

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
CLOVER TECHNOLOGIES GROUP, LLC, <i>et al.</i> , ¹)	
)	Case No. 19-12680 (___)
Debtors.)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY
OF AN ORDER AUTHORIZING PAYMENT OF CERTAIN
PREPETITION CLAIMS IN THE ORDINARY COURSE OF BUSINESS**

The above-captioned debtors and debtors in possession (collectively, the “Debtors” and together with their non-debtor affiliates, the “Company”) respectfully state as follows in support of this motion:²

Preliminary Statement

1. As described more fully in the First Day Declaration, the Debtors commenced these chapter 11 cases with a restructuring support agreement (the “Restructuring Support Agreement”) signed by key stakeholders across their capital structure. Through the Restructuring Support Agreement, holders of approximately 70 percent of the Debtors’ Term Loan Secured Claims and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Clover Technologies Group, LLC (9236); 4L Holdings Corporation (0292); 4L Technologies Inc. (5035); Clover Ithaca Properties, LLC (9236); Refurb Holdings, LLC (1230); Clover Wireless, LLC (0313); and Valu Tech Outsourcing, LLC (3563). The location of the Debtors’ service address in these chapter 11 cases is: 5850 Granite Parkway, Suite 720, Plano, Texas 75024.

² A detailed description of the Debtors and their business, and the facts and circumstances supporting the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Andrew Buck, Chief Financial Officer of Clover Wireless, LLC in Support of the Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed substantially contemporaneously with the Debtors’ voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on December 16, 2019 (the “Petition Date”) and incorporated by reference herein. Capitalized terms used but not otherwise defined in this motion shall have the meanings ascribed to them in the First Day Declaration or in the Plan, as applicable.

approximately 72.8% of Existing Equity Interests have documented their support for the Debtors' plan of reorganization (the "Plan").

2. The ultimate goal of the Plan, and these chapter 11 cases, is to restructure the Debtors' balance sheet while preventing any interruption to their ongoing business operations. The Debtors negotiated the terms of the Plan with this goal in mind. Under the Plan, the legal, equitable, and contractual rights of all creditors are unimpaired, with the exception of the holders of Term Loan Secured Claims and holders of Existing Equity Interests, the vast majority of whom have provided their consent through the Restructuring Support Agreement. Through this design, the Plan is meant to avoid disruption to the normal operations of the Debtors' business upon the commencement of these chapter 11 cases.

3. The Debtors' business is dependent on maintaining positive relationships with their creditors, many of whom are essential to their business operations. Accordingly, the Debtors seek to honor their commitments to make payments on behalf of incurred liabilities that have given rise to certain prepetition claims (the "Accounts Payable Claims") throughout the course of these chapter 11 cases. The Debtors estimate that, as of the Petition Date, there are approximately \$18 million of accrued and unpaid Accounts Payable Claims.

4. Accordingly, the relief requested in this motion is tailored to further the Debtors' restructuring goals and to maximize the value of their estates. Through this motion, the Debtors seek authority to pay amounts owed on account of the Accounts Payable Claims as they come due in the ordinary course of business. The Debtors also seek authority to satisfy, in the ordinary course of business, any undisputed obligations on account of goods ordered by the Debtors prepetition that will not be delivered until after the Petition Date. In light of the prepackaged nature of these chapter 11 cases, the unimpaired treatment of General Unsecured Claims under the

Plan, and the affirmative support for the Plan expressed by creditors across the Debtors' capital structure, the Debtors believe that this relief is appropriate.

Relief Requested

5. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), (a) authorizing the Debtors to pay in the ordinary course of business all Accounts Payable Claims of certain general unsecured creditors and creditors whose Accounts Payable Claims may give rise to liens under certain state and federal laws (collectively, the "Creditors");³ and (b) granting administrative expense priority to all undisputed obligations on account of goods ordered by the Debtors prior to the date hereof that will not be delivered until after the Petition Date and authorizing the Debtors to satisfy such obligations in the ordinary course of business.⁴

6. The Debtors also request that any order entered on this motion provide that: (a) if a Creditor is subject to a prepetition contract with the Debtors (the terms of such prepetition contract, the "Customary Terms"), then the Debtors are authorized to condition payment of Accounts Payable Claims on a Creditor's maintenance or application, as applicable, of contract terms during the pendency of these chapter 11 cases that are at least as favorable to the Debtors as those Customary Terms; and (b) if a Creditor, after receiving a payment under the order, ceases to operate in keeping with the Customary Terms, then the Debtors may, in their sole discretion, deem

³ As used herein, the term "Creditors" does not include any Debtor or any "affiliate" (as such term is defined in section 101(2) of the Bankruptcy Code) of any Debtor.

