outside of the terms of the Final Critical Vendor Order unless the Critical Vendor's participation in the trade payments authorized by the Final Critical Vendor Order is terminated; provided that such claims, if thereafter raised by the Critical Vendor as permitted by the Final Critical Vendor Order, shall be treated as though raised on the date of Final Critical Vendor Order;
- (f) If either the trade payments authorized by the Final Critical Vendor Order or the Critical Vendor's participation therein terminates, or a Critical Vendor who has received payment for a prepetition claim later refuses to supply goods to the Debtors on Customary Trade Terms, any payments received by the Critical Vendor on account of its Critical Vendor Claim will be deemed to have been in payment of then outstanding postpetition obligations owed to such Critical Vendor, and such Critical Vendor shall immediately repay to the Debtors any payments received on account of its Critical Vendor Claim to the extent that the aggregate amount of such payments exceed the postpetition obligations then outstanding, without the right of any setoffs, reclamation or otherwise.

C. Licensees

In addition to the Critical Vendor Claims, the Debtors also request authority to pay the prepetition amounts due and owing to their independent Licensees (the "Licensee Payables"). The relationships between the Debtors and the Licensees are governed by license agreements (the "License Agreements") that have renewable 10-year terms. Under the License Agreements, the Licensees are granted an exclusive license to, among other things, provide services to the Debtors' customers and to the Licensees' own customers using the Debtors' proprietary trademarks, and generate sales of the Debtors' products and services in their respective defined territories. The Debtors have identified approximately 56 Licensees. The Debtors submit that the Licensees are critical to the Debtors' business because an important part of the Debtors' revenues are generated by the Licensees and the Licensees have a unique knowledge of the Debtors' business and are not easily replaced.

1. National Clients

According to the Critical Vendor Motion, the Licensees provide services to certain national clients (each, a "National Client"), defined as a client with at least 50 business locations that use Muzak products spanning across at least 4 of Muzak's defined sales territories. National Clients include major retail and restaurant chains. To simplify the billing process, the Debtors utilize centralized billing for National Clients – as opposed to sending payments to each regional Licensee, National Clients consolidate their payments for various locations throughout the country and send their payments to a Muzak LLC cash deposit account (the "National Deposit

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Account”). Following receipt of payments from National Clients and on a bimonthly basis, the Debtors issue checks from the National Deposit Accounts to the Licensees on account of (i) recurring monthly music service charges, applicable to National Clients locations (the “Recurring Monthly Charges”); and (ii) non-recurring charges related to service, upgrades and installation (the “One-Time Charges” and, together with the Recurring Monthly Charges, the “Licensee Charges”). Pursuant to certain multi-territory account service agreements, the Debtors act as “agents” for the Licensees in the collection of the Licensee Charges. Funds received in the National Deposit Account on account of the Licensee Charges are held by the Debtors on behalf of the Licensees and, therefore, the Debtors allege that the only cash they have an interest in is the amount attributable to certain deductions for service fees, sales and similar taxes, and other agreed upon deductions (the “Deductions”).

2. *Local Clients*

The Licensees also provide services to local clients (each, a “Local Client”), which are defined as clients whose business locations cover a smaller geographic area than National Clients and/or who have fewer than 50 business locations that utilize the Debtors’ music products. Much like the National Clients, the Debtors offer centralized billing to Local Clients whereby the Local Clients remit a single monthly payment to a local deposit account (the “Local Deposit Account”), and the funds received in the Local Deposit Account are held by the Debtors on behalf of the Licensees.

3. *Subcontract Services*

In addition to the services provided to Local and National Clients, the Licensees also provide installation, service, maintenance, conversions and upgrade support to the Debtors’ clients (the “Subcontract Services”). The Licensees perform the Subcontract Services on a one-off, order-by-order basis and send the Debtors an invoice upon completion. The Debtors allege that certain Licensees hold prepetition claims on account of the Subcontract Services. Further, the Debtors submit that the Licensees may have rights under applicable non-bankruptcy laws to perfect materialmans’, mechanics’, artisans’, or other liens against the property of the Debtors’ clients, the creation of which could result in a breach of the Debtors’ contact with such clients. Accordingly, the Debtors seek authority to pay the Licensees any prepetition claims outstanding on account of the Subcontract Services, in a total amount of approximately \$100,000.

