Court File No. CV-12-9719-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO LIGHTSQUARED INC., LIGHTSQUARED INVESTORS HOLDINGS INC., ONE DOT FOUR CORP., ONE DOT SIX CORP., SKYTERRA ROLLUP LLC, SKYTERRA ROLLUP SUB LLC, SKYTERRA INVESTORS LLC, TMI COMMUNICATIONS DELAWARE, LIMITED PARTNERSHIP, LIGHTSQUARED GP INC., LIGHTSQUARED LP, ATC TECHNOLOGIES, LLC, LIGHTSQUARED CORP., LIGHTSQUARED FINANCE CO., LIGHTSQUARED NETWORK LLC, LIGHTSQUARED INC. OF VIRGINIA, LIGHTSQUARED SUBSIDIARY LLC, LIGHTSQUARED BERMUDA LTD., SKYTERRA HOLDINGS (CANADA) INC., SKYTERRA (CANADA) INC. AND ONE DOT SIX TVCC CORP. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

MOTION RECORD
(Returnable November 20, 2014)

November 14, 2014

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TAB 1

Court File No. CV-12-9719-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF LIGHTSQUARED LP
UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

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NOTICE OF MOTION

(Returnable on November 20, 2014)

LightSquared LP, on its own behalf and in its capacity as foreign representative of the Chapter 11 Debtors ("**LightSquared**" or the "**Foreign Representative**"), will make a motion to the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") on November 20, 2014 at 8:30 a.m. or as soon after that time as the motion can be heard at 330 University Avenue**,** Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order substantially in the form of the draft order attached hereto as Schedule "**A**", *inter alia*:

   (a) abridging the timing and validating the method of service of this Notice of Motion and Motion Record, such that this motion is properly returnable on November 20, 2014;

   (b) recognizing in Canada and giving full force and effect in all provinces and territories of Canada, pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C. 36, as amended (the "**CCAA**"), the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Bankruptcy Court**") made in the cases commenced by the Chapter 11 Debtors in the U.S. Bankruptcy Court under chapter 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Chapter 11 Cases**"):

      (i) *Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* (the "**Seventh Replacement LP DIP Order**") [U.S. Bankruptcy Court Docket No. 1927]; and

      (ii) *Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* (the "**Eleventh Amended Cash Collateral Order**") [U.S. Bankruptcy Court Docket No. 1928];

   (c) approving the twenty-second report (the "**Twenty-Second Report**") of Alvarez & Marsal Canada Inc. ("**A&M Canada**"), in its capacity as court-appointed information officer of the Chapter 11 Debtors in respect of this proceeding (the "**Information Officer**"), to be filed, and the activities of the Information Officer as set out therein; and

2. Such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On August 28, 2014, the U.S. Bankruptcy Court entered the following orders with respect to the continued financing of LightSquared:

   (a) *Final Order (A) Authorizing LP DIP Obligors To Obtain Sixth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1736] (the "**Sixth Replacement LP DIP Order**"); and

   (b) *Ninth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1735] (the "**Tenth Amended Cash Collateral Order**");

2. On September 2, 2014, the Foreign Representative advised the Canadian Court that the Sixth Replacement LP DIP Order and the Tenth Amended Cash Collateral Order would provide the LP Obligors with sufficient financing through to November 15, 2014;

3. Also on September 2, 2014, the Canadian Court recognized the Sixth Replacement LP DIP Order and the Tenth Amended Cash Collateral Order;

FINANCING MATTERS

4. Certain of the Chapter 11 Debtors are parties to a Credit Agreement, dated as of October 1, 2010 (as amended, supplemented, amended and restated, or otherwise modified from time to time), between, *inter alia*, LightSquared LP, as borrower, LightSquared Inc. and the other guarantors party thereto (collectively, the "**LP Obligors**"), the lenders party thereto (the "**Prepetition LP Lenders**"), and UBS AG, Stamford Branch, as administrative agent, under which the Prepetition LP Lenders provided term loans in the aggregate principal amount of $1,500,000,000;

5. Throughout the Chapter 11 Cases, the LP Obligors have been funding their businesses through the use of the Prepetition LP Collateral[1], including Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code (the "**Cash Collateral**")) and the proceeds of the Initial LP DIP Facility, the Replacement LP DIP Facility, the Second Replacement LP DIP Facility, the Third Replacement LP DIP Facility, the Fourth Replacement LP DIP Facility, the Fifth Replacement LP DIP Facility and most recently, the Sixth Replacement LP DIP Facility (as defined in the Sixth Replacement LP DIP Order)[2];

Seventh Replacement LP DIP Order

6. The current budget (the "**Budget**")[3] for the Chapter 11 Debtors shows that they require additional funding to be made available pursuant to the Seventh Replacement LP DIP Facility (as defined below). As a result, the Seventh Replacement LP DIP Facility will provide an additional $40M to be allocated in accordance with the seventh replacement LP DIP allocation schedule (found at Schedule I to Annex A of the Seventh Replacement LP DIP Order) and used pursuant to the Budget in order for the Chapter 11 Debtors to continue to meet their general corporate and working capital needs through to January 30, 2015;

7. On November 11, 2014, the Chapter 11 Debtors filed the *Notice of (I) Presentment of Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens And Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, And (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1917] in connection with the entry into a new replacement DIP financing facility (the "**Seventh Replacement LP DIP Facility**") for financing of

[1] As defined in the *Agreed Final Order (A) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 136].

[2] Capitalized terms used in this paragraph and not otherwise defined shall have the meaning set out in the Creary Affidavit (defined below).

[3] The Budget is attached as Annex B of the Seventh Replacement LP DIP Order and Schedule 1 of the Eleventh Amended Cash Collateral Order.

LightSquared, and each existing and future subsidiary of LightSquared (together with LightSquared, the "**LP DIP Obligors**");

8. The funding of the Seventh Replacement LP DIP Facility is to be provided by certain members of the Ad Hoc LP Secured Group, including Capital Research and Management Company, Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts, and Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., Solus Alternative Asset Management LP, fund entities managed by Aurelius Capital Management, LP, SP Special Opportunities, LLC, KKR Echo Investments I Limited and KKR Credit Relative Value Mast Fund LP (each of the foregoing, an "**LP DIP Lender**" and, collectively, the "**LP DIP Lenders**");

9. Each of the LP DIP Obligors and the LP DIP Lenders under the Sixth Replacement LP DIP Facility consented to the entry of the Seventh Replacement LP DIP Order and the Seventh Replacement LP DIP Facility, the proceeds of which shall be used to (i) repay in full all Sixth Replacement LP DIP Obligations (as defined in the Sixth Replacement LP DIP Order) under the Sixth Replacement LP DIP Facility and the Sixth Replacement LP DIP Order, (ii) permit the LP Obligors to meet their general corporate and working capital needs in accordance with the Seventh Replacement LP DIP Order for the types of expenditures set forth in the Budget (and other purposes described in paragraph 3(a) of the Seventh Replacement LP DIP Order) through the Final Maturity Date (as defined in the Seventh Replacement LP DIP Order, being January 30, 2015) and (iii) pay the LP DIP Professional Fees (as defined in the Seventh Replacement LP DIP Order);

10. The Seventh Replacement LP DIP Order was entered by the U.S. Bankruptcy Court on or about November 14, 2014 and will provide the LP DIP Obligors with $164,522,774.80 of Replacement DIP Financing through to January 30, 2015. The majority of the Seventh Replacement LP DIP Facility will be used to repay the Sixth Replacement LP DIP Facility Obligations and the remainder will be used as outlined on the preceding paragraph;

11. As a condition subsequent to the Seventh Replacement LP DIP Order, the LP DIP Lenders require that the LP DIP Obligors obtain the Canadian Court's recognition of the Seventh Replacement LP DIP Order by no later than November 20, 2014;

12. Save for the term (i.e. the Final Maturity Date being extended from November 15, 2014 to January 30, 2015) and quantum (i.e. an increase in the borrowing base by an additional **$**40 Million)**,** the terms of the Seventh Replacement LP DIP Order are substantially the same as the terms set forth in the Sixth Replacement LP DIP Order, which order was recognized by the Canadian Court on September 2, 2014;

13. The ability of the Chapter 11 Debtors to ensure a value-maximizing exit from the Chapter 11 Cases requires the availability of capital from the Seventh Replacement LP DIP Facility. Without such funds, the Chapter 11 Debtors will not have sufficient available sources of capital and financing to operate its businesses and maintain its properties in the ordinary course of business;

14. A copy of the Seventh Replacement LP DIP Order, is attached as Exhibit 'A' to the affidavit of Elizabeth Creary, sworn November 14, 2014 (the "**Creary Affidavit**");

Eleventh Amended Cash Collateral Order

15. In connection with the Seventh Replacement LP DIP Facility, the LP Obligors also required continued authorization from the U.S. Bankruptcy Court to use the Cash Collateral of the Prepetition LP Lenders. Such relief is necessary to ensure that the LP Obligors can (i) address working capital needs, (ii) fund reorganization efforts and (iii) continue to operate in the ordinary course during the Chapter 11 Cases;

16. Pursuant to the Tenth Amended Cash Collateral Order, the LP Obligors were consensually permitted to use the Prepetition LP Lenders' Cash Collateral through November 15, 2014. The Tenth Amended Cash Collateral Order and dates contained therein were recognized by the Canadian Court on September 2, 2014;

17. On November 11, 2014, the Chapter 11 Debtors filed the *Notice of Presentment of Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash*

Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1916];

18. The Eleventh Amended Cash Collateral Order was entered by the U.S. Bankruptcy Court on November 14, 2014. Pursuant to that Order the LP Obligors will be permitted to use the Prepetition LP Lenders' Collateral through January 30, 2015;

19. A copy of the Tenth Amended Cash Collateral Order thereto, is attached as Exhibit 'B' to the Creary Affidavit;

20. The Foreign Representative thus respectfully requests that the Canadian Court recognize the Seventh Replacement LP DIP Order and the Eleventh Amended Cash Collateral Order entered by the U.S. Bankruptcy Court, as the terms and conditions contained in those Orders are fair and reasonable and in the best interests of the LP Obligors' estates and creditors.

General

21. The facts as further set out in the Twenty-Second Report, the Creary Affidavit and the Supplemental Affidavit;

22. The provisions of the CCAA, particularly s. 49 and including the other provisions of Part IV;

23. The *Rules of Civil Procedure*, including rules 2.03, 3.02 and 16; and

24. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

25. The Creary Affidavit and the exhibits referred to therein;

26. The Supplemental Affidavit and the exhibits referred to therein;

27. The Twenty-Second Report, to be filed separately; and

28. Such further and other material as counsel may advise and this Honourable Court may permit.

November 14, 2014

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Solicitors for the Foreign Representative and Canadian counsel to the Chapter 11 Debtors

TO: THE SERVICE LIST

TAB A

SCHEDULE 'A'
DRAFT ORDER

Court File No. CV-12-9719-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	TUESDAY, THE 20th DAY
REGIONAL SENIOR	)	OF NOVEMBER, 2014
JUSTICE MORAWETZ	)	

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO LIGHTSQUARED INC., LIGHTSQUARED INVESTORS HOLDINGS INC., ONE DOT FOUR CORP., ONE DOT SIX CORP., SKYTERRA ROLLUP LLC, SKYTERRA ROLLUP SUB LLC, SKYTERRA INVESTORS LLC, TMI COMMUNICATIONS DELAWARE, LIMITED PARTNERSHIP, LIGHTSQUARED GP INC., LIGHTSQUARED LP, ATC TECHNOLOGIES, LLC, LIGHTSQUARED CORP., LIGHTSQUARED FINANCE CO., LIGHTSQUARED NETWORK LLC, LIGHTSQUARED INC. OF VIRGINIA, LIGHTSQUARED SUBSIDIARY LLC, LIGHTSQUARED BERMUDA LTD., SKYTERRA HOLDINGS (CANADA) INC., SKYTERRA (CANADA) INC. AND ONE DOT SIX TVCC CORP. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)

THIS MOTION, made by LightSquared LP in its capacity as the foreign representative (the "**Foreign Representative**") of the Chapter 11 Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order substantially in the form attached as Schedule "A" to the notice

of motion of the Foreign Representative dated November ●, 2014 (the "**Notice of Motion**"), recognizing two orders granted by the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Bankruptcy Court**") in the cases commenced by the Chapter 11 Debtors under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Chapter 11 Cases**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the affidavit of Elizabeth Creary sworn November 14, 2014, the twenty-second report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed information officer of the Chapter 11 Debtors (the "**Information Officer**"), dated November ●, 2014 (the "**Twenty-Second Report**") and on hearing the submissions of counsel for the Foreign Representative, counsel for the Information Officer, and counsel for the ad hoc secured group of LightSquared LP Lenders and the LP DIP Lenders[1], no one else appearing although duly served as appears from the affidavit of service of ● sworn November ●, 2014, filed.

SERVICE

1. **THIS COURT ORDERS** the timing and method of service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today.

RECOGNITION OF FOREIGN ORDERS

2. **THIS COURT ORDERS** that the following orders (collectively, the "**Foreign Orders**") of the U.S. Bankruptcy Court made in the Chapter 11 Cases are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

[1] The Ad Hoc LP Secured Group, including Capital Research and Management Company, Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts and Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., Solus Alternative Asset Management LP, fund entities managed by Aurelius Capital Management, LP, SP Special Opportunities, LLC, KKR Echo Investments I Limited and KKR Credit Relative Value Mast Fund LP

(a) *Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1927] (the "**Seventh Replacement LP DIP Order**"); and

(b) *Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1928];

attached hereto as **Schedules "A"** and **"B"** respectively, provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to the Chapter 11 Debtors' current and future assets, undertakings and properties of every nature and kind whatsoever in Canada.