⁴ Contemporaneously with the filing of this motion, the Debtors have filed certain other "first day" motions seeking authority to satisfy certain prepetition obligations to parties including, among others, employees, utility providers, and taxing authorities. This motion is not duplicative of any such motion. As used herein, the term "Accounts Payable Claims" does not include any obligation the Debtors seek to pay under a separate motion. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors or a waiver of the Debtors' rights to dispute any asserted claim.

such payment to apply instead to any postpetition amount that may be owing to such Creditor or to treat such payment as an avoidable postpetition transfer of property.

Jurisdiction and Venue

7. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

8. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The statutory bases for the relief requested herein are sections 105(a), 363, and 503(b)(9) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 6007, and Local Rules 2002-1 and 9013-1.

Background

10. The Debtors collect and recycle electronic devices and provide aftermarket management services for mobile device carriers, manufacturers, retailers, insurance providers and enterprise businesses. Formed through organic growth and strategic acquisitions, the Debtors and their non-debtor affiliates operate repair centers in North America and abroad and provide services in over 120 countries. The Company’s comprehensive services portfolio includes a full suite of returns management, customized trade-in and buyback programs, and device re-marketing through

multiple sales channels, and their repair and reclamation services restore devices to high-quality condition while avoiding waste and maximizing value for their customers.

11. Prior to the Petition Date, the Debtors engaged in extensive discussions with the Consenting Stakeholders. These extensive, good faith, arm's-length discussions culminated in the execution of the Restructuring Support Agreement, which serves as the foundation for the Plan and has the support of the vast majority of the Debtors' funded debt holders. The Plan provides for a comprehensive restructuring of the Debtors' prepetition funded debt obligations, leaves General Unsecured Claims unimpaired, preserves the going-concern value of the Debtors' business, maximizes creditor recoveries, and protects the jobs of the Company's invaluable employees. The transactions contemplated by the Restructuring Support Agreement and Plan will enable the Debtors to substantially deleverage their balance sheet and position their business for stability and success after emergence from chapter 11.

12. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors have also filed a motion requesting joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). The Debtors are operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases and no official committees have been appointed or designated.

The Debtors' Business Obligations

I. The Accounts Payable Claims.

13. The Creditors provide the Debtors with goods and services in the ordinary course of business, including, among other things, the electronic devices and device component parts that constitute the Debtors' inventory; packaging materials and consumable supplies; shipping,

warehousing, and logistical services; and other basic business necessities for the operation of the Debtors' business. The Debtors thus incur numerous fixed, liquidated, and undisputed payment obligations to the Creditors in the ordinary course of business. These payment obligations averaged approximately \$11 million per month, in the aggregate, for the twelve months preceding the Petition Date, and as of the Petition Date, the Debtors estimate that there are approximately \$18 million of accrued and unpaid Accounts Payable Claims.

14. The goods and services giving rise to the Accounts Payable Claims are necessary to the Debtors' business operations. A significant portion of the Accounts Payable Claims are related to the electronic devices and device component parts that constitute the Debtors' inventory. The failure to timely pay these Accounts Payable Claims could result in material disruptions in the Debtors' business operations, which could have a negative impact on their reputation with their customers. Additionally, a portion of the Accounts Payable Claims comprise section 503(b)(9) claims, on account of goods delivered to the Debtors within 20 days of the Petition Date. Such claims are entitled to administrative priority and are required to be paid in full to confirm a plan of reorganization. Similarly, a portion of the Accounts Payable Claims are held by Creditors that may be able to assert liens on account of any unpaid obligations, such as carrier liens, warehouseman's liens, and mechanics' liens. The failure to timely pay the Accounts Payable Claims of such Creditors could unnecessarily disrupt the Debtors' business operations.

II. The Outstanding Orders.

15. Prior to the Petition Date, and in the ordinary course of business, the Debtors may have ordered goods that will not be delivered until after the Petition Date (the "Outstanding Orders"). In the mistaken belief that they would be general unsecured creditors of the Debtors' estates with respect to such goods, certain suppliers may refuse to ship or transport such goods (or may seek to recall shipments then in-transit) with respect to such Outstanding

Orders unless the Debtors issue substitute purchase orders postpetition—potentially disrupting the Debtors’ ongoing business operations and requiring the Debtors to expend substantial time and effort in issuing such substitute orders. As set forth in greater detail below, because the Outstanding Orders are administrative expenses of the Debtors’ estates, the Debtors are requesting that the Court confirm the administrative expense priority of the Outstanding Orders and authorize the Debtors to pay amounts due on account of Outstanding Orders but only in the ordinary course of business.