4. *Cash Collateral on Account of Licensee Charges*

The Debtors contend that, excluding the Deductions, the cash in the National Deposit Account and the Local Deposit Account belongs solely to the Licensees and is not property of the Debtors’ estates. Therefore, the Debtors do not believe that court approval is necessary or required to facilitate payment to the Licensees of the Licensee Payables. Nonetheless, the

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Debtors seek Court authorization to continue to operate the National Deposit Account and the Local Deposit Account and to facilitate payment of the applicable portions of the Licensee Charges to the Licensees that represent prepetition payables. According to the Critical Vendor Motion, the Licensee Payables total approximately \$2.3 million.

2. “Utilities Motion” – Motion of the Debtors for Entry of Interim and Final Orders Determining Adequate Assurance of Payment for Future Utility Services

By the Utilities Motion, the Debtors seek entry of an interim order (the “Interim Utilities Order”) and a final order (the “Final Utilities Order”) (i) determining that the Utility Providers (as defined below) have been provided with adequate assurance of payment within the meaning of section 366 of the Bankruptcy Code; (ii) approving the Debtors’ proposed adequate assurance; (iii) prohibiting the Utility Providers from altering, refusing, or discontinuing services on account of prepetition amounts outstanding and on account of any perceived inadequacy of the Debtors’ proposed adequate assurance pending entry of the Final Utilities Order; (iv) determining that the Debtors are not required to provide any additional adequate assurance beyond what is proposed by the Utilities Motion; and (v) setting a final hearing on the Debtors’ proposed adequate assurance. The Debtors assert that they receive gas, water, sewer, electric, telephone and other similar utility services from approximately 111 utility service providers (the “Utility Providers”) identified in a list filed with the Utilities Motion (the “Utility Providers List”). The Debtors spend an average of \$81,790 per month for utility services. The Debtors submit that uninterrupted utility services are essential to their ongoing operations and to the success of their reorganization.

The Debtors claim that they intend to timely pay postpetition obligations owed to the Utility Providers. The Debtors also anticipate that their cash flow from operations and cash on hand will be sufficient to pay postpetition obligations related to their utility services. To provide additional assurance of payment for future services, however, the Debtors propose to deposit \$40,895⁴ into a newly created, segregated, interest-bearing account (the “Utility Deposit Account”) for the benefit of the Utility Providers on or before the date that is 29 days after the Petition Date. In the event the Debtors add additional Utility Providers to the Utility Providers List, the Debtors propose to immediately add to the Utility Deposit Account an amount equal to the estimated projected cost for two weeks of utility service for each additional Utility Provider. The Debtors submit that the Utility Deposit Account, along with the Debtors’ demonstrated ability to pay for future utility services (together, the “Proposed Adequate Assurance”), provides sufficient adequate assurance to the Utility Providers.

⁴ This amount is equal to the estimated cost for two weeks of utility service, calculated as a historical average over the past 12 months.

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The Debtors propose that any Utility Provider that is not satisfied that the Utility Deposit Account provides adequate assurance may make a request for additional adequate assurance in accordance with certain procedures (the “Objection Procedures”). The Debtors also propose that any Utility Provider that objects to the Interim Utilities Order must file an objection (each, a “Procedure Objection”) pursuant to the Objection Procedures. The Debtors’ proposed Objection Procedures include the following:

- Any Procedure Objection must be sent to the Debtors and their counsel (the “Notice Parties”);
- Any Procedure Objection must be (i) in writing; (ii) set forth the location for which utility services are provided; (iii) include a summary of the Debtors’ payment history relevant to the affected account(s), including any security deposits; and (iv) explain why the Utility Provider believes the Debtors’ Proposed Adequate Assurance is not sufficient adequate assurance of future payment;
- Any Utility Provider that objects to the Debtors’ Proposed Adequate Assurance must file and serve a Procedure Objection so that it is actually received no later than 4:00 p.m. (ET) on a date that is no less than 5 business days before the Final Hearing (the “Objection Deadline”);
- For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of the Utilities Motion, the Interim Utilities Order or Final Utilities Order, as appropriate, the Utility Service List and notice of the Final Hearing on such subsequently added Utility Provider. Such subsequently added entities shall then have until 14 days from the service of such documents to file a Procedure Objection (the “Subsequent Objection Deadline,” and together with the Objection Deadline, the “Deadlines”);
- The Debtors are authorized to resolve, in their sole discretion, any Procedure Objection by mutual agreement with the Utility Provider and without further order of the Court and, in connection with any such agreement and in their sole discretion, provide a Utility Provider with additional adequate assurance of payment, including cash deposits, prepayments and other forms of security, without further order of the Court if the Debtors believe such additional adequate assurance is reasonable.

The Debtors request that all Utility Providers that fail to timely file a Procedure Objection be deemed to consent to the Proposed Adequate Assurance and be bound by the Final Utilities Order. The Debtors also request that the relief granted in the Interim Utilities Order and the Final Utilities Order apply to all Utility Providers providing utility services to the Debtors, and not be limited to the Utility Providers appearing on the Utility Service List.

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The Debtors also request that the Court schedule the Final Hearing approximately 25 days after the Petition Date. The Debtors submit that they will send notice of the Final Hearing, together with the Interim Utilities Order, to all Utility Providers listed on the Utility Service List no later than 2 business days after entry of the Interim Utilities Order. The Debtors propose that all Utility Providers that do not file a timely objection will be deemed to consent to the Proposed Adequate Assurance.

Finally, the Debtors seek authority, in their sole discretion, to amend the Utility Service List to add or remove any Utility Provider. The Debtors also request that the Interim Utilities Order and Final Utilities Order be deemed to apply to any such subsequently added Utility Provider, regardless of when the Utility Provider is added to the Utility Service List.

3. “Interim Fee Motion” – Motion for Entry of an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Statutory Committee Members

By the Interim Fee Motion, the Debtors seek entry of an order establishing procedures for (i) the allowance and payment of compensation for professional services rendered, and reimbursement of expenses incurred, by attorneys and other professionals in these bankruptcy cases (each a “Professional” and, collectively, the “Professionals”); and (ii) the allowance and reimbursement of expenses incurred by members of any statutory committees appointed in these cases (each a “Committee Member” and, collectively, the “Committee”). The Debtors further request that the Court limit service of fee applications (i) so that only certain notice parties (each, a “Notice Party”) receive a copy of each filed application and notices of such fee applications; and (ii) parties that have filed a request for service of filings pursuant to Bankruptcy Rule 2002 receive a notice of each filed fee application and instructions on how to access such application.

The Debtors propose that the payment of compensation and reimbursement of expenses of the Professionals be governed by the following procedures (the “Compensation Procedures”):⁵

- On or after the 20th day of each month following the month for which compensation is sought, and beginning on March 20, 2009, each Professional seeking compensation may serve a monthly statement (a “Monthly Fee Application”) on the Notice Parties. Any Professional or Committee Member that fails to file a Monthly Fee Application for a particular month or months may subsequently submit a consolidated Monthly Fee Application that includes a request for compensation earned or expenses incurred during previous months.

⁵ For a full description of the Compensation Procedures, please refer to the Interim Fee Motion.