INTERIM FINANCING

3. **THIS COURT ORDERS** that the filing, registration or perfection of the LP DIP Liens (as defined in the Seventh Replacement LP DIP Order) shall not be required, and that the LP DIP Liens shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the LP DIP Liens coming into existence, notwithstanding any such failure to file, register, record or perfect such liens.

4. **THIS COURT ORDERS** that the LP DIP Liens shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the LP DIP Liens (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing

loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Chapter 11 Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the LP DIP Liens shall not create or be deemed to constitute a breach by a Chapter 11 Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any individual, firm, corporation, governmental body or agency, or any other entities whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the LP DIP Liens; and

(c) the payments made by the Chapter 11 Debtors to the Chargees pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

REPORT OF INFORMATION OFFICER

5. **THIS COURT ORDERS** that the Twenty-Second Report and the activities of the Information Officer as described therein be and are hereby approved.

_____

SCHEDULE "A"

Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1927]

SCHEDULE "B"

Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1928]

Court File No: CV-12-9719-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C 36, AS AMENDED, AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO THE CHAPTER 11 DEBTORS

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

RECOGNITION ORDER
(November 20, 2014)

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Solicitors for the Foreign Representative and Canadian counsel to the Chapter 11 Debtors.

Court File No: CV-12-9719-00CL

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ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(Returnable November 20, 2014)

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TAB 2

Court File No. CV-12-9719-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO LIGHTSQUARED INC., LIGHTSQUARED INVESTORS HOLDINGS INC., ONE DOT FOUR CORP., ONE DOT SIX CORP., SKYTERRA ROLLUP LLC, SKYTERRA ROLLUP SUB LLC, SKYTERRA INVESTORS LLC, TMI COMMUNICATIONS DELAWARE, LIMITED PARTNERSHIP, LIGHTSQUARED GP INC., LIGHTSQUARED LP, ATC TECHNOLOGIES, LLC, LIGHTSQUARED CORP., LIGHTSQUARED FINANCE CO., LIGHTSQUARED NETWORK LLC, LIGHTSQUARED INC. OF VIRGINIA, LIGHTSQUARED SUBSIDIARY LLC, LIGHTSQUARED BERMUDA LTD., SKYTERRA HOLDINGS (CANADA) INC., SKYTERRA (CANADA) INC. AND ONE DOT SIX TVCC CORP. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

AFFIDAVIT OF ELIZABETH CREARY

(Sworn November 14, 2014)

I, Elizabeth Creary of the City of Ottawa, in the Province of Ontario, **MAKE OATH AND SAY THAT**:

1. I am the Vice President and Assistant General Counsel of LightSquared LP ("**LightSquared**" or the "**Foreign Representative**"). As such, I have personal knowledge of the matters to which I herein depose. Where the source of my information

or belief is other than my own personal knowledge, I have identified the source and the basis for my information and verily believe it to be true.

2. This affidavit is filed in support of the Foreign Representative's motion for an order, *inter alia*, recognizing in Canada and giving full force and effect in all provinces and territories of Canada, pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C. 36, as amended (the "**CCAA**"), the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Bankruptcy Court**") made in the cases commenced by the Chapter 11 Debtors in the U.S. Bankruptcy Court under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Chapter 11 Cases**"):

(a) *Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* (the "**Seventh Replacement LP DIP Order**") [U.S. Bankruptcy Court Docket No. 1927]; and

(b) *Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* (the "**Eleventh Amended Cash Collateral Order**") [U.S. Bankruptcy Court Docket No.1928];

Copies of the Seventh Replacement LP DIP Order and Eleventh Amended Cash Collateral Order are attached hereto as **Exhibit 'A'** and **Exhibit 'B'** respectively.

CORPORATE OVERVIEW

3. The Chapter 11 Debtors were collectively the first private satellite-communications company to offer mobile satellite services throughout North America, initially using two geostationary satellites, as well as a portion of the electromagnetic spectrum known as the L-Band.

4. The Chapter 11 Debtors are in the process of building what was at the time of the filing the only 4th Generation Long Term Evolution ("**4G LTE**") open wireless broadband network that incorporates nationwide satellite coverage throughout North America and offers users, wherever they may be located, the speed, value and reliability of universal connectivity.

5. Through a unique wholesale business model, entities without their own wireless networks, or that have limited geographic coverage or spectrum, will be able to market and sell their own devices, applications and services at a competitive price using the Chapter 11 Debtors' 4G LTE network.

BACKGROUND ON PROCEEDINGS

6. On July 4, 2014, I swore an affidavit (the "**July 4 Affidavit**") which was included by the Foreign Representative in the motion record returnable for a motion in front of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") on July 8, 2014 (the "**July 8 Hearing**"). The July 4 Affidavit provided background information to the service list and the Canadian Court regarding the Chapter 11 Cases, Canadian Recognition proceedings, and the financing of LightSquared.

7. The July 4 Affidavit (without exhibits) is attached hereto as **Exhibit 'C'** to this my affidavit and I confirm that all of the information contained within the July 4 Affidavit remains true.

FINANCING BACKGROUND INFORMATION

8. Amongst other things, the purpose of the July 8 Hearing was to extend the financing of the LP Obligors (defined below). The July 8 Hearing, along with subsequent motions on July 15, 2014, July 30, 2014, August 6, 2014 and September 2, 2014, resulted in the Canadian Court recognizing a number of orders of the U.S. Bankruptcy Court related to the extension of financing of the LP Obligors (collectively the "**Financing Extension Orders**"). The Financing Extension Orders include the following:

(a) the *Fourth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To*

Prepetition Secured Parties, and (C) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1580] (the "**Fifth Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on June 13, 2014;

(b) the *Final Order (A) Authorizing LP DIP Obligors To Obtain Second Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1614] (the "**Second Replacement LP DIP Order**") entered by the U.S. Bankruptcy Court on June 30, 2014;

(c) the *Fifth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No.1615] (the "**Sixth Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on June 30, 2014;

(d) the *Final Order (A) Authorizing LP DIP Obligors To Obtain Third Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1639] (the "**Third Replacement LP DIP Order**") entered by the U.S. Bankruptcy Court on July 14, 2014;

(e) the *Sixth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1638] (the "**Seventh Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on July 14, 2014;

(f) the *Final Order (A) Authorizing LP DIP Obligors To Obtain Fourth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1668] (the "**Fourth Replacement LP DIP Order**") entered by the U.S. Bankruptcy Court on July 24, 2014;

(g) the *Seventh Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1667] (the "**Eighth Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on July 24, 2014;

(h) the *Final Order (A) Authorizing LP DIP Obligors To Obtain Fifth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1681] (the "**Fifth Replacement LP DIP Order**") entered by the U.S. Bankruptcy Court on August 1, 2014;

(i) the *Eighth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1682] (the "**Ninth Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on August 1, 2014;

(j) the *Final Order (A) Authorizing LP DIP Obligors To Obtain Sixth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and*

(D) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1736] (the "**Sixth Replacement LP DIP Order**") entered by the U.S. Bankruptcy Court on August 28, 2014; and

(k) the *Ninth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1735] (the "**Tenth Amended Cash Collateral Order**") entered by the U.S. Bankruptcy Court on August 28, 2014.

9. The Canadian Court recognized each of the Financing Extension Orders on the following dates:

(a) On July 8, 2014, the Canadian Court recognized the Fifth Amended Cash Collateral Order, the Second Replacement LP DIP Order and the Sixth Amended Cash Collateral Order;

(b) On July 15, 2014, the Canadian Court recognized the Third Replacement LP DIP Order and the Seventh Amended Cash Collateral Order;

(c) On July 30, 2014, the Canadian Court recognized the Fourth Replacement LP DIP Order and the Eighth Amended Cash Collateral Order;

(d) On August 6, 2014, the Canadian Court recognized the Fifth Replacement LP DIP Order and the Ninth Amended Cash Collateral Order; and

(e) On September 2, 2014, the Canadian Court recognized the Sixth Replacement LP DIP and Tenth Amended Cash Collateral Order.

10. On September 2, 2014, the Foreign Representative advised the Canadian Court that the Sixth Replacement LP DIP Order and the Tenth Amended Cash Collateral Order would provide the LP Obligors with financing through to November 15, 2014.

PLAN CONFIRMATION BACKGROUND INFORMATION

11. The Foreign Representative, counsel to the Foreign Representative and the Information Officer have apprised the Canadian Court of the ongoing developments in the Chapter 11 Cases by reporting to the Canadian Court on the Chapter 11 Cases in each motion for the recognition of an order of the U.S. Bankruptcy Court.

12. On August 26, 2014 the Foreign Representative sought recognition of an order of the U.S. Bankruptcy Court containing an anticipated timeline for the Chapter 11 Debtors to obtain confirmation of a plan (the "**August Timeline**"). On that date, the Canadian Court recognized the *Order Scheduling Certain Hearing Dates and Establishing Deadlines in Connection With Chapter 11 Plan Process* [U.S. Bankruptcy Court Docket No. 1708] which attached the August Timeline.

13. The August Timeline is attached hereto as **Exhibit 'D'**.

14. Due to a number of plan related issues (discussed below) between the various stakeholders in the Chapter 11 Cases, the August Timeline is no longer achievable or relevant. The Chapter 11 Cases are anticipated to extend into 2015 and, as of the date of this affidavit, there is no longer a clearly outlined timeline for the Chapter 11 Debtors to achieve confirmation.

i. Joint Plan of the Ad Hoc Secured Group and the Chapter 11 Debtors

15. On August 7, 2014, the Chapter 11 Debtors, at the direction of the special committee of the boards of directors of LightSquared Inc. and LightSquared GP Inc. (the "**Special Committee**"), determined to co-sponsor with the Ad Hoc Secured Group of LightSquared LP Lenders (the "**Ad Hoc LP Secured Group**") a chapter 11 plan [U.S. Bankruptcy Court Docket No. 1686] (as amended, the "**Joint Plan**"). While the Joint Plan was structured to cover all of LightSquared's estates, such plan also included a mechanism pursuant to which, in the absence of an agreement between the stakeholders for the Inc. and LP estates, the Joint Plan would be withdrawn with respect to the Inc. debtors, thereby making the Joint Plan apply solely to the LP estate and leaving LightSquared and the Special Committee with express authority to potentially support an 'Inc.-only' plan.

16. On August 26, 2014, at the direction of the U.S. Bankruptcy Court, the Chapter 11 Debtors and the Ad Hoc LP Secured Group filed an amended version of the Joint Plan [U.S. Bankruptcy Court Docket No. 1728], which included an 'LP-only' plan as an exhibit thereto.

ii. Harbinger Plan

17. On August 11, 2014, Harbinger Capital Partners LLC ("**Harbinger**") filed a chapter 11 plan in relation to only the Inc. estates [Docket Nos. 1696, 1745, and 1780] (the "**Harbinger Plan**").

18. MAST Capital Management, LLC (on behalf of itself and its managed funds and accounts) and SIG Holdings, Inc. and certain affiliates of JPMorgan Chase & Co. agreed to support the Harbinger Plan and oppose confirmation of any other plan for the Inc. estates, including the Joint Plan, by entering into a plan support agreement dated September 8, 2014 (the "**Harbinger PSA**"). The Harbinger PSA expires on November 15, 2014.

19. A precondition to the Harbinger Plan is the U.S. Bankruptcy Court granting the relief sought pursuant to Harbinger's motion seeking to expunge or estimate at zero the "guarantee claims" asserted by the Prepetition LP Lenders against LightSquared Inc., TMI Communications Delaware, Limited Partnership, and LightSquared Investors Holdings Inc. [U.S. Bankruptcy Court Docket No. 1752] (the "**Guarantee Expungment Motion**").

iii. Ad Hoc LP Secured Group Plan

20. On October 1, 2014, the Ad Hoc LP Secured Group filed a notice indicating its intent to withdraw the Joint Plan in favor of a new plan contemplating a global restructuring [U.S. Bankruptcy Court Docket No. 1788]. Although the ability of the parties to meet the time lines set in the August Timeline were already highly unlikely at this point in time, the withdrawal of the Joint Plan ensured that compliance with the August Timeline would be impossible.

21. On October 13, 2014, the Ad Hoc LP Secured Group filed its new plan [U.S. Bankruptcy Court Docket No. 1835] (the "**AHSG Plan**"). The AHSG Plan is similar to the Joint Plan, however one major difference is that the AHSG Plan removed the mechanism to allow the plan to be converted from a plan to cover all of LightSquared's estates to an 'Inc.-only' plan.

iv. Guarantee Expungement Motion

22. At a status conference held on October 6, 2014 (the "**October 6th Conference**"), the Chapter 11 Debtors and the Special Committee articulated their belief that the U.S. Bankruptcy Court should, as a threshold issue, resolve the Guarantee Expungement Motion in advance of any confirmation hearing for the Harbinger Plan.

23. During the October 6th conference, the U.S. Bankruptcy Court, among other things, (a) scheduled legal arguments on the Guarantee Expungement Motion for October 20, 2014 (which was subsequently adjourned to October 27, 2014), (b) tentatively scheduled a hearing on confirmation of the Harbinger Plan for October 29, 2014, and (c) ordered LightSquared and its stakeholders to participate in additional mediation under Judge Drain (as further described below) with the goal of developing a global resolution of the Chapter 11 Cases.

24. On October 27, 2014, the U.S. Bankruptcy Court heard legal arguments from the various stakeholders related to the Guarantee Expungement Motion. Also on that date, Judge Chapman of the U.S. Bankruptcy Court indicated that she did not need to hear any further evidence in connection with the Guarantee Expungement Motion and also decided that pending her decision on the Guarantee Expungement Motion, it would be premature to proceed with the hearing on confirmation of the Harbinger Plan on October 29, 2014.