Basis for Relief

I. Payment of the Accounts Payable Claims is Warranted Under Sections 363(b) and 105(a) of the Bankruptcy Code.

16. Courts have recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business’s going-concern value. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 825–26 (D. Del. 1999); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175–76 (Bankr. S.D.N.Y. 1989); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983). In so doing, these courts acknowledge that several legal theories rooted in sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims.

17. Section 363(b) of the Bankruptcy Code permits a bankruptcy court, after notice and a hearing, to authorize a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). “In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a sound business purpose justifies such actions.” *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (collecting cases); *see also Armstrong World*, 29 B.R. at 397 (relying on

section 363 to allow a contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to debtors); *Ionosphere Clubs*, 98 B.R. at 175 (finding that a sound business justification existed to justify payment of certain prepetition wages); *In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring the debtor to show a “good business reason” for a proposed transaction under section 363(b)).

18. Courts also authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code codifies a bankruptcy court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor’s businesses. *See Just for Feet*, 242 B.R. at 825–26. Specifically, a court may use its power under section 105(a) of the Bankruptcy Code to authorize payment of prepetition obligations pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”). *See, e.g., Ionosphere Clubs*, 98 B.R. at 176; *In re Lehigh & New England Railway Co.*, 657 F.2d 570 (3d Cir. 1981) (stating that courts may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *see also In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (noting that, in the Third Circuit, debtors may pay prepetition claims that are essential to the continued operation of the business). A bankruptcy court’s use of its equitable powers to “authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *Ionosphere Clubs*, 98 B.R. at 175–76 (citing *Miltenberger v. Logansport, C. & S.W. Ry. Co.*, 106 U.S. 286 (1882)).

Indeed, at least one court has recognized that there are instances when a debtor's fiduciary duty can "only be fulfilled by the preplan satisfaction of a prepetition claim." *In re CoServ*, 273 B.R. at 497.

19. The Debtors respectfully submit that the relief requested herein is in the best interest of their estates, Creditors, and other parties in interest. A significant portion of the Accounts Payable Claims are held by Creditors that provide the Debtors goods and services necessary to run their business. In many cases, including where a Creditor may itself be facing financial hardship or where a Creditor may be able to easily transition its business to competitors of the Debtors, the Debtors' failure to timely pay Accounts Payable Claims may result in Creditors stopping work for, or deliveries to, the Debtors, which may severely disrupt the Debtors' businesses.

20. That disruption may occur before the Debtors would be able to successfully bring an action to compel performance or otherwise enforce the automatic stay. Also, the Debtors interact with the Creditors pursuant to a variety of arrangements, including arrangements that may not be executory in nature. The counterparty of such an arrangement may not agree to continue to do business with the Debtors unless paid on account of prepetition amounts due from the Debtors and would be under no obligation to do so.

21. Because the Debtors will pay the Accounts Payable Claims in full in the ordinary course of business under the Plan, the relief requested in this motion seeks to alter only the timing of payments, not whether such payments will ultimately be made to Creditors under the Plan. By expediting payment of Accounts Payable Claims that otherwise would be paid at a later date under the Plan, the relief requested herein avoids unnecessary disruption and harm to the Debtors' business and facilitates a timely restructuring process. Indeed, the Debtors believe that delaying payment of Accounts Payable Claims beyond normal practices could damage the Debtors' going

concern value by undermining the “business as usual” message that serves as a cornerstone to these chapter 11 cases. Moreover, the ability to continue making ordinary course payments to the Debtors’ day-to-day creditors was a key component of the Debtors’ prepetition negotiations. The Debtors believe that the relief requested herein, in light of the prepackaged nature of these chapter 11 cases, is necessary to avoid unnecessary disruption to their business and ensure a timely restructuring process.

22. Further, payment of certain Accounts Payable Claims complies with the statutory requirements of the Bankruptcy Code. Specifically, certain Accounts Payable Claims relate to goods delivered to the Debtors within the twenty days prior to the Petition Date. Section 503(b)(9) of the Bankruptcy Code provides that such Accounts Payable Claims are administrative expense claims against the applicable Debtor’s estate. The Debtors, therefore, are required to pay such Accounts Payable Claims in full to confirm a plan of reorganization. *See* 11 U.S.C. § 1129(a)(9)(A) (requiring payment in full of claims entitled to priority). The Plan provides for payment in full of administrative expense claims in the ordinary course of business, on the effective date of the Plan, or as soon as practicable thereafter. Accordingly, payment of the Accounts Payable Claims that are entitled to administrative priority will only change the timing of the payment of such Accounts Payable Claims, not the amounts, and no party in interest will be materially prejudiced. *See, e.g., In re CEI Roofing, Inc.*, 315 B.R. 50, 60 (Bankr. N.D. Tex. 2004) (“[T]he payment of prepetition . . . claims . . . that qualify as priority . . . claims . . . does not trigger the same concerns (i.e., upsetting priorities under the [Bankruptcy] Code and unfair discrimination among general unsecured claims)”).