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- Each Notice Party will have until 4:00 p.m. prevailing Eastern Time on the 20th day (or the next business day if such day is not a business day) following service of the Monthly Fee Application (the “Objection Deadline”) to object to the requested fees and expenses in accordance with the procedures described in the Interim Fee Motion. Upon expiration of the Objection Deadline, a Professional submitting the Monthly Fee Application may file a certificate of no objection with the Court with respect to the unopposed portion of the fees and expenses requested in the Monthly Fee Application (a “CNO”). After a CNO is filed, or if an objection is filed only as to certain amounts, the Debtors are authorized and directed to pay the Professional an amount (the “Actual Monthly Payment”) equal to the lesser of (i) 80% of the fees and 100% of the expenses requested in the applicable Monthly Fee Application (the “Maximum Monthly Payment”); and (ii) 80% of the fees and 100% of the expenses requested in the applicable Monthly Fee Application that are not subject to an objection.
 - Each Professional may submit its first Monthly Fee Application no earlier than March 20, 2009. The initial Monthly Fee Application will cover the period from the Petition Date through February 28, 2009.
 - At quarterly intervals or such other intervals convenient to the Court (the “Interim Fee Period”), each of the Professionals may file with the Court and serve a request (each, an “Interim Fee Application Request”) for interim Court approval and allowance of the compensation and reimbursement of expenses sought by such Professional in its Monthly Fee Applications, including any holdbacks, filed during the Interim Fee Period, pursuant to section 331 of the Bankruptcy Code. Each party may serve its first Interim Fee Application Request on or before the 45th day following the end of the first Interim Fee Period.
 - Neither (i) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses under the Compensation Procedures, nor (ii) the filing of or failure to file an Objection will bind any party in interest or the Court with respect to the final allowance of applications for compensation and reimbursement of expenses of Professionals and Committee Members. All fees and expenses paid to Professionals under the Compensation Procedures are subject to disgorgement until final allowance by the Court.
4. **“SOFA Motion” – Motion of the Debtors for Entry of an Order Extending the Deadline to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases and Statements of Financial Affairs**

Pursuant to the SOFA Motion, the Debtors seek entry of an order extending the deadline by which the Debtors must file their schedules of assets and liabilities, schedules of executory

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contracts and unexpired leases and statements of financial affairs (collectively, the “Schedules and Statements”) – which is currently March 12, 2009 – for an additional 32 days, through and including April 13, 2009, without prejudice to the Debtors’ ability to request additional time. Currently, the Bankruptcy Rules require the Debtors to file their Schedules and Statements within 30 days after the Petition Date.

In support of the relief requested in the SOFA Motion, the Debtors assert that they require extra time to prepare and file their Schedules and Statements due to the limited staff available to perform the required internal review of their business and affairs, the pressure incident to the commencement of these chapter 11 cases, and the fact that certain prepetition invoices have not yet been received or entered into the Debtors’ financial accounting system.

Moreover, on the Petition Date, the Debtors filed the Sealing Motion, by which the Debtors seek to redact certain confidential information that could otherwise be disclosed as part of the Schedules and Statements. Consequently, the Debtors do not intend to file the Schedules and Statements until the Sealing Motion is heard on March 12, 2009.

IV. PROFESSIONAL RETENTION APPLICATIONS

1. “K&E Application” – Debtors’ Application for Entry of an Order Authorizing the Employment and Retention of Kirkland & Ellis LLP as Attorneys for the Debtors and Debtors In Possession *Nunc Pro Tunc* to the Petition Date

By the K&E Application, the Debtors seek entry of an order authorizing the Debtors to employ and retain Kirkland & Ellis LLP (“K&E”) as their attorneys, *nunc pro tunc* to the Petition Date, in accordance with the terms and conditions set forth in that certain engagement letter (the “K&E Engagement Letter”), dated as of November 10, 2008, between K&E and the Debtors.

According to the K&E Application, K&E’s representation of Muzak extends back to March 1999. During the course of this 9 year relationship, K&E has represented Muzak on a number of corporate matters. Additionally, K&E has represented the Debtors with respect to restructuring matters since November 2008. The Debtors submit that, as a result, K&E is familiar with the Debtors’ business, financial affairs, capital structure and many of the potential legal issues that may arise in the context of these chapter 11 cases. Accordingly, the Debtors contend that K&E is both well qualified and uniquely able to represent them in these chapter 11 cases in an efficient and timely manner.