25. As such, Judge Chapman vacated the October 28-30 hearing dates.

26. On October 30, 2014, Judge Chapman delivered *Bench Decision Denying Motion To (A) Expunge The Guaranty Claim Asserted By The LP Lenders Or, In The Alternative, (B) Estimate The Guaranty Claim At Zero Pursuant To* 11 U.S.C. § 502(c) [U.S. Bankruptcy Court Docket No. 1898] (the "**Expungement Bench Decision**")

denying Harbinger's requested relief pursuant to the Guarantee Expungement Motion. The Expungement Bench Decision was entered on the docket later on that day. A copy of the Expungement Bench Decision is attached hereto as **Exhibit 'E'.**

27. Harbinger has provided notice that it intends to appeal the Expungement Bench Decision. A copy of the *Notice Of Appeal Of Bench Decision Denying Motion To (A) Expunge The Guaranty Claim Asserted By The LP Lenders Or, In The Alternative, (B) Estimate The Guaranty Claim At Zero Pursuant to 11 U.S.C. § 502 (C)* [U.S. Bankruptcy Court Docket No. 1922] is attached hereto as **Exhibit 'F'**.

v. Mediation

28. Pursuant to *Order Selecting Mediator and Governing Mediation Procedure* entered by the U.S. Bankruptcy Court on May 28, 2014 [U.S. Bankruptcy Court Docket No. 1557] (the "**Mediation Order**"), Judge Drain was authorized and appointed to serve as Mediator in the Chapter 11 Cases. Attached hereto as **Exhibit 'G'** is the Mediation Order. Since the date of his appointment as Mediator, Judge Drain has conducted multiple rounds of mediation with the various stakeholders in the Chapter 11 Cases.

29. On November 3, 2014, Judge Drain caused the *Mediator's Second Supplemental Memorandum Under ¶¶ 14 And 15 Of Mediation Order* (the "**Mediator's Second Supplement**") to be filed on the docket [U.S. Bankruptcy Court Docket No. 1903].

30. The Mediator's Second Supplement reported to the U.S. Bankruptcy Court that the parties to the mediation, with the exception of Harbinger, had agreed on the principal terms of a chapter 11 plan for the Chapter 11 Debtors. The terms of that new plan (the "**New Plan**") are expected to preserve all of Harbinger's rights to oppose confirmation of the New Plan and the New Plan is expected to be filed with the U.S. Bankruptcy Court prior to the next status conference, originally scheduled for November 14, 2014, although I now understand that the stakeholders will require more time to file the New Plan and that such status hearing has been cancelled.

vi. Motion to Stay Harbinger's Litigation

31. On October 8, 2014, the Chapter 11 Debtors at the direction, and with the support, of the Special Committee filed *Notice of Hearing LightSquared's Motion to Stay Harbinger's Litigation Efforts* [U.S. Bankruptcy Court Docket No. 1816] (the "**Harbinger Stay Motion**"). Pursuant to the Harbinger Stay Motion, LightSquared requested an order staying certain litigation efforts by or on behalf of Harbinger against the GPS industry and the United States. A copy of the Harbinger Stay Motion is attached hereto as **Exhibit 'H'**.

32. Pursuant to the Harbinger Stay Motion, the hearing was originally scheduled to be heard on October 29, 2014. The Harbinger Stay Motion is now scheduled to be heard on December 11, 2014.

FINANCING MATTERS

33. Certain of the Chapter 11 Debtors are parties to a Credit Agreement, dated as of October 1, 2010 (as amended, supplemented, amended and restated, or otherwise modified from time to time), between, *inter alia*, LightSquared LP, as borrower, LightSquared Inc. and the other guarantors party thereto (collectively, the "**LP Obligors**"), the lenders party thereto (the "**Prepetition LP Lenders**"), and UBS AG, Stamford Branch, as administrative agent, under which the Prepetition LP Lenders provided term loans in the aggregate principal amount of $1,500,000,000.

34. Throughout the Chapter 11 Cases, the LP Obligors have been funding their businesses through the use of the Prepetition LP Collateral[1], including Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code (the "**Cash Collateral**")) and the proceeds of the Initial LP DIP Facility[2], the Replacement LP DIP Facility[3], the

[1] As defined in the *Agreed Final Order (A) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 136] (the "**Initial Cash Collateral Order**").
[2] As defined in and provided for by the *Final Order (A) Authorizing LP DIP Obligors To Obtain Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1291] (the "**Initial LP DIP Order**").
[3] As defined in and provided for by the *Final Order (A) Authorizing LP DIP Obligors To Obtain Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and*

Second Replacement LP DIP Facility[4], the Third Replacement LP DIP Facility[5], Fourth Replacement LP DIP Facility[6], Fifth Replacement LP Dip Facility[7] and most recently the Sixth Replacement LP DIP Facility[8].

SIXTH REPLACEMENT LP DIP ORDER

35. Given that the confirmation of any plan in the Chapter 11 Cases is now contemplated to extend well past the Final Maturity Date specified by and defined in the previously recognised Sixth Replacement LP DIP Facility (i.e. November 15, 2014), the Chapter 11 Debtors require additional funding to carry them through any such plan confirmation process.

36. The current budget (the "**Budget**")[9] for the Chapter 11 Debtors shows that they require additional funding to be made available pursuant to the Seventh Replacement LP DIP Facility (as defined below) through January 30, 2015. As a result, the Seventh Replacement LP DIP Facility will provide an additional **$**40M to be allocated in accordance with the Seventh Replacement LP DIP loan allocation schedule (found at Schedule I to Annex A of the Seventh Replacement LP DIP Order) and used pursuant to the Budget in order for the Chapter 11 Debtors to continue to meet their general corporate and working capital needs.

37. On November 11, 2014, the Chapter 11 Debtors filed the *Notice of Presentment of Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens And Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, And (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1917] (the "**Seventh Replacement LP DIP Notice**") in connection with the entry into a new DIP financing facility (the "**Seventh Replacement LP DIP**

(D) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1476] (the "**Replacement LP DIP Order**").

[4] As defined in and provided for by the Second Replacement LP DIP Order.
[5] As defined in and provided for by the Third Replacement LP DIP Order.
[6] As defined in and provided for by the Fourth Replacement LP DIP Order.
[7] As defined in and provided for by the Fifth Replacement LP DIP Order.
[8] As defined in and provided for by the Sixth Replacement LP DIP Order.
[9] The Budget is attached as Annex B of the Seventh Replacement LP DIP Order and Schedule 1 of the Eleventh Amended Cash Collateral Order.

Facility") for financing of LightSquared, and each existing and future subsidiary of LightSquared (together with LightSquared, the "**LP DIP Obligors**").

38. The financing of the Seventh Replacement LP DIP Facility is to be provided by certain members of the Ad Hoc LP Secured Group, including Capital Research and Management Company, Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts and Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., Solus Alternative Asset Management LP, fund entities managed by Aurelius Capital Management, LP, SP Special Opportunities, LLC, KKR Echo Investments I Limited and KKR Credit Relative Value Mast Fund LP (each of the foregoing, an "**LP DIP Lender**" and, collectively, the "**LP DIP Lenders**").

39. I have been advised by U.S. counsel to the LP DIP Obligors, Milbank, Tweed, Hadley & McCloy LLP ("**Milbank**") that each of the LP DIP Obligors and the LP DIP Lenders under the Sixth Replacement LP DIP Facility have consented to the entry of the Seventh Replacement LP DIP Order and the Seventh Replacement LP DIP Facility, the proceeds of which shall be used to (i) repay in full all Sixth Replacement LP DIP Obligations (as defined in the Sixth Replacement LP DIP Order) under the Sixth Replacement LP DIP Facility and the Sixth Replacement LP DIP Order, (ii) permit the LP Debtors to meet their general corporate and working capital needs in accordance with the Seventh Replacement LP DIP Order for the types of expenditures set forth in the Budget (and other purposes described in paragraph 3(a) of the Seventh Replacement LP DIP Order) through the Final Maturity Date (as defined in the Seventh Replacement LP DIP Order) and (iii) pay the LP DIP Professional Fees (as defined in the Seventh Replacement LP DIP Order).

40. The Seventh Replacement LP DIP Order was entered by the U.S. Bankruptcy Court on November 14, 2014 and will provide the LP DIP Obligors with $164,522,774.80 of Replacement DIP financing through to January 30, 2015. The majority of the Seventh Replacement LP DIP Facility will be used to repay the Sixth Replacement DIP Facility Obligations and the remainder will be used as outlined in the preceding paragraph.

41. As a condition subsequent to the Seventh Replacement LP DIP Order, the LP DIP Lenders require that the LP DIP Obligors obtain the Canadian Court's recognition of the Seventh Replacement LP DIP Order by no later than November 20, 2014.

42. Save for the term (i.e. the Final Maturity Date being extended from November 15, 2014 to January 30, 2015) and quantum (i.e. an increase in the borrowing base by an additional $40M), the terms of the Seventh Replacement LP DIP Order are substantially the same as the terms set forth in the Sixth Replacement LP DIP Order, which was recognized by the Canadian Court on September 2, 2014.

43. The ability of the Chapter 11 Debtors to ensure a value-maximizing exit from the Chapter 11 Cases requires the availability of capital from the Seventh Replacement LP DIP Facility. Without such funds, the Chapter 11 Debtors will not have sufficient available sources of capital and financing to operate its businesses and maintain its properties in the ordinary course of business.

44. For the foregoing reasons, the Foreign Representative respectfully submits that the LP DIP Obligors' entry into the Seventh Replacement LP DIP Facility is in the best interests of the LP DIP Obligors' estates, stakeholders, and other parties in interest.

ELEVENTH AMENDED CASH COLLATERAL ORDER

45. In connection with the Seventh Replacement LP DIP Facility, the LP Obligors also required continued authorization from the U.S. Bankruptcy Court to use the Cash Collateral of the Prepetition LP Lenders. Such relief is necessary to ensure that the LP Obligors can (i) address working capital needs, (ii) fund reorganization efforts and (iii) continue to operate in the ordinary course during the Chapter 11 Cases.

46. Pursuant to the Tenth Amended Cash Collateral Order, the LP Obligors were consensually permitted to use the Prepetition LP Lenders' Cash Collateral through November 15, 2014. The Tenth Amended Cash Collateral Order and dates contained therein were recognized by the Canadian Court on September 2, 2014.

47. On November 11, 2014, the Chapter 11 Debtors filed the *Notice of Presentment of Tenth Order Amending Amended Agreed Final Order (A) Authorizing*

Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay [U.S. Bankruptcy Court Docket No. 1916] (the "**Eleventh Amended Cash Collateral Notice**").

48. The Eleventh Amended Cash Collateral Order was entered by the U.S. Bankruptcy Court on November 14, 2014. Pursuant to that Order the LP Obligors will be permitted to use the Prepetition LP Lenders' Collateral through January 30, 2015.

49. The terms of the draft Eleventh Amended Cash Collateral Order are substantially similar to the Tenth Amended Cash Collateral Order. The material differences being that Eleventh Amended Cash Collateral Order:

(i) includes two new LP DIP Lenders, KKR Echo Investments I Limited and KKR Credit Relative Value Mast Fund LP,

(ii) provides the Chapter 11 Debtors may make capital expenditures of $1,700,000, in comparison with the $2,380,000 authorized pursuant to the Tenth Amended Cash Collateral Order, and

(iii) extends the conditional waiver with respect to Lightsquared's obligation to pay the LP Adequate Protection Payments (as defined in the Eleventh Amended Cash Collateral Order), from July 2014 through January 2015 inclusive[10], whereas the Tenth Amended Cash Collateral Order only covered July through November 2014 inclusive.

[10] provided, however, that the LP Obligors shall pay, for the benefit of the Prepetition LP Lenders: (a) all reasonable, actual, and documented fees and expenses of White & Case LLP and The Blackstone Group L.P. on the first Business Day of September 2014, October 2014, November 2014, December 2014, and January 2015, or as otherwise previously agreed to for the months of July 2014 and August 2014; (b) all outstanding reasonable, actual, and documented fees and expenses of (i) Bennett Jones LLP, as Canadian counsel to the Ad Hoc LP Secured Group, (ii) McDermott Will & Emery LLP, as counsel to the Prepetition LP Agent, (iii) Latham & Watkins LLP, as counsel to UBS AG, Stamford Branch, the former Prepetition LP Agent, and (iv) Pillsbury Winthrop Shaw Pittman LLP, in each case on the first Business Day of December 2014 and January 2015; and (c) the annual fee of the Prepetition LP Collateral Trustee as set forth in that certain Schedule of Fees, dated September 29, 2010, agreed to and accepted by LightSquared LP; provided, further, however, that payment of the LP Adequate Protection Payments for the months of July 2014, August 2014, September 2014, October 2014, November 2014, December and January 2015 shall not be deemed waived in the event that the *Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 544] is further extended, and such unpaid amounts shall be due and payable,

50. The Foreign Representative is of the view that the Canadian Court should recognize the Eleventh Amended Cash Collateral Order as:

(a) the LP Obligors have agreed to continue to use Cash Collateral in accordance with a Budget developed by the Chapter 11 Debtors, in consultation with their financial advisor Moelis & Company LLC;

(b) the Budget is achievable and will continue to allow the LP Obligors to operate without the accrual of unpaid administrative expenses and will continue to adequately protect the Prepetition LP Agent (as defined in the Initial Cash Collateral Order) and the Prepetition LP Lenders from diminution in the value of their interests in the Cash Collateral; and

(c) the only alternative to the LP Obligors' use of Cash Collateral – the immediate liquidation of their assets – would be catastrophic for both the Chapter 11 Debtors and the Prepetition LP Lenders given that an orderly conclusion to the Chapter 11 Cases is achievable.

CONCLUSION

51. The Foreign Representative thus respectfully requests that the Canadian Court recognize the Seventh Replacement LP DIP Order and the Eleventh Amended Cash Collateral Order as the terms and conditions contained in those Orders are fair and reasonable and in the best interests of the LP Obligors' estates and creditors.