23. Similarly, certain Accounts Payable Claims are held by Creditors that may be entitled to assert liens on account of any unpaid obligations. For instance, certain

Accounts Payable Claims are held by Creditors that may be able to assert carrier liens and warehouseman's liens against certain of the Debtors' assets under certain state and federal laws.⁵ Under section 363(e) of the Bankruptcy Code, certain Creditors with liens on estate assets may be entitled to adequate protection of their liens, the enforcement of which may impose additional costs on the Debtors' estates. Considering that Accounts Payable Claims that are supported by valid liens will be unimpaired under the Plan, to avoid any unnecessary costs to the Debtors' estates, and for reasons previously stated regarding avoiding disruption to the Debtors' operations, the Debtors' payment of such Accounts Payable Claims in the ordinary course postpetition is an exercise of the Debtors' sound business judgment. *See, e.g., Physiotherapy Holdings*, No. 13-2965 (KG) (Bankr. D. Del. Dec. 6, 2013) (authorizing payment of claims supported by liens).

24. Finally, key stakeholders support the Debtors' payment of the Accounts Payable Claims. The vast majority and requisite amount of Consenting Term Loan Lenders—who will ultimately be the post-emergence equity owners of the reorganized Debtors—support the payment of Accounts Payable Claims in the ordinary course of business postpetition. Importantly, the Consenting Term Loan Lenders represent holders of approximately 70% of the Debtors' term loan debt and have documented their support for the Plan and the Debtors' chapter 11 cases through the Restructuring Support Agreement. As the future equity owners of the reorganized Debtors, these lenders recognize that timely payment of the Accounts Payable Claims is necessary to avoid unnecessary disruption to the Debtors' businesses and ensure a timely restructuring process,

⁵ For example, section 7-307 of the Uniform Commercial Code provides, in pertinent part, that a "carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law."

preserving value not only for the future equity holders of the reorganized Debtors, but for all stakeholders.

25. For all these reasons, courts in this and other jurisdictions routinely authorize payments of the kind contemplated herein in prepackaged bankruptcy cases. *See, e.g., In re Anna Holdings Inc., et al.*, No. 19-12551 (CSS) (Bankr. D. Del. Dec. 1, 2019) (approving payment of all accounts payable claims in the ordinary course of business postpetition on an interim basis); *In re Blackhawk Mining LLC*, No. 19-11595 (LSS) (Bankr. D. Del. Aug. 9, 2019) (approving payment of all accounts payable claims in the ordinary course of business postpetition on a final basis); *In re PES Holdings, LLC*, No. 18-10122 (KG) (Bankr. D. Del. Jan. 23, 2018) (same); *In re Dex Media, Inc.*, No. 16-11200 (KG) (Bankr. D. Del. May 18, 2016) (same); *In re EveryWare Glob., Inc.*, No. 15-10743 (LSS) (Bankr. D. Del. Apr. 22, 2015) (same).

II. The Court Should Confirm that Outstanding Orders Are Administrative Expense Priority Claims and that Payment of Such Claims is Authorized.

26. Pursuant to section 503(b)(1) of the Bankruptcy Code, obligations that arise in connection with the postpetition delivery of goods and services, including goods ordered prepetition, are in fact administrative expense priority claims because they benefit the estate postpetition. *See* 11 U.S.C. § 503(b)(1)(A) (providing that the “actual [and] necessary costs and expenses of preserving the estate” are administrative expenses); *see also In re John Clay & Co.*, 43 B.R. 797, 809–10 (Bankr. D. Utah 1984) (holding that goods ordered prepetition but delivered postpetition are entitled to administrative priority). Thus, granting the relief sought herein with respect to the Outstanding Orders will not afford such claimants any greater priority than they otherwise would have if the relief requested herein were not granted, and will not prejudice any other party in interest.