As set forth in the K&E Application and K&E Engagement Letter, K&E will render the following services:

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- Advise the Debtors with respect to their powers and duties as debtors and debtors in possession in the continued management and operation of their business and properties;
- Advise the Debtors on the conduct of these chapter 11 cases, including all of the legal and administrative requirements of operating in chapter 11;
- Attend meetings and negotiate with representatives of creditors and other parties in interest;
- Prosecute actions on the Debtors' behalf, defend any action commenced against the Debtors and represent the Debtors' interests in negotiations concerning litigation in which the Debtors are involved, including objections to claims filed against the Debtors' estates;
- Prepare pleadings in connection with these chapter 11 cases, including motions, applications, answers, orders, reports and papers necessary or otherwise beneficial to the administration of the Debtors' estates;
- Appear before the Court and any appellate courts to represent the interests of the Debtors;
- Advise the Debtors regarding tax matters;
- Assist the Debtors in obtaining approval of a disclosure statement and confirmation of a chapter 11 plan and all documents related thereto; and
- Perform all other necessary legal services for the Debtors in connection with the prosecution of these chapter 11 cases, including (i) analyzing the Debtors' leases and contracts and the assumptions, rejections or assignments thereof, (ii) analyzing the validity of liens against the Debtors and (iii) advising the Debtors on corporate and litigation matters.

According to the K&E Application, K&E intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable procedures and orders of the Court. The Debtors and K&E have agreed that K&E will be compensated for services at hourly rates and reimbursed for reasonable and necessary expenses, subject to approval of the Court. K&E's current hourly rates for matters related to these chapter 11 cases range as follows:

Billing Category	Hourly Rate
Partners	\$500-\$965
Of Counsel	\$390-\$960
Associates	\$320-\$660
Paraprofessionals	\$110-\$280

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Edward O. Sassower (\$735) and Joshua A. Sussberg (\$610) will have primary responsibility for providing services to the Debtors.

As set forth in the declaration of Edward O. Sassower, K&E currently represents, formerly has represented and in the future likely will represent ABRY Partners LLC (“ABRY”), including in connection with ABRY’s August 1988 acquisition of shares of Muzak and subsequent investments in the Debtors. On account of this representation, the K&E Application provides that Klehr, Harrison, Harvey, Branzburg & Ellers LLP (proposed co-counsel to the Debtors) will handle all matters adverse to ABRY.

As of the Petition Date, K&E held \$1,100,000 in a retainer provided by the Debtors, and K&E has received payment from the Debtors totaling \$3,340,615.49 in the 90 days prior to the Petition Date. The Debtors submit that, as of the Petition Date, they do not owe K&E any amounts for legal services rendered before the Petition Date.

2. “Moelis Application” Debtors’ Application for Entry of an Order Authorizing the Employment and Retention of Moelis & Company LLC as Financial Advisor and Investment Banker for the Debtors and Debtors In Possession *Nunc Pro Tunc* to the Petition Date

By the Moelis Application, the Debtors seek entry of an order authorizing the Debtors to retain and employ Moelis & Company LLC (“Moelis”) as their financial advisor and investment banker in accordance with the terms and conditions set forth in that certain engagement letter by and between Moelis and Muzak Holdings LLC, dated as of December 3, 2008 (the “Moelis Engagement Letter”).

The Debtors believe that Moelis’ services are critical to the success of these chapter 11 cases given their expertise and prepetition experience advising the Debtors on merger or sale possibilities. During these chapter 11 cases, Moelis will assist in the evaluation of strategic alternatives relating to a restructuring of the Debtors’ debt obligations and render investment banking and financial advisory services to the Debtors, including, without limitation: (i) undertaking a comprehensive business and financial analysis of the Debtors; (ii) evaluating the Debtors’ debt capacity and assist in the determination of an appropriate capital structure for the Debtors; (iii) initiating, negotiating, and reviewing any Restructuring Transaction⁶ or Capital

⁶ A Restructuring Transactions is defined in the Engagement Letter as any substantive restructuring, reorganizing, rescheduling, modification or other amendment of alteration to the terms, conditions or covenants of any of the Debtors’ debt obligations.

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Transaction⁷ of the Debtors and developing alternative proposals, if directed; (iv) if requested, participating in hearings before the Court and providing relevant testimony; and (v) providing such other financial advisory and investment banking services as may be agreed upon by Moelis and the Debtors.