52. The secured creditors registered against the Canadian Chapter 11 Debtors entities are being given notice of the motion.

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and shall be paid, upon entry by the U.S. Bankruptcy Court of an order approving any additional debtor-in possession financing to the LP Obligors in the Chapter 11 Cases.

53. I make this affidavit in support of the motion of the Foreign Representative returnable November 20, 2014 and for no other or improper purpose.

SWORN before me in the City of Ottawa in the Province of Ontario this 14th day of November, 2014

Commissioner for Taking Affidavits, etc.

Elizabeth Creary

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

TAB A

Exhibit "**A**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Docket #1927 Date Filed: 11/14/2014

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al.*,	Case No. 12-12080 (SCC)
Debtors.[1]	Jointly Administered

FINAL ORDER (A) AUTHORIZING LP DIP OBLIGORS TO OBTAIN SEVENTH REPLACEMENT SUPERPRIORITY SENIOR SECURED PRIMING POSTPETITION FINANCING, (B) GRANTING SUPERPRIORITY LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (C) GRANTING ADEQUATE PROTECTION, AND (D) MODIFYING AUTOMATIC STAY

Upon the notice of presentment, dated November 11, 2014 [Docket No. 1917] (the "Motion"),[2] of LightSquared Inc. and certain of its affiliates, as debtors and debtors in possession

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

[2] Terms used but not otherwise defined herein shall have the meanings given them, as applicable, in (a) Annex A hereto and (b) the *Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 544] (the "First Cash Collateral Order" and, as amended and modified by (i) the *Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1118] (the "First Order Amending First Cash Collateral Order"), (ii) the *Second Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1292] (the "Second Order Amending First Cash Collateral Order"), (iii) the *Third Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1477] (the "Third Order Amending First Cash Collateral Order"), (iv) the *Fourth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1580] (the "Fourth Order Amending First Cash Collateral Order"), (v) the *Fifth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1615] (the "Fifth Order Amending First Cash Collateral Order"), (vi) the *Sixth Order*

(collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), for entry of an order pursuant to sections 105, 361, 362, 363(c), 364(d), and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), *inter alia*:

(i) authorizing LightSquared LP (the "LP DIP Borrower") to obtain, and each existing and future, direct or indirect, subsidiary of the LP DIP Borrower (collectively, the "LP DIP Guarantors" and, together with the LP DIP Borrower, the "LP DIP Obligors") to unconditionally guarantee, jointly and severally, the LP DIP Borrower's obligations in respect of, replacement senior secured, priming, superpriority postpetition financing (the "Seventh Replacement LP DIP Facility" and, the loans made thereunder, the "Seventh Replacement LP DIP Loans") made available by certain members of the ad hoc group of Prepetition LP Lenders (the "Ad Hoc LP Secured Group"), including Capital Research and Management Company, Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts, and Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., Solus

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Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay [Docket No. 1638] (the "Sixth Order Amending First Cash Collateral Order"), (vii) the *Seventh Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1667] (the "Seventh Order Amending First Cash Collateral Order"), (viii) the *Eighth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1682] (the "Eighth Order Amending First Cash Collateral Order"), (ix) the *Ninth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1735] (the "Ninth Order Amending First Cash Collateral Order"), and (x) the *Tenth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* (the "Tenth Order Amending First Cash Collateral Order"), and, as so amended, the "Final Cash Collateral Order").

Alternative Asset Management LP, fund entities managed by Aurelius Capital Management, LP, SP Special Opportunities, LLC, KKR Echo Investments I Limited, and KKR Credit Relative Value Mast Fund LP (each of the foregoing, an "LP DIP Lender" and, collectively, the "LP DIP Lenders"), pursuant to the terms and conditions of this order (this "Order"), including (i) the terms and conditions set forth in Annex A hereto, (ii) the budget prepared by the Debtors and annexed hereto as Annex B (as updated from time to time pursuant to, and in accordance with, the terms of this Order, the "Seventh Replacement LP DIP Budget"), and (iii) the other Seventh Replacement LP DIP Credit Documents (as defined below);

(ii) authorizing and directing the LP DIP Obligors to execute and deliver, and perform under, (A) the terms of the Seventh Replacement LP DIP Facility as set forth in this Order, (B) the related Seventh Replacement Notes (as defined in Annex A hereto), substantially in the form annexed hereto as Annex C, to be issued in favor of each LP DIP Lender by the LP DIP Borrower, each in the original principal amount equal to the Seventh Replacement LP DIP Loan made by such LP DIP Lender as set forth in the "Seventh Replacement LP DIP Loan Allocation Schedule" set forth on Schedule 1 to Annex A, and (C) the related "LP DIP Obligor Guaranty," substantially in the form annexed hereto as Annex D (this Order, the Seventh Replacement Notes, and each LP DIP Obligor Guaranty, collectively, the "Seventh Replacement LP DIP Credit Documents"), and to perform such other acts as may be necessary or desirable in connection with the Seventh Replacement LP DIP Facility;

(iii) granting to the LP DIP Lenders allowed superpriority administrative expense claims (the "LP DIP Superpriority Claims") with priority over all other allowed

chapter 11 and chapter 7 administrative expense claims, including the expenses of any chapter 7 trustee or chapter 11 trustee and the adequate protection claims and liens granted to the Prepetition LP Secured Parties under (and as defined in) the Final Cash Collateral Order, in each of the LP DIP Obligors' Chapter 11 Cases in respect of the Seventh Replacement LP DIP Obligations (as defined below);

(iv) granting to the LP DIP Lenders automatically perfected first priority priming security interests in, and liens on, all of the LP DIP Collateral (as defined below) in accordance with the terms set forth herein;

(v) authorizing the LP DIP Obligors to pay the principal, interest (including, without limit, interest paid in kind), fees, expenses, and other liabilities and amounts payable, as set forth herein, including, without limitation, under each of the Seventh Replacement LP DIP Credit Documents, as they become due, all to the extent provided by, and in accordance with, the terms of this Order and the other Seventh Replacement LP DIP Credit Documents, as applicable;

(vi) reaffirming and confirming the adequate protection to the Prepetition LP Secured Parties for any Diminution in Value of their respective interests in the Prepetition LP Collateral (as defined in Annex A) through January 30, 2015 as provided in the Final Cash Collateral Order; and

(vii) vacating and modifying the automatic stay imposed by Section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms and provisions of the Seventh Replacement LP DIP Facility and this Order.

The Court (as defined below) having considered the Motion, the terms of the Seventh Replacement LP DIP Facility, and the Tenth Order Amending First Cash Collateral Order, and in

accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014 and the Local Rules, due and proper notice of the Motion having been given; and it appearing that approval of the relief requested in the Motion is fair and reasonable and in the best interests of the Debtors, their creditors, and their estates and essential for the continued maintenance and preservation of the Debtors' assets and property; and all objections, if any, to the entry of this Order having been withdrawn, resolved, or overruled by the Court; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. **Petition Date**. On May 14, 2012 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the "Court").

B. **Debtors in Possession**. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Chapter 11 Cases.

C. **Jurisdiction and Venue**. This Court has jurisdiction, pursuant to 28 U.S.C. §§ 157(b) and 1334, over the Chapter 11 Cases and property affected hereby. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. **Committee Formation**. As of the date hereof, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") has not appointed a statutory committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

E. **Notice**. Notice of the Hearing and the relief requested in the Motion has been provided by the Debtors, by telecopy, email, overnight courier and/or hand delivery, to (i) the U.S. Trustee, (ii) the entities listed on the Consolidated List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d), (iii) counsel to the agents under the Debtors' prepetition credit facilities, (iv) counsel to U.S. Bank National Association and MAST Capital Management, LLC, (v) counsel to Harbinger Capital Partners, LLC, (vi) the Internal Revenue Service, (vii) the United States Attorney for the Southern District of New York, (viii) the Federal Communications Commission, (ix) Industry Canada, and (x) all parties having filed a request for notice under Bankruptcy Rule 2002. Under the circumstances, such notice of the Hearing and the relief requested in the Motion constitutes due, sufficient, and appropriate notice and complies with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b) and (c), and the Local Rules.

F. **Final Cash Collateral Order**. On February 19, 2013, the Court entered the First Cash Collateral Order; on December 20, 2013, the Court entered the First Order Amending First Cash Collateral Order; on February 4, 2014, the Court entered the Second Order Amending First Cash Collateral Order; on April 10, 2014, the Court entered the Third Order Amending First Cash Collateral Order; on June 13, 2014, the Court entered the Fourth Order Amending First Cash Collateral Order; on June 30, 2014, the Court entered the Fifth Order Amending First Cash Collateral Order; on July 14, 2014, the Court entered the Sixth Order Amending First Cash Collateral Order; on July 24, 2014, the Court entered the Seventh Order Amending First Cash Collateral Order; on August 1, 2014, the Court entered the Eighth Order Amending First Cash Collateral Order; and on August 28, 2014, the Court entered the Ninth Order Amending First Cash Collateral Order which collectively provide for, among other things, the Debtors' continued

use of the Prepetition LP Collateral, including Cash Collateral, subject to the terms contained therein, through November 15, 2014. Substantially simultaneously with entry of this Order, and as a prerequisite to the effectiveness of this Order, the Court will enter the Tenth Order Amending First Cash Collateral Order, which, among other things, amends the First Cash Collateral Order (as amended by the First Order Amending First Cash Collateral Order, the Second Order Amending First Cash Collateral Order, the Third Order Amending First Cash Collateral Order, the Fourth Order Amending First Cash Collateral Order, the Fifth Order Amending First Cash Collateral Order, the Sixth Order Amending First Cash Collateral Order, the Seventh Order Amending First Cash Collateral Order, the Eighth Order Amending First Cash Collateral Order, and the Ninth Order Amending First Cash Collateral Order) by (i) permitting the LP Debtors[3] to continue to use the Prepetition LP Collateral, including Cash Collateral, through and including January 30, 2015, (ii) permitting the LP Debtors to continue to make the Adequate Protection Payments on the terms set forth herein, (iii) allowing entry of this Order and approval of the Seventh Replacement LP DIP Facility, and (iv) preserving for the benefit of the Prepetition LP Secured Parties the LP Adequate Protection Liens and the LP Section 507(b) Claims.

G. **Sixth Replacement LP DIP Facility**. On February 4, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1291] and thereby approved, among other things, the provision of certain

[3] "LP Debtors" means, collectively, LightSquared LP, ATC Technologies, LLC, LightSquared Corp., LightSquared Finance Co., LightSquared Network LLC, LightSquared Inc. of Virginia, LightSquared Subsidiary LLC, SkyTerra Holdings (Canada) Inc., SkyTerra (Canada) Inc., Lightsquared Bermuda Ltd., LightSquared Investors Holdings Inc., TMI Communications Delaware, Limited Partnership, and LightSquared GP Inc.

superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through April 15, 2014. On April 10, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1476] (the "Replacement LP DIP Order") and thereby approved, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through June 15, 2014 (the "Replacement LP DIP Facility"). On June 9, 2014, the Debtors filed the *Notice of Extension of Final Maturity Date Under Replacement LP DIP Facility* [Docket No. 1574], providing that the LP DIP Lenders had agreed to extend the maturity of the Replacement LP DIP Facility to June 30, 2014. On June 30, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Second Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1614] (the "Second Replacement LP DIP Order") and thereby approved, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through July 15, 2014 (the "Second Replacement LP DIP Facility"). On July 14, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Third Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1639] (the "Third Replacement LP DIP Order") and thereby approved, among other things, the provision of certain

superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through July 21, 2014 (the "Third Replacement LP DIP Facility"). On July 24, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Fourth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1668] (the "Fourth Replacement LP DIP Order") and thereby approved, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through July 31, 2014 (the "Fourth Replacement LP DIP Facility"). On August 1, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Fifth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1681] (the "Fifth Replacement LP DIP Order") and thereby approved, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through August 31, 2014 (the "Fifth Replacement LP DIP Facility"). On August 28, 2014, this Court entered the *Final Order (A) Authorizing LP DIP Obligors To Obtain Sixth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1736] (the "Sixth Replacement LP DIP Order") and thereby approved, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through November 15, 2014 (the "Sixth Replacement LP DIP Facility"). Each of the

LP DIP Obligors and the LP DIP Lenders under the Sixth Replacement LP DIP Facility have consented to the entry of this Order and the Seventh Replacement LP DIP Facility, the proceeds of which shall be used to (i) pay in full all Sixth Replacement LP DIP Obligations under (and as defined in) the Sixth Replacement LP DIP Facility and the Sixth Replacement LP DIP Order and (ii) permit the LP Debtors to meet their general corporate and working capital needs in accordance with this Order for the types of expenditures set forth in the Seventh Replacement LP DIP Budget (and other purposes described in paragraph 3(a) below) through the Final Maturity Date (as defined below) and pay the LP DIP Professional Fees (as defined below).

H. **Immediate Need for Postpetition Financing**. The Debtors have requested immediate entry of this Order pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Good cause has been shown for entry of this Order. Since the Petition Date, the Debtors have been funding their businesses and the Chapter 11 Cases through the use of, among other things, the Prepetition LP Collateral (including Cash Collateral) and the proceeds of the Sixth Replacement LP DIP Facility. The Prepetition LP Lenders' Cash Collateral and the proceeds of the Sixth Replacement LP DIP Facility are largely depleted. In the absence of the availability of the Seventh Replacement LP DIP Facility in accordance with the terms hereof, serious and irreparable harm to the LP Debtors and their estates and creditors would occur. Further, any remaining possibility for confirmation of a chapter 11 plan would be at severe risk in the absence of the availability of funds in accordance with the terms of this Order.