27. Absent such relief, however, the Debtors may be required to expend substantial time and effort reissuing the Outstanding Orders to provide certain suppliers with assurance of such administrative priority. The attendant disruption to the continuous and timely flow of critical inventory and other goods to the Debtors would force the Debtors to potentially halt operations, disrupt the Debtors' business, and lead to a loss of revenue, all to the detriment of the Debtors and their Creditors.

28. Indeed, courts in this and other jurisdictions routinely grant this type of relief in prepackaged bankruptcy cases. *See, e.g., In re Goodman Networks Inc.*, No. 17-31575 (MI) (Bankr. S.D. Tex. Mar. 14, 2017) (granting administrative expense priority to undisputed obligations on account of outstanding orders); *In re Dolan Co.*, No. 14-10614 (BLS) (Bankr. D. Del. Mar. 25, 2014) (same). Accordingly, the Debtors submit that the Court should confirm the administrative expense priority status of the Outstanding Orders and should authorize the Debtors to pay the Outstanding Orders in the ordinary course of business.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

29. The Debtors have sufficient funds to pay the amounts described in this motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

30. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this important juncture. For the reasons discussed herein, the relief requested is necessary for the Debtors to operate their businesses in the ordinary course and preserve the ongoing value of the Debtors’ operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Reservation of Rights

31. Nothing contained herein is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors’ estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. If the Court grants the relief sought herein, any

payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

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

32. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

33. The Debtors have provided notice of this motion to the following parties or their respective counsel: (a) the office of the U.S. Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the Term Loan Agent; (d) counsel to the Ad Hoc Term Loan Lender Group; (e) the office of the attorneys general for the states in which the Debtors operate; (f) the United States Attorney's Office for the District of Delaware; (g) the Internal Revenue Service; (h) all parties known by the Debtors to hold or assert a lien on any asset of any Debtor; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this motion is seeking "first day" relief, within two business days of the hearing on this motion, the Debtors will serve copies of this motion and any order entered in respect to this motion as required by Local Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

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

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: December 17, 2019
Wilmington, Delaware

/s/ Domenic E. Pacitti

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Proposed Co-Counsel for the Debtors and Debtors in Possession

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CLOVER TECHNOLOGIES GROUP, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-12680 (____)
)
) (Joint Administration Requested)
)
) **Re: Docket No. ____**

**ORDER AUTHORIZING PAYMENT OF
CERTAIN PREPETITION CLAIMS IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Order”), (a) authorizing the Debtors to pay allowed Accounts Payable Claims in the ordinary course of business; and (b) granting administrative expense priority to all undisputed obligations on account of Outstanding Orders and authorizing the Debtors to satisfy Outstanding Orders in the ordinary course of business, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Clover Technologies Group, LLC (9236); 4L Holdings Corporation (0292); 4L Technologies Inc. (5035); Clover Ithaca Properties, LLC (9236); Refurb Holdings, LLC (1230); Clover Wireless, LLC (0313); and Valu Tech Outsourcing, LLC (3563). The location of the Debtors' service address in these chapter 11 cases is: 5850 Granite Parkway, Suite 720, Plano, Texas 75024.

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

relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth in this Order.
2. The Debtors are authorized to pay prepetition amounts owed to Creditors on account of the Accounts Payable Claims, in their discretion in the ordinary course of business.
3. The Debtors are authorized to condition payment of an Accounts Payable Claim on a Creditor's maintenance or application of Customary Terms.
4. If a Creditor, after receiving payment on account of an Accounts Payable Claim, ceases to provide Customary Terms or otherwise fails to perform under a contract with a Debtor, the applicable Debtor may exercise any and all rights to seek recovery of the sums paid, including to deem such payment to apply instead to any postpetition amount that may be owing to such Creditor or treat such payment as an avoidable postpetition transfer of property.
5. Any Creditor that accepts payment from the Debtors on account of a prepetition Accounts Payable Claim shall be deemed to have agreed to the terms and provisions of this Order.
6. All undisputed obligations related to the Outstanding Orders are granted administrative expense priority in accordance with section 503(b)(1)(A) of the Bankruptcy Code.

7. The Debtors are authorized, but not directed, to pay all undisputed amounts relating to the Outstanding Orders in the ordinary course of business consistent with the parties' customary practices in effect prior to the Petition Date.

8. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Order.

9. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

10. The 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.

11. Notwithstanding the relief granted in this Order, any payment made (or to be made) by the Debtors pursuant to the authority granted herein shall be subject to the terms, conditions, limitations, and requirements of any applicable order governing the Debtors' use of cash collateral and any budget in connection therewith.

12. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

13. 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.

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

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

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

Dated: _____, 2019
Wilmington, Delaware

United States Bankruptcy Judge