Moelis proposes to receive compensation for its services in advising and assisting the Debtors pursuant to the proposed fee structure specified in the Moelis Engagement Letter (the “Fee Structure”). The Fee Structure is as follows:

- Monthly Fee: The Debtors will pay Moelis a monthly fee of \$175,000 per month (the “Monthly Fee”). The Monthly Fee shall be paid by the Debtors on or before the first business day of every month. Whether or not a Restructuring Transaction or Capital Transaction has taken place or will take place, Moelis will earn and be paid the Monthly Fee for every month during the term of the Moelis Engagement Letter; provided, however, that one half of each Monthly Fee paid in respect of any months following the fourth month of the engagement (*i.e.* April 2009), and all Monthly Fees paid in respect of any months following the ninth month of the engagement (*i.e.* September 2009), shall be credited against any Restructuring Fee (as defined below);
- Restructuring Fee: The Debtors will pay Moelis a fee of \$4 million (a “Restructuring Fee”) payable upon the consummation of a Restructuring Transaction; and
- Capital Transaction Fee: The Debtors will pay Moelis a fee (the “Capital Transaction Fee”) upon consummation of a Capital Transaction. The Capital Transaction Fee will be paid in cash and will be in an amount customary for similar Capital Transactions, subject to the mutual agreement of the Debtors and Moelis at the appropriate time. The Capital Transaction Fee will be paid immediately upon the closing of each Capital Transaction.

The Debtors note that they have agreed to indemnify Moelis and to make certain contributions to Moelis in accordance with the indemnifications provisions incorporated in the Moelis Engagement Letter. The Debtors assert that such indemnification and contribution provisions are customary and reasonable terms of consideration for financial advisors and investment bankers in connection with restructuring initiatives.

⁷ A Capital Transaction is defined in the Engagement Letter as one or a series of transactions in which the company raises or issues, whether effected pursuant to a plan, any (i) secured or unsecured debt; (ii) equity interests; (iii) hybrid capital; or (iv) options warrants or other rights to acquire equity interests.

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3. “Klehr Harrison Application” – Debtors’ Application for Entry of an Order Authorizing the Employment and Retention of Klehr, Harrison, Harvey, Branzburg & Ellers LLP as Co-Counsel to the Debtors *Nunc Pro Tunc* to the Petition Date

By the Klehr Harrison Application, the Debtors seek entry of an order authorizing the Debtors to retain and employ Klehr, Harrison, Harvey, Branzburg & Ellers LLP (“Klehr Harrison”) as their bankruptcy co-counsel, *nunc pro tunc* to the Petition Date, in accordance with the terms of that certain engagement letter among the Debtors and Klehr Harrison dated December 31, 2008 (the “Klehr Harrison Engagement Letter”).

According to the Klehr Harrison Application, the Debtors selected Klehr Harrison as their bankruptcy co-counsel because the firm possesses extensive experience and knowledge in the area of debtors’ and creditors’ rights and business reorganizations under chapter 11 of the Bankruptcy Code, and because of the firm’s experience and skill in practicing before the Court. The Debtors submit that Klehr Harrison is well qualified and able to represent them in these chapter 11 cases in a timely and efficient manner.

The Debtors note that they have also filed an application to retain and employ K&E as co-counsel in these chapter 11 cases. The Debtors assert that they intend for Klehr Harrison to handle matters that the Debtors may encounter that K&E is unable to handle due to conflicts of interest or that can be more efficiently handled by Klehr Harrison. The Debtors submit that the services provided by Klehr Harrison will compliment the services provided by K&E, and the Debtors represent that they will take steps to ensure that there is minimal, if any, duplication.

Under the terms of the Klehr Harrison Engagement Letter, Klehr Harrison will provide the following services:

- Advise the Debtors of their rights, powers and duties as debtors and debtors in possession;
- Take all necessary action to protect and preserve the Debtors’ estates, including the prosecution of actions on the Debtors’ behalf, the defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved and the preparation of objections to claims filed against the Debtors’ estates;
- Prepare all necessary motions, applications, answers, orders, reports and papers in connection with the administration of the Debtors’ estates; and
- Perform all other necessary legal services in connection with these chapter 11 cases.