I. **No Credit Available on More Favorable Terms**. The Debtors have been unable to obtain, on more favorable terms and conditions than those provided in this Order, (i) adequate unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense, (ii) credit for money borrowed with priority over any or all administrative expenses of

the kind specified in sections 503(b) or 507(b) of the Bankruptcy Code, (iii) credit for money borrowed secured by a lien on property of the estate that is not otherwise subject to a lien, or (iv) credit for money borrowed secured by a junior lien on property of the estate which is subject to a lien. The Debtors are unable to obtain credit for borrowed money without granting the LP DIP Liens and the LP DIP Superpriority Claim to (or for the benefit of) the LP DIP Lenders.

J. **Use of Proceeds of Seventh Replacement LP DIP Facility, LP DIP Collateral**. All proceeds of the Seventh Replacement LP DIP Facility and the LP DIP Collateral, including proceeds realized from a sale or disposition thereof, or from payment thereon (net of any amounts used to pay interest, fees, costs, expenses, and other liabilities payable under this Order or the Final Cash Collateral Order), shall be used and/or applied (i) first, to repay in full all Sixth Replacement LP DIP Obligations (as defined in the Sixth Replacement LP DIP Order) under the Sixth Replacement LP DIP Facility and the Sixth Replacement LP DIP Order, and (ii) second, to permit the LP Debtors to meet their general corporate and working capital needs in accordance with this Order for the types of expenditures set forth in the Seventh Replacement LP DIP Budget and for no other purpose, and to provide the LP Debtors with sufficient time and liquidity to confirm a chapter 11 plan of reorganization, all in accordance with the terms and conditions of this Order.

K. **Extension of Financing**. The LP DIP Lenders have indicated a willingness to provide financing to the LP DIP Obligors in accordance with the terms of this Order and the other Seventh Replacement LP DIP Credit Documents (as applicable), but only upon (i) the entry of this Order, including, without limitation, approval of the terms of the Seventh Replacement LP DIP Loans as set forth herein and findings by this Court that the Seventh Replacement LP DIP Facility is essential to the LP Debtors' estates, that the LP DIP Lenders are good faith

financiers, and that their claims, superpriority claims, security interests and liens, and other protections granted pursuant to this Order and the Seventh Replacement LP DIP Facility (including the LP DIP Superpriority Claim and the LP DIP Liens) will not be affected by any subsequent reversal, modification, vacatur, or amendment of, as the case may be, this Order, the Tenth Order Amending First Cash Collateral Order, or the Final Cash Collateral Order, as provided in section 364(e) of the Bankruptcy Code, (ii) the entry of the Tenth Order Amending First Cash Collateral Order, (iii) the execution and delivery of the Seventh Replacement Notes and the LP DIP Obligor Guaranties by each applicable LP DIP Obligor, (iv) receipt of evidence as to the delivery of certificates, if any, evidencing equity ownership in the Additional LP Subsidiary Guarantors (as defined below), together with undated stock powers therefor, executed in blank, to the Prepetition LP Collateral Trustee, and (v) the payment of LP DIP Professional Fees as and to the extent provided for herein. The LP DIP Obligors shall obtain, by no later than November 20, 2014, an order in form and substance acceptable to the LP DIP Lenders by the Canadian Court in connection with the Canadian Proceedings recognizing the entry of this Order (the "Canadian Recognition Order").

L. **Business Judgment and Good Faith Pursuant to Section 364(e)**.

(i) The terms and conditions of the Seventh Replacement LP DIP Facility, and the principal, interest (including, without limit, interest paid in kind), fees, expenses, and other liabilities paid and to be paid thereunder, are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration;

(ii) The Seventh Replacement LP DIP Facility was negotiated in good faith and at arm's length among the Debtors and the LP DIP Lenders; and

(iii) The proceeds of the Seventh Replacement LP DIP Loans shall be so extended in good faith and for valid business purposes and uses, as a consequence of which the LP DIP Lenders are entitled to the protection and benefits of section 364(e) of the Bankruptcy Code.

M. **Other Findings and Conclusions Regarding LP DIP Lenders**.

(i) Indemnity. The LP DIP Lenders have acted in good faith, and without negligence or violation of public policy or law, in respect of all actions taken by them in connection with, or related in any way to, negotiating, implementing, documenting, or obtaining requisite approvals of the Seventh Replacement LP DIP Facility, including in respect of the granting of the LP DIP Liens, any challenges or objections to the Seventh Replacement LP DIP Facility, and all documents related to and all transactions contemplated by the foregoing. Accordingly, the LP DIP Lenders shall be and hereby are indemnified and held harmless by the Debtors in respect of any claim or liability incurred in respect thereof or in any way related thereto. No exception or defense in contract, law, or equity exists as to any obligation (contractual or legal) to indemnify and/or hold harmless any of the LP DIP Lenders, and any such defenses are hereby waived, except to the extent resulting from the applicable LP DIP Lender's gross negligence or willful misconduct as determined by a final non-appealable order of a court of competent jurisdiction.

(ii) No Control. None of the LP DIP Lenders are control persons or insiders of the Debtors or any of their affiliates by virtue of any of the actions taken with respect to, in connection with, related to, or arising from the Seventh Replacement LP DIP Facility and/or the Seventh Replacement LP DIP Credit Documents.

(iii) No Claims, Causes of Action. As of the date hereof, there exist no claims or causes of action against any of the LP DIP Lenders with respect to, in connection with, related to, or arising from the Seventh Replacement LP DIP Facility that may be asserted by the Debtors or any other person or entity.

(iv) Release. The LP DIP Obligors forever and irrevocably release, discharge, and acquit each of the LP DIP Lenders, and each of their respective former, current and future officers, employees, directors, agents, representatives, owners, members, partners, financial and other advisors and consultants, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, and predecessors and successors in interest (collectively, the "Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, in each case arising out of, in connection with, or relating to the Seventh Replacement LP DIP Facility and/or the Seventh Replacement LP DIP Credit Documents, including, without limitation, (x) any so-called "lender liability" or equitable subordination claims or defenses with respect to or relating to the Seventh Replacement LP DIP Obligations, LP DIP Liens, or Seventh Replacement LP DIP Facility, as applicable, (y) any and all claims and causes of action arising under the Bankruptcy Code, and (z) any and all claims with respect to the validity, priority, perfection, or avoidability of the liens or secured claims of the LP DIP Lenders.

N. **Relief Essential; Best Interests**. The relief requested in the Motion (and provided in this Order) is necessary, essential, and appropriate for the continued management and preservation of the Debtors' assets and property and to preserve any remaining possibility of confirming a chapter 11 plan. It is in the best interest of the Debtors' estates that the LP DIP

Obligors be allowed to enter into the Seventh Replacement LP DIP Facility and incur the Seventh Replacement LP DIP Obligations.

O. **Adequate Protection for Prepetition LP Secured Parties**. The Prepetition LP Agent and the other Prepetition LP Secured Parties are entitled to adequate protection for the priming of their liens and the other rights granted to the LP DIP Lenders hereunder. The adequate protection provided to the Prepetition LP Secured Parties in the Final Cash Collateral Order is sufficient adequate protection of the interests of the Prepetition LP Secured Parties, and is fair, reasonable, and sufficiently reflects that the Debtors have exercised prudent business judgment in agreeing to this Order and entering into the Seventh Replacement LP DIP Facility. Nothing in this Order shall be construed as a consent by any Prepetition LP Secured Party that it would be adequately protected in the event of any alternative debtor in possession financing or for any purposes in the Chapter 11 Cases other than entry of this Order.

NOW, THEREFORE, on the Motion of the Debtors and the record before this Court with respect to the Motion, including the record made during the Hearing, and good and sufficient cause appearing therefor,

IT IS ORDERED that:

1. **Motion Granted**. The Motion is granted on a final basis in accordance with the terms and conditions set forth in this Order. Any objections to the Motion, to the extent not withdrawn, waived, or otherwise resolved, are hereby denied and overruled.

2. **Seventh Replacement LP DIP Facility**.

(a) **Seventh Replacement LP DIP Obligations; Availability and Final Maturity Date, etc.** The LP DIP Obligors are hereby expressly and immediately authorized and directed to enter into the Seventh Replacement LP DIP Facility, to borrow the Seventh

Replacement LP DIP Loans, and to incur and to perform the Seventh Replacement LP DIP Obligations in accordance with and subject to this Order and, as applicable, any other Seventh Replacement LP DIP Credit Documents, to execute and/or deliver any Seventh Replacement LP DIP Credit Documents and, as provided herein, all other instruments, certificates, agreements, and documents, and to take all actions, which may be reasonably required or otherwise necessary for the performance by the LP DIP Obligors under the Seventh Replacement LP DIP Facility, including the creation and perfection of the LP DIP Liens described and provided for herein. The LP DIP Obligors are hereby authorized and directed to pay all principal of the Seventh Replacement LP DIP Loans, interest thereon (including, without limitation, accrued but unpaid interest and interest paid in kind), fees and expenses, indemnities, and other amounts described herein and, as applicable, in the other Seventh Replacement LP DIP Credit Documents, as such shall accrue and become due hereunder or thereunder, including, without limitation, the LP DIP Professional Fees, as and to the extent provided for herein (collectively, all loans, advances, extensions of credit, financial accommodations, interest, fees (including the LP DIP Professional Fees as and to the extent provided for herein), expenses, and other liabilities and obligations (including indemnities and similar obligations) in respect of the Seventh Replacement LP DIP Facility and the other Seventh Replacement LP DIP Credit Documents, the "Seventh Replacement LP DIP Obligations"). Interest on the Seventh Replacement LP DIP Loans shall accrue at the rates and be paid as set forth in Annex A hereto. The Seventh Replacement LP DIP Credit Documents and all Seventh Replacement LP DIP Obligations are hereby, and shall represent, constitute, and evidence, as the case may be, valid and binding obligations of the LP DIP Obligors, enforceable against the LP DIP Obligors, their estates, and any successors thereto in accordance with their terms. The term of the Seventh Replacement LP DIP Facility shall

commence on the date all of the conditions precedent set forth in subparagraph (c) of this paragraph 2 are satisfied and end on January 30, 2015 or, if sooner, the effective date of any plan of reorganization confirmed in the LP Debtors' Chapter 11 Cases (the "Final Maturity Date"), subject to the terms and conditions set forth herein and in the other Seventh Replacement LP DIP Credit Documents, including the protections afforded a party acting in good faith under section 364(e) of the Bankruptcy Code. On the Final Maturity Date, all Seventh Replacement LP DIP Obligations shall be paid in full and in cash in U.S. dollars, and to each LP DIP Lender in accordance with its Relevant Percentage in accordance with payment instructions provided by each LP DIP Lender.

(b) **Authorization To Borrow; Guarantees, etc**. Subject to the terms and conditions of this Order and the other Seventh Replacement LP DIP Credit Documents (including the Seventh Replacement LP DIP Budget), the LP DIP Borrower is hereby authorized and directed to borrow the Seventh Replacement LP DIP Loans under the Seventh Replacement LP DIP Facility, and the LP DIP Borrower and such other LP DIP Obligors are authorized and are hereby deemed to, and shall, guarantee repayment of the Seventh Replacement LP DIP Loans and all other Seventh Replacement LP DIP Obligations, up to an aggregate principal amount of $164,522,774.80, plus all interest (including, without limitation, interest paid in kind), fees, expenses, and all other liabilities and obligations constituting Seventh Replacement LP DIP Obligations under the Seventh Replacement LP DIP Credit Documents, in each case, without any right of notice, presentment, setoff, or waiver. Upon the making of the Seventh Replacement LP DIP Loans, the concurrent indefeasible payment in full of all Sixth Replacement LP DIP Obligations under (and as defined in) the Sixth Replacement LP DIP Order and the satisfaction of the other conditions precedent set forth in paragraph 2(c) below, all Sixth

Replacement Notes under (and as defined in) the Sixth Replacement LP DIP Order are hereby automatically cancelled without any further action by any person.

(c) **Conditions Precedent**. No LP DIP Lender shall have any obligation to make its Seventh Replacement LP DIP Loan or any other financial accommodation hereunder or under the other Seventh Replacement LP DIP Credit Documents (and the LP DIP Borrower shall not make any request therefor) unless all of the following conditions precedent to making the Seventh Replacement LP DIP Loans have been satisfied (or are satisfied concurrently with the making of such Seventh Replacement LP DIP Loans): (i) the entry of this Order, including, without limitation, approval of the terms of the Seventh Replacement LP DIP Loans as set forth herein, (ii) the entry of the Tenth Order Amending First Cash Collateral Order, (iii) the execution and delivery of the Seventh Replacement Notes and the LP DIP Obligor Guaranties by each applicable LP DIP Obligor, (iv) receipt of evidence as to the delivery of certificates, if any, evidencing equity ownership in the Additional LP Subsidiary Guarantors, together with undated stock powers thereof, executed in blank, to the Prepetition LP Collateral Trustee, (v) the payment of the LP DIP Professional Fees, as and to the extent provided for herein, and (vi) all Sixth Replacement LP DIP Obligations under (and as defined in) the Sixth Replacement LP DIP Order shall be indefeasibly paid in full, all commitments thereunder will be terminated, and any security interests or guarantees in connection therewith will be terminated or released. The Canadian Recognition Order shall have been entered by no later than November 20, 2014.

(d) **LP DIP Collateral**. As used herein, "LP DIP Collateral" shall mean all Prepetition LP Collateral (as defined in Annex A), including Cash Collateral of the Prepetition LP Secured Parties, of any LP DIP Obligor together with (i) all equity interests of any LP Debtor in LightSquared Finance Co., LightSquared Network LLC, and Lightsquared Bermuda Ltd.

(together, the "Additional LP DIP Subsidiary Guarantors"), and (ii) all now owned or hereafter acquired assets and property, whether real or personal, tangible or intangible, of each of the Additional LP DIP Subsidiary Guarantors; provided, however, that the LP DIP Collateral shall not include any permit or license issued by a Governmental Authority (as defined in the Prepetition LP Credit Agreement) or other agreement to the extent and for so long as the terms thereof validly prohibit the creation by the pledgor thereof of a security interest in such permit, license, or other agreement.

(e) **LP DIP Liens**. Effective immediately upon the entry of this Order, and subject only to the LP Carve-Out (as defined in the Final Cash Collateral Order and as set forth more fully in this Order), the LP DIP Lenders are hereby granted the following security interests and liens, which shall immediately be valid, binding, perfected, continuing, enforceable, and non-avoidable (all such liens and security interests granted hereby, the "LP DIP Liens"):

(I) pursuant to section 364(c)(2) of the Bankruptcy Code, valid, enforceable, perfected, and non-avoidable first priority liens on and security interests in all LP DIP Collateral that was not encumbered by valid, enforceable, perfected, and non-avoidable liens as of the Petition Date;

(II) pursuant to section 364(c)(3) of the Bankruptcy Code, valid, enforceable, perfected, and non-avoidable liens on and security interests in (x) all LP DIP Collateral which is unencumbered by the Prepetition LP Liens but on which a third party, i.e., not the Prepetition LP Secured Parties (a "Third Party Lienholder"), had a pre-existing lien on the Petition Date and (y) all LP DIP Collateral encumbered by the Prepetition LP

Liens and LP Adequate Protection Liens on which a Third Party Lienholder had a pre-existing lien on the Petition Date that was senior to the Prepetition LP Liens, in each case junior only to any such liens and security interests of Third Party Lienholders, but solely to the extent that such liens and security interests of Third Party Lienholders were in each case valid, enforceable, perfected, and non-avoidable as of the Petition Date and were permitted by the terms of the Prepetition LP Credit Documents (the "Senior Third Party Liens"); and

(III) pursuant to section 364(d) of the Bankruptcy Code, valid, enforceable, perfected, and non-avoidable liens on and security interests in all Prepetition LP Collateral of the LP DIP Obligors, which liens and security interests shall be senior to and prime the Prepetition LP Liens and any LP Adequate Protection Liens.

(f) **Other Provisions Relating to LP DIP Liens**. The LP DIP Liens shall secure all of the Seventh Replacement LP DIP Obligations. The LP DIP Liens shall not, without the consent of each of the LP DIP Lenders, be made junior to, or *pari passu* with, any other lien or security interest, other than to the extent expressly provided herein and to the LP Carve-Out, by any court order heretofore or hereafter entered in the Chapter 11 Cases of any of the LP DIP Obligors, and shall be valid and enforceable against any trustee appointed in the Chapter 11 Cases of any of the LP DIP Obligors, upon the conversion of any of the Chapter 11 Cases of any of the LP DIP Obligors to a case under chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (such cases or proceedings, "Successor Cases"), and/or upon the dismissal of any of the Chapter 11 Cases of any of the LP DIP Obligors. The LP

DIP Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code or the "equities of the case" exception of section 552 of the Bankruptcy Code or section 506(c) of the Bankruptcy Code.

(g) **Superpriority Administrative Claim Status**. The Seventh Replacement LP DIP Obligations shall, pursuant to section 364(c)(1) of the Bankruptcy Code, at all times constitute an LP DIP Superpriority Claim, and be payable from and have recourse to all LP DIP Collateral. The LP DIP Superpriority Claim shall be subject and subordinate only to the LP Carve-Out. Other than to the extent expressly provided herein, and with respect to the LP Carve-Out, no costs or expenses of administration, including, without limitation, any LP Section 507(b) Claim granted under the Final Cash Collateral Order or hereunder or any professional fees allowed and payable under Bankruptcy Code sections 328, 330, and 331, or otherwise, that have been or may be incurred in these proceedings or in any Successor Cases, and no priority claims are, or will be, senior to, prior to, or *pari passu* with the LP DIP Superpriority Claim or any of the Seventh Replacement LP DIP Obligations, or with any other claims of the LP DIP Lenders arising hereunder, under the other Seventh Replacement LP DIP Credit Documents, or otherwise in connection with the Seventh Replacement LP DIP Facility.

3. **Authorization and Approval To Use Proceeds of Seventh Replacement LP DIP Facility**.

(a) Subject to the terms and conditions of this Order and the other Seventh Replacement LP DIP Credit Documents, and to the adequate protection granted to or for the benefit of the Prepetition LP Secured Parties as hereinafter set forth, each LP DIP Obligor is authorized and directed to request and use proceeds of the Seventh Replacement LP DIP Loans, (i) first, to indefeasibly repay in full all outstanding Sixth Replacement LP DIP Obligations

under (and as defined in) the Sixth Replacement LP DIP Order and the other Sixth Replacement LP DIP Credit Documents (as defined in the Sixth Replacement LP DIP Order) and (ii) second, for (A) working capital, other general corporate purposes, and permitted payment of costs of administration of the LP Debtors' Chapter 11 Cases in order to provide the LP Debtors with sufficient time and liquidity to confirm a plan of reorganization, in each case only for the purposes specifically set forth in this Order and for the types of expenditures set forth in the Seventh Replacement LP DIP Budget and (B) payment of the LP DIP Professional Fees (as and to the extent set forth herein).

(b) Notwithstanding anything herein to the contrary, the Seventh Replacement LP DIP Obligations shall be due and payable on the Final Maturity Date.

(c) Nothing in this Order shall authorize the disposition of any assets of the Debtors or their estates or other proceeds resulting therefrom outside the ordinary course of business, except as permitted herein (subject to any required Court approval).

(d) Except as permitted by this Order and the Seventh Replacement LP DIP Budget, the LP DIP Obligors shall not make any payment on any prepetition indebtedness or obligations other than those authorized by the Court in accordance with orders entered into, on, or prior to the date hereof.

4. **Adequate Protection for Prepetition Secured Parties**. Pursuant to sections 361, 362, and 363(e) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition LP Agent and the Prepetition LP Secured Parties in the Prepetition LP Collateral (including Cash Collateral) against any Diminution in Value, the Prepetition LP Agent, for the benefit of the Prepetition LP Secured Parties, shall continue to receive adequate protection in the form of the LP Adequate Protection Liens, the LP Section 507(b) Claims, and the LP Adequate

Protection Payments (including payment of the LP Professional Fees), in each case, pursuant to and as more fully set forth in the Final Cash Collateral Order.

5. **Monitoring of Collateral**. The LP DIP Lenders, or their respective consultants and advisors, shall, consistent with past practices, be given reasonable access to the Debtors' books, records, assets, and properties for purposes of monitoring the LP Debtors' businesses and the value of the LP DIP Collateral, and shall be granted reasonable access to the Debtors' senior management.

6. **Financial and Other Reporting**. On Wednesday (or in the event such Wednesday is not a business day, the first business day thereafter) of each week, the LP Debtors will provide Willkie Farr & Gallagher LLP, Blackstone, and White & Case LLP (who shall reasonably promptly forward such information to each of the LP DIP Lenders at substantially the same time) with (a) cash balances as of the last day of the prior week and (b) a summary of material or key expenditures by category during the prior week. On the tenth (10^{th}) day of each month or the first business day thereafter, the LP Debtors will provide Willkie Farr & Gallagher LLP, Blackstone, and White & Case LLP (who shall reasonably promptly forward such information to each of the LP DIP Lenders at substantially the same time) with a reconciliation of revenues generated and expenditures made during the prior month and cumulatively during the Chapter 11 Cases, together with a comparison of such amounts to the amounts projected in the Seventh Replacement LP DIP Budget. In addition, the Debtors shall provide Blackstone and White & Case LLP with any and all other financial information made available to the Prepetition LP Agent or Ad Hoc LP Secured Group pursuant to the Final Cash Collateral Order.

7. **LP DIP Lien Perfection**. This Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the LP DIP Liens without the necessity of filing or

recording any financing statement, deed of trust, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction or the taking of any other action to validate or perfect the LP DIP Liens or to entitle the LP DIP Liens to the priorities granted herein. To the extent that the Prepetition LP Agent is the secured party under any account control agreements, listed as loss payee under any of the Debtors' insurance policies, or is the secured party under any Seventh Replacement LP DIP Credit Document, the LP DIP Lenders are also deemed to be secured parties under such account control agreements, loss payees under the Debtors' insurance policies, and the secured parties under each such Seventh Replacement LP DIP Credit Document, shall have all rights and powers attendant to that position (including, without limitation, rights of enforcement), and shall act in that capacity and distribute any proceeds recovered or received in accordance with the terms of this Order and the other Seventh Replacement LP DIP Credit Documents. The Prepetition LP Collateral Trustee shall serve as the bailee for the LP DIP Lenders for the purpose of perfecting their respective security interests and liens on all LP DIP Collateral that is of a type whereby perfection of a security interest therein may be accomplished only by possession or control by a secured party.

8. **LP Carve-Out**. Subject to the terms and conditions contained in this paragraph, upon the occurrence of the Final Maturity Date, the LP DIP Liens and the LP DIP Superpriority Claim, which have the relative lien and payment priorities as set forth herein, shall, in any event, be subject and subordinate to the LP Carve-Out, without duplication. No portion of the LP Carve-Out and no proceeds of the Seventh Replacement LP DIP Facility or Seventh Replacement LP DIP Loans may be used for the payment of the fees and expenses of any person incurred in challenging, or in relation to the challenge of, any of the LP DIP Liens or the LP DIP Superpriority Claim.

9. **Payment of Compensation**. Nothing herein shall be construed as a consent to the allowance of any professional fees or expenses of any of the Debtors or shall limit or otherwise affect the right of the LP DIP Lenders and/or the Prepetition LP Secured Parties to object to the allowance and payment of any such fees and expenses. The LP Debtors shall be permitted to pay compensation and reimbursement of expenses allowed and payable under sections 330 and 331 of the Bankruptcy Code and in accordance with the Seventh Replacement LP DIP Budget, as the same may be due and payable and the same shall not reduce the LP Carve-Out.

10. **Section 506(c) Claims**. Except to the extent of the LP Carve-Out, no expenses of the administration of these Chapter 11 Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the LP DIP Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law or in equity, without the prior written consent of the LP DIP Lenders, and no such consent shall be implied from any other action or inaction by the LP DIP Lenders.

11. **Collateral Rights; Limitations in Respect of Subsequent Court Orders**. Without limiting, and subject to, any other provisions of this Order, there shall not be entered in the Chapter 11 Cases of any LP DIP Obligor, or in any Successor Case, any order which authorizes (a) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the LP DIP Collateral and/or entitled to priority administrative status which is superior to or *pari passu* with those granted pursuant to this Order to or for the benefit of the LP DIP Lenders or the Prepetition LP Secured Parties; (b) the use of Cash Collateral for any purpose other than as set forth in the

Final Cash Collateral Order or the Seventh Replacement LP DIP Budget; (c) any LP DIP Obligor to incur, create, assume, guarantee, or permit to exist, directly or indirectly, any additional indebtedness, except (i) indebtedness incurred under this Order and the other Seventh Replacement LP DIP Credit Documents, (ii) indebtedness existing on the date of this Order (other than indebtedness created pursuant to the Sixth Replacement LP DIP Order, which shall be repaid in full from the proceeds of the Seventh Replacement LP DIP Loans as set forth herein) and additional indebtedness (including interest, fees, premium, expenses or other amounts accrued thereon) in accordance with the terms of such indebtedness, or (iii) indebtedness incurred in the ordinary course and not for borrowed money, which would not be senior in right of payment to the Seventh Replacement LP DIP Obligations; or (d) any LP DIP Obligor to create, incur, assume, or permit to exist, directly or indirectly, any lien on any property now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except (i) liens granted pursuant to this Order or the other Seventh Replacement LP DIP Credit Documents, (ii) any lien in existence on the date of this Order (other than LP DIP Liens created pursuant to the Sixth Replacement LP DIP Order, which shall be discharged and terminated in full upon payment in full of all Sixth Replacement LP DIP Obligations created under the Sixth Replacement LP DIP Order and the other Sixth Replacement LP DIP Credit Documents (as defined in the Sixth Replacement LP DIP Order) from the proceeds of the Seventh Replacement LP DIP Loans as set forth hereunder), and (iii) liens incurred in the ordinary course and which do not secure indebtedness for borrowed money, which would be junior to the LP DIP Liens.

12. **Proceeds of Subsequent Financing**. Without limiting the provisions and protections of paragraph 11 above, if at any time prior to the indefeasible repayment and

satisfaction in full in cash of all Seventh Replacement LP DIP Obligations, the LP DIP Obligors' estates, any trustee, any examiner with enlarged powers, or any responsible officer subsequently appointed shall obtain credit or incur debt in violation of this Order or the other Seventh Replacement LP DIP Credit Documents, then all of the cash proceeds derived from such credit or debt shall immediately be turned over to the LP DIP Lenders for application in accordance with this Order.

13. **Cash Management**. Until the payment in full in cash of all Seventh Replacement LP DIP Obligations, the LP DIP Obligors shall maintain the cash management system as set forth in the *Final Order (A) Authorizing Debtors To (I) Continue Using Existing Cash Management Systems, Bank Accounts and Business Forms and (II) Continue Intercompany Transactions, (B) Providing Postpetition Intercompany Claims Administrative Expense Priority, (C) Authorizing Debtors' Banks To Honor All Related Payment Requests, and (D) Waiving Investment Guidelines of Section 345(b) of Bankruptcy Code* [Docket No. 115] (the "Cash Management Order"), or as otherwise required by the Seventh Replacement LP DIP Credit Documents. To the extent the Debtors are required to give notice to any party as set forth in the Cash Management Order, such notice shall also be given to each of counsel to the LP DIP Lenders and the Ad Hoc LP Secured Group. The LP DIP Lenders shall be deemed to have "control" over the LP DIP Obligors' cash management accounts for all purposes of perfection under the Uniform Commercial Code. All amounts collected in the cash collection accounts of the LP DIP Obligors may be used and applied in accordance with this Order.