According to the Klehr Harrison Application, Klehr Harrison intends to apply to the Court for allowance of compensation and reimbursement or expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. The

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Debtors provide that Klehr Harrison will be paid on an hourly basis, and Klehr Harrison will also be reimbursed for actual, necessary expenses and other charges incurred. The Debtors propose to pay Klehr Harrison at its normal hourly rates, which the Debtors submit are reasonable. The Klehr Harrison Application identifies the principal attorneys and paralegals presently involved in the representation of the Debtors and sets forth their hourly rates:

Individual	Hourly Rate
Morton R. Branzburg, Partner	\$575
Domenic E. Pacitti, Partner	\$475
Michael Yurkewicz, Of Counsel	\$350
Jennifer Patone Cook, Associate	\$250
Melissa K. Hughes, Paralegal	\$160

On December, 31, 2008, the Debtors advanced a retainer of \$150,000 to Klehr Harrison in connection with the planning and preparation of the Debtors' chapter 11 filings and Klehr Harrison's proposed postpetition representation of the Debtors. The Debtors note that a portion of such retainer was applied to outstanding balances existing as of the Petition Date. According to the Debtors, Klehr Harrison has yet to complete its final reconciliation of the prepetition fees and expenses to be applied against the \$150,000 retainer amount, and the details of Klehr Harrison's final reconciliation will be included in the first application for compensation filed by the firm in these chapter 11 cases. The Debtors assert that any remaining amount of the retainer will be treated as a classic retainer and will be applied against final invoices.

4. "Ordinary Course Professionals Motion" – Motion of the Debtors for Entry of an Order Authorizing the Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business *Nunc Pro Tunc* to the Petition Date

Pursuant to the Ordinary Course Professionals Motion, the Debtors request authority to retain and compensate (i) certain professionals, including various attorneys, accountants and other professionals, utilized in the ordinary course of the Debtors' business (each, an ordinary course professional or "OCP" and, collectively, the "OCPs") and (ii) Service Providers,⁸ *nunc pro tunc* to the Petition Date. For the purpose of administrative efficiency, the Debtors seek to retain the OCPs and Service Providers without having to prepare and submit individual applications and proposed retention orders. The Debtors submit that the continued employment and compensation of the OCPs and the Service Providers is in the best interests of their estates, creditors and other parties in interest. Further, the Debtors believe that some of the OCPs and the

⁸ "Service Providers" include management consultants, customer consultants, public relations specialists, actuaries and other service providers.

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Service Providers may not continue to represent the Debtors on an ongoing basis without the relief requested in the Ordinary Course Professionals Motion. By the Ordinary Course Professionals Motion, the Debtors do not request authority to pay prepetition amounts owed to OCPs or Service Providers.

A. OCP Procedure

The Debtors propose the following procedures for retaining and compensating OCPs:

- Declaration of Disinterestedness: Each OCP will be required to submit a declaration of disinterestedness (“Declaration of Disinterestedness”) at least 14 days prior to submitting an invoice (each, an “Invoice”) to the Debtors.
- Invoice: Each OCP must also submit an Invoice setting forth, in reasonable detail, the nature of the services rendered and expenses incurred after the Petition Date.
- OCP Cap: Each OCP’s fees, excluding costs and disbursements, may not exceed \$50,000 per month on average over a rolling three-month period (the “OCP Cap”). To the extent that the payment to any OCP exceeds the limits set forth in the OCP Cap, such payment will become subject to prior approval of the Court upon application to the Court for an allowance of compensation and reimbursement of expenses.
- Objections: Parties in interest, including the Committee, will have 10 days after the service of each OCP’s Declaration of Disinterestedness to object to the retention of such OCP.
- Payment: If no objection is received, or after an objection is resolved by the parties or the Court, the Debtors will be authorized to pay, without formal application, 100% of the fees and disbursements to each of the OCPs retained pursuant to these procedures.

B. Service Providers Procedure

With respect to the Service Providers, the Debtors request permission from the Court to continue, in their discretion, to employ and pay the Service Providers from and after the Petition Date in the ordinary course of business; provided, however, that any Service Provider who becomes materially involved in the administration of the chapter 11 cases will be retained pursuant to section 327 of the Bankruptcy Code.