14. **Disposition of LP DIP Collateral**. The Debtors shall not sell, transfer, lease, encumber, or otherwise dispose of any portion of the LP DIP Collateral outside of the ordinary

course of business unless approved by the Court, subject to the right of any party in interest to object.

15. **Termination of Automatic Stay; Rights and Remedies Following Final Maturity Date**.

(a) The Seventh Replacement LP DIP Obligations shall be due and payable on the Final Maturity Date.

(b) Any automatic stay otherwise applicable to the LP DIP Lenders in connection with the Seventh Replacement LP DIP Facility is hereby modified so that, following the Final Maturity Date, the LP DIP Lenders shall be immediately entitled to exercise all of their rights and remedies in respect of the LP DIP Collateral, in accordance with this Order and/or the other Seventh Replacement LP DIP Credit Documents, as applicable.

(c) Following the occurrence of the Final Maturity Date, if the Seventh Replacement LP DIP Obligations have not been indefeasibly paid in full in cash, the LP DIP Lenders are authorized to exercise all remedies and proceed under or pursuant to the applicable Seventh Replacement LP DIP Credit Documents (which, for the avoidance of doubt, shall be consistent with and incorporate, *mutatis mutandis* to make applicable to the LP DIP Lenders, the remedies available to the Prepetition LP Secured Parties under the Prepetition LP Credit Documents) or under applicable law, including the Uniform Commercial Code. All proceeds realized in connection with the exercise of the rights and remedies of the applicable LP DIP Lenders shall be turned over and applied in accordance with this Order.

(d) The automatic stay imposed under Bankruptcy Code section 362(a) is hereby modified pursuant to the terms of the Seventh Replacement LP DIP Credit Documents as necessary to (i) permit the LP DIP Obligors to grant LP DIP Liens and to incur all Seventh

Replacement LP DIP Obligations and all liabilities and obligations to the LP DIP Lenders hereunder and under the other Seventh Replacement LP DIP Credit Documents, as the case may be, and (ii) authorize the LP DIP Lenders to retain and apply payments and otherwise enforce their respective rights and remedies hereunder.

(e) Notwithstanding anything in this Order to the contrary, the Prepetition LP Agent shall not be permitted to exercise any rights or remedies for itself or the Prepetition LP Secured Parties unless and until the Seventh Replacement LP DIP Obligations including, for the avoidance of doubt, the portion of the Seventh Replacement LP DIP Obligations originally constituting the Sixth Replacement LP DIP Obligations under (and as defined in) the Sixth Replacement LP DIP Order are indefeasibly paid and satisfied in full in cash.

16. **Applications of Proceeds of Collateral, Payments, and Collections**.

Subject to the LP Carve-Out, upon and after the occurrence of the Final Maturity Date, each LP DIP Obligor agrees that proceeds of any LP DIP Collateral, any amounts held on account of the LP DIP Collateral, and all payments and collections received by the LP DIP Obligors with respect to all proceeds of LP DIP Collateral and all unexpended proceeds of the Seventh Replacement LP DIP Loans shall be used and applied to permanently and indefeasibly repay and reduce all Seventh Replacement LP DIP Obligations then due and owing in accordance with the Seventh Replacement LP DIP Credit Documents, until paid and satisfied in full in cash. No asset or property of the LP DIP Obligors may be sold, leased, or otherwise disposed of by any Debtor outside the ordinary course of business absent an order of the Court (and subject to the right to object of any party in interest), and in any event, all proceeds of such sale, lease, or disposition shall be indefeasibly applied to repay the Seventh Replacement LP DIP Obligations as provided herein.

17. **Other Rights and Obligations**.

(a) **Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of Order**. Based on the findings set forth in this Order and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the Seventh Replacement LP DIP Facility as approved by this Order, in the event any or all of the provisions of this Order are hereafter modified, amended, or vacated by a subsequent order of this Court or any other court, the LP DIP Lenders are entitled to the protections provided in section 364(e) of the Bankruptcy Code, and no such modification, amendment, or vacatur shall affect the validity and enforceability of any advances made hereunder or the liens or priority authorized or created hereby. Notwithstanding any such modification, amendment, or vacatur, any claim granted to the LP DIP Lenders hereunder arising prior to the effective date of such modification, amendment, or vacatur of any LP DIP Liens or of the LP DIP Superpriority Claim granted to or for the benefit of the LP DIP Lenders shall be governed in all respects by the original provisions of this Order, and the LP DIP Lenders shall be entitled to all of the rights, remedies, privileges, and benefits, including the LP DIP Liens and the LP DIP Superpriority Claim granted herein, with respect to any such claim. Because the Seventh Replacement LP DIP Loans are made in reliance on this Order, the Seventh Replacement LP DIP Obligations incurred by the LP DIP Obligors or owed to the LP DIP Lenders prior to the effective date of any stay, modification, or vacatur of this Order shall not, as a result of any subsequent order in the Chapter 11 Cases of any LP DIP Obligor or in any Successor Cases, be subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to the LP DIP Lenders under this Order.

(b) **Expenses**. The LP DIP Obligors shall pay all expenses incurred by the LP DIP Lenders (including, without limitation, the reasonable and documented fees and disbursements of their counsel, any other local or foreign counsel that they shall retain, and any internal or third-party appraisers, consultants, financial, restructuring, or other advisors and auditors advising any such counsel) in connection with (i) the preparation, execution, delivery, funding, and administration of the Seventh Replacement LP DIP Credit Documents, including, without limitation, all due diligence fees and expenses incurred or sustained in connection with the Seventh Replacement LP DIP Credit Documents and all expenses of the LP DIP Lenders directly arising from the Motion (including, without limitation, expenses and attorney's fees associated with the preparation and filing of objections and other responsive pleadings relating to the Motion and preparation for, and attendance at, any depositions taken in connection therewith), (ii) the administration of the Seventh Replacement LP DIP Credit Documents, or (iii) enforcement of any rights or remedies under this Order or the Seventh Replacement LP DIP Credit Documents, in each case whether or not the transactions contemplated hereby are fully consummated (collectively, the "LP DIP Professional Fees"), which shall not exceed $75,000 in the aggregate; provided, however, that, to the extent the LP DIP Professional Fees exceed $75,000 in the aggregate, such excess amounts shall be paid as LP Professional Fees under, and in accordance with, the Final Cash Collateral Order.[4] The LP DIP Lenders, and their advisors and professionals, shall not be required to comply with the U.S. Trustee fee guidelines, but shall provide reasonably detailed statements (redacted, if necessary, for privileged, confidential, or otherwise sensitive information) to the Office of the U.S. Trustee and counsel for the Debtors. Within ten (10) days of presentment of and further statements, if no written objections to the

[4] Nothing herein shall impact the payment of the LP Professional Fees under, and in accordance with, the Final Cash Collateral Order.

reasonableness of the fees and expenses charged in any such invoice (or portion thereof) is made, the LP DIP Obligors shall promptly pay in cash all such fees and expenses of the LP DIP Lenders and their advisors and professionals, subject to the limitations set forth in this Order. Any objection to the payment of such fees or expenses shall be made only on the basis of "reasonableness," and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the Debtors or the U.S. Trustee and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice. This Court shall resolve any dispute as to the reasonableness of any fees and expenses. For the avoidance of doubt, and without limiting any of the foregoing or any other provision of this Order, all fees and expenses are, upon entry of this Order and irrespective of any subsequent order approving or denying the Seventh Replacement LP DIP Facility or any other financing pursuant to section 364 of the Bankruptcy Code, fully entitled to all protections of section 364(e) of the Bankruptcy Code and are deemed fully earned, indefeasibly paid, non-refundable, irrevocable, and non-avoidable as of the date of this Order.

(c) **Binding Effect**. The provisions of this Order shall be binding upon and inure to the benefit of the LP DIP Lenders, the Debtors, and their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in the Chapter 11 Cases, in any Successor Cases, or upon dismissal of any such chapter 11 or chapter 7 case.

(d) **No Waiver**. The failure of the LP DIP Lenders to seek relief or otherwise exercise their rights and remedies under this Order or any other Seventh Replacement LP DIP Credit Documents or under applicable law or otherwise, as applicable, shall not constitute a waiver of any of the LP DIP Lenders' rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair any of the rights, claims, privileges, objections, defenses, or remedies of the LP DIP Lenders under the Bankruptcy Code or under non-bankruptcy law against any other person or entity in any court, including without limitation, the rights of the LP DIP Lenders to (i) request conversion of the Chapter 11 Cases to cases under chapter 7, dismissal of the Chapter 11 Cases, or the appointment of a trustee in the Chapter 11 Cases, (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a Plan, or (iii) to exercise any of the rights, claims, or privileges (whether legal, equitable, or otherwise) on behalf of the LP DIP Lenders.

(e) **No Third Party Rights**. Except as explicitly provided for herein, this Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, third party, or incidental beneficiary.

(f) **No Marshaling**. The LP DIP Lenders shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the LP DIP Collateral.

(g) **Section 552(b)**. The LP DIP Lenders shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the LP DIP Lenders or

the Prepetition LP Secured Parties with respect to proceeds, product, offspring, or profits of any of the Prepetition LP Collateral or the LP DIP Collateral.

(h) **Credit Bid Rights.** The LP DIP Lenders shall have the right to "credit bid" the Seventh Replacement LP DIP Obligations during any sale of any of the LP DIP Collateral or Prepetition LP Collateral of the LP DIP Obligors, as applicable, including, without limitation, in connection with sales occurring pursuant to Bankruptcy Code section 363 or included as part of any plan subject to confirmation under Bankruptcy Code section 1129.

(i) **Amendment**. No provision of the Seventh Replacement LP DIP Credit Documents may be amended, modified, supplemented, altered, or waived.

(j) **Priority of Terms**. To the extent of any conflict between or among (i) any of the express terms or provisions of the Motion, any order of this Court (other than this Order), or any other agreements, on the one hand, and (ii) the express terms and provisions of this Order, on the other hand, unless such term or provision herein is phrased in terms of "defined in" or "as set forth in" another order of this Court or agreement, the terms and provisions of this Order shall govern.

(k) **Survival of Order**. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) confirming any Plan in the Chapter 11 Cases of any LP DIP Obligor, (ii) converting any of the Chapter 11 Cases of any LP DIP Obligor to a case under chapter 7 of the Bankruptcy Code, (iii) to the extent authorized by applicable law, dismissing any of the Chapter 11 Cases of any LP DIP Obligor, (iv) withdrawing of the reference of any of the Chapter 11 Cases of any LP DIP Obligor from this Court, or (v) providing for abstention from handling or retaining of jurisdiction of any of the Chapter 11 Cases of any LP DIP Obligor in this Court. The terms and provisions of this Order,

including the LP DIP Liens and LP DIP Superpriority Claim granted pursuant to this Order, and any protections granted to or for the benefit of the LP DIP Lenders, shall continue in full force and effect notwithstanding the entry of such order, and such LP DIP Liens and LP DIP Superpriority Claims shall maintain their priority as provided by this Order and the other Seventh Replacement LP DIP Credit Documents until all of the Seventh Replacement LP DIP Obligations have been indefeasibly paid and satisfied in full in cash and discharged.

(l) **Enforceability**. This Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof.

(m) **No Waivers or Modification of Order**. The Debtors irrevocably waive any right to seek any modification or extension of this Order.

(n) **Order Controls.** This Order supersedes the Sixth Replacement LP DIP Order in all respects.

(o) **Waiver of any Applicable Stay**. Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Order.

(p) **Retention of Jurisdiction**. The Court has and will retain jurisdiction to enforce this Order according to its terms.

Dated: November 14, 2014
New York, New York

/S/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

ANNEX A

LP DIP FACILITY TERMS AND CONDITIONS

This Annex A is the "Annex A" referenced in the Order to which it is attached and shall constitute, and form a part of, the Order.

1. Terms of Borrowing.

(a) Subject to the terms and conditions of this Order, the LP DIP Lenders agree, severally and not jointly, to make Seventh Replacement LP DIP Loans to LP DIP Borrower upon the satisfaction (or the concurrent satisfaction with the making of such Seventh Replacement LP DIP Loans) of the conditions precedent set forth in paragraph 2(c) of this Order, in an aggregate principal amount not to exceed its Relevant Percentage of $164,522,774.80; provided, that no LP DIP Lender shall be responsible for the failure of any other LP DIP Lender to make any Seventh Replacement LP DIP Loan required to be made by such other LP DIP Lender.

(b) Each LP DIP Lender shall make each Seventh Replacement LP DIP Loan to be made by it hereunder by wire transfer of immediately available funds to an account directed by the LP DIP Borrower in writing; provided, that each LP DIP Lender shall satisfy its obligations to make such Seventh Replacement LP DIP Loan by (i) funding in cash an amount equal to its Net Funding Amount and (ii) converting its Sixth Replacement LP DIP Obligations (including all accrued and unpaid interest) into Seventh Replacement LP DIP Loans hereunder and, upon such conversion, the amount of such Sixth Replacement LP DP Obligations shall be deemed exchanged for, and thereafter constitute, Seventh Replacement LP DIP Loans hereunder.

(c) The Seventh Replacement LP DIP Loans shall be prepayable at any time without make-whole or premium. Amounts paid or prepaid in respect of Seventh Replacement LP DIP Loans may not be reborrowed.

2. Interest on Seventh Replacement LP DIP Loans.

(a) Subject to the provisions of Section 2(b) below, the Seventh Replacement LP DIP Loans shall bear interest at a rate *per annum* equal to 15.0%, payable in kind (the "PIK Interest"), by adding such accrued and unpaid interest to the unpaid principal amount of the Seventh Replacement LP DIP Loans on a monthly basis (whereupon from and after such date such additional amounts shall also accrue interest pursuant to this Section 2). All such PIK Interest so added shall be treated as principal of the Seventh Replacement LP DIP Loans for all purposes of this Order. The obligation of the LP DIP Borrower to pay all such PIK Interest so added shall be automatically evidenced by this Order, and, if applicable, any applicable Seventh Replacement Notes.

(b) Default Rate. Notwithstanding the foregoing, after the Final Maturity Date, the Seventh Replacement LP DIP Obligations shall, to the extent permitted by applicable law, bear interest, after as well as before judgment, at a rate per annum equal

to 2% *plus* the rate otherwise applicable to the Seventh Replacement LP DIP Loans as provided in Section 2(a).

(c) Interest Payment Dates. Accrued interest on each Seventh Replacement LP DIP Loan shall be payable in cash on the Final Maturity Date for such Seventh Replacement LP DIP Loan; provided, that (i) interest accrued pursuant to Section 2(b) shall be payable in cash on demand and (ii) in the event of any repayment or prepayment of any Seventh Replacement LP DIP Loan, accrued interest on the principal amount repaid or prepaid shall be payable in cash on the date of such repayment or prepayment.

(d) Interest Calculation. All interest hereunder shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(e) *Interest Act* (Canada). For the purposes of the *Interest Act* (Canada) and disclosure thereunder, in any case in which an interest or fee rate is stated in this Order to be calculated on the basis of a number of days that is other than the number in a calendar year, the yearly rate to which such interest or fee rate is equivalent is equal to such interest or fee rate multiplied by the actual number of days in the year in which the relevant interest or fee payment accrues and divided by the number of days used as the basis for such calculation.

(f) No Criminal Rate of Interest. If any provision of this Order would oblige a Canadian LP DIP Obligor to make any payment of interest or other amount payable to any LP DIP Lender in an amount or calculated at a rate which would be prohibited by any applicable law or would result in a receipt by that LP DIP Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by that LP DIP Lender of "interest" at a "criminal rate," such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

i. first, by reducing the amount or rate of interest required to be paid to the affected LP DIP Lender; and

ii. thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected LP DIP Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

3. Final Maturity Date.

Following the Final Maturity Date, if the Seventh Replacement LP DIP Obligations have not been indefeasibly paid in full in cash, the full principal amount of the Seventh Replacement LP DIP Loans, together with accrued interest thereon and any unpaid accrued fees and all other Seventh Replacement LP DIP Obligations of LP DIP Obligors accrued hereunder and under any

other Seventh Replacement LP DIP Credit Document, shall become forthwith due and payable, without presentment, demand, protest, or any other notice of any kind, all of which are hereby expressly waived by the LP DIP Obligors, anything contained herein or in any other Seventh Replacement LP DIP Credit Document to the contrary notwithstanding. In addition, the automatic stay provided in section 362 of the Bankruptcy Code in connection with the Seventh Replacement LP DIP Facility shall be deemed automatically vacated without further action or order of the Court, and the LP DIP Lenders, shall be entitled, in their sole discretion, to enforce and exercise all of their respective rights and remedies under this Order and the other Seventh Replacement LP DIP Credit Documents (which, for the avoidance of doubt, shall be consistent with and incorporate, *mutatis mutandis* to make applicable to the LP DIP Lenders, the remedies available to the Prepetition LP Secured Parties under the Prepetition LP Credit Documents).

4. Application of Proceeds.

The proceeds received by the LP DIP Lenders in respect of any sale of, collection from, or other realization upon all or any part of the LP DIP Collateral pursuant to the exercise by such LP DIP Lenders of their remedies in accordance with this Order shall be applied, in full or in part, promptly by such LP DIP Lenders as follows:

(a) First, to the payment of that portion of the Seventh Replacement LP DIP Obligations constituting fees, indemnities, costs, expenses (other than principal and interest but including the fees, costs, and disbursements of counsel) payable to the LP DIP Lenders under this Order (including the LP DIP Obligor Guaranty), ratably among them in proportion to the amounts described in this clause (a) payable to them;

(b) Second, without duplication of amounts applied pursuant to clause (a) above, to the indefeasible payment in full in cash of that portion of the Seventh Replacement LP DIP Obligations constituting accrued and unpaid interest (excluding, for the avoidance of doubt, any PIK Interest that has already been added to the unpaid principal amount of the Seventh Replacement LP DIP Loans) on the Seventh Replacement LP DIP Loans, ratably among the LP DIP Lenders in proportion to the amounts described in this clause (b) payable to them;

(c) Third, to the indefeasible payment in full in cash of that portion of the Seventh Replacement LP DIP Obligations constituting unpaid principal (including all PIK Interest that has been added thereto) of the Seventh Replacement LP DIP Loans, ratably among the LP DIP Lenders in proportion to the amounts described in this clause (c) payable to them;

(d) Fourth, to the indefeasible payment in full in cash of all other Seventh Replacement LP DIP Obligations that are due and payable to the LP DIP Lenders, ratably based upon the respective aggregate amounts of all such Seventh Replacement LP DIP Obligations owing to the LP DIP Lenders on such date; and

(e) Fifth, the balance, if any, after all of the Seventh Replacement LP DIP Obligations then due and payable have been indefeasibly paid in full in cash, to the

person lawfully entitled thereto (including the applicable LP DIP Obligor or its successors or assigns) or as a court of competent jurisdiction may direct.

In the event that any such proceeds are insufficient to pay in full the items described in clauses (a) through (d) of this Section 5, the LP DIP Obligors shall remain liable, jointly and severally, for any deficiency.

5. Amendments.

The Annexes to this Order and any other Seventh Replacement LP DIP Credit Documents (including this Order) may not be amended, modified, supplemented, altered, or waived.

6. Assignments.

No LP DIP Lender may assign or otherwise transfer any of its rights or obligations hereunder (including, without limitation, by granting participations in Seventh Replacement LP DIP Loans other than as set forth below). Any attempted assignment or participation in violation of the preceding sentence shall be null and void. Notwithstanding the foregoing, any LP DIP Lender may at any time, without the consent of, or notice to, the LP DIP Borrower or any other LP DIP Lender, sell participations to any person (other than a natural person, the LP DIP Borrower, or any of its Affiliates, or any Disqualified Company (as such term is defined in the Prepetition LP Credit Agreement) or an Affiliate (as such term is defined in the Prepetition LP Credit Agreement) thereof that is not a financial institution, private equity firm, bona fide debt fund, or hedge fund) (each, a "Participant") in all or a portion of such LP DIP Lender's rights and/or obligations under this Order (including all or a portion of the Seventh Replacement LP DIP Loans owing to it); provided, that (a) such LP DIP Lender's obligations under this Order shall remain unchanged, (b) such LP DIP Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (c) the LP DIP Borrower and the other LP DIP Lenders shall continue to deal solely and directly with such LP DIP Lender in connection with such LP DIP Lender's rights and obligations under this Order. Any agreement or instrument pursuant to which an LP DIP Lender sells such a participation shall provide that the relevant participant shall not be permitted to sell sub-participations to any natural person, the LP DIP Borrower or any of its Affiliates or any Disqualified Company or an Affiliate thereof that is not a financial institution, private equity firm, bona fide debt fund, or hedge fund.

7. Integration.

This Order, the other Seventh Replacement LP DIP Credit Documents, and the Final Cash Collateral Order constitute the entire contract among the LP DIP Obligors and the LP DIP Lenders relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

8. Governing Law; Jurisdiction; Venue.

(a) Governing Law. This Order and each other Seventh Replacement LP DIP Credit Document, and the transactions contemplated hereby and thereby, and all disputes between the LP DIP Obligors and the LP DIP Lenders under or relating to this Order or

any other Seventh Replacement LP DIP Credit Document or the facts or circumstances leading to its or their execution, whether in contract, tort or otherwise, shall be construed in accordance with, and governed by, the laws (including statutes of limitation) of the State of New York (and, to the extent applicable, the Bankruptcy Code).

(b) Submission to Jurisdiction. Each LP DIP Obligor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Court, or to the extent that the Court does not have or does not exercise jurisdiction, the Supreme Court of the State of New York sitting in New York County and the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Seventh Replacement LP DIP Credit Document, or for recognition or enforcement of any judgment, and each of the LP DIP Obligors and LP DIP Lenders hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such Federal court. Each of the LP DIP Obligors and LP DIP Lenders agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Order or any other Seventh Replacement LP DIP Credit Document shall affect any right that any LP DIP Lender may otherwise have to bring any action or proceeding relating to this Order or any other Seventh Replacement LP DIP Credit Document against any LP DIP Obligor or its properties in the courts of any jurisdiction.

(c) Venue. Subject to the jurisdiction of the Court, each LP DIP Obligor hereby irrevocably and unconditionally waives, to the fullest extent permitted by applicable requirements of law, any objection which it may now or hereafter have to the laying of venue of any suit, action, or proceeding arising out of or relating to this Order or any other Seventh Replacement LP DIP Credit Document in any court referred to in Section 9(b). Each of the LP DIP Obligors and LP DIP Lenders hereby irrevocably waives, to the fullest extent permitted by applicable requirements of law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

9. Waiver of Jury Trial.

Each LP DIP Obligor hereby waives, to the fullest extent permitted by applicable requirements of law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Order, any other Seventh Replacement LP DIP Credit Document, or the transactions contemplated hereby (whether based on contract, tort, or any other theory). Each LP DIP Obligor and LP DIP Lender (a) certifies that no representative, agent, or attorney of any other such person has represented, expressly or otherwise, that such other person would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and all other such persons have been induced to become bound by this Order and the other Seventh Replacement LP DIP Credit Documents by, among other things, the mutual waivers and certifications in this Section.

10. Interest Rate Limitation.

Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Seventh Replacement LP DIP Loan, together with all fees, charges, and other amounts which are treated as interest on such Seventh Replacement LP DIP Loan under applicable requirements of law (collectively, the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received, or reserved by the LP DIP Lender holding such Seventh Replacement LP DIP Loan in accordance with applicable requirements of law, the rate of interest payable in respect of such Seventh Replacement LP DIP Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate, and, to the extent lawful, the interest and Charges that would have been payable in respect of such Seventh Replacement LP DIP Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such LP DIP Lender in respect of other Seventh Replacement LP DIP Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System of the United States arranged by federal funds brokers to the date of repayment, shall have been received by such LP DIP Lender.

11. Currency Due.

If, for the purpose of obtaining a judgment in any court in any jurisdiction, it is necessary to convert a sum due under this Order or any other Seventh Replacement LP DIP Credit Document in one currency into another currency, then such amount shall be converted using the rate of exchange in effect on the Business Day immediately preceding that on which final judgment is given. The obligation of the LP DIP Borrower in respect of any amount due from the LP DIP Lenders under this Order or any other Seventh Replacement LP DIP Credit Document shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such amount is denominated in accordance with the applicable provisions of this Order (the "Order Currency"), be discharged only to the extent that on the Business Day following receipt by the LP DIP Lenders of any amount adjudged to be so due in the Judgment Currency, the LP DIP Lenders may purchase the Order Currency with the Judgment Currency. If the amount of the Order Currency so purchased is less than the amount originally due to the LP DIP Lenders from the LP DIP Borrower on the Order Currency, the LP DIP Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the LP DIP Lenders against such deficiency. For this purpose "rate of exchange" means the rate published by the Wall Street Journal on the date of such conversion or, if no such rate is published in the Wall Street Journal on such day as the Wall Street Journal ceases to publish such rate for any reason, then the "rate of exchange" shall mean the rate quoted by the Reuters World Company Page at 11:00 a.m. (New York time) on such day or, in the event such rate does not appear on any Reuters World Currency Page on such day, by reference to the rate published by Bloomberg foreign exchange and world currencies page on the date of such conversion.

12. Additional Defined Terms.

"Business Day" shall mean any day other than a Saturday, Sunday, or other day on which banks in New York City are authorized or required by law to close.

"Net Funding Amount" shall mean, as to any LP DIP Lender, the dollar amount set forth opposite such LP DIP Lender's name (in the column entitled "Net Funding Amount") in the table set forth in Schedule I to this Annex A.

"Prepetition LP Collateral" shall mean (a) substantially all of the assets of LightSquared LP and the Prepetition LP Subsidiary Guarantors, (b) the equity interests of LightSquared LP and the Prepetition LP Parent Guarantors (except LightSquared Inc.), (c) certain equity interests owned by the Pledgors (as defined in the applicable Prepetition LP Security Agreement (as defined herein)), (d) the Intercompany Notes (as defined in the Prepetition LP Security Agreements) and (e) the rights of LightSquared Inc. under and arising out of the Inmarsat Cooperation Agreement, by and between LightSquared LP, SkyTerra (Canada) Inc., LightSquared Inc., and Inmarsat Global Limited. For the avoidance of doubt, the Prepetition LP Collateral includes any proceeds, substitutions or replacements of any of the forgoing (unless such proceeds, substitutions or replacements would constitute Excluded Property (as defined in Prepetition LP Credit Documents)). The Prepetition LP Collateral does not include the following: (i) any permit or license issued by a Governmental Authority (as defined in the Prepetition LP Credit Agreement) or other agreement to the extent and for so long as the terms thereof validly prohibit the creation by the pledgor thereof of a security interest in such permit, license, or other agreement; (ii) property subject to any Purchase Money Obligation, Vendor Financing Indebtedness, or Capital Lease Obligations (in each case, as such term is defined in the Prepetition LP Credit Agreement) if the contract or other agreement in which such lien is granted validly prohibits the creation of any other lien on such property; (iii) the SkyTerra-2 satellite, while title remains with BSSI, and those ground segment assets related to the SkyTerra-2 satellite, while title remains with BSSI; (iv) any intent-to-use trademark application to the extent and for so long as a security interest therein would result in the loss by the pledgor thereof of any material rights therein; (v) certain deposit and securities accounts securing currency hedging or credit card vendor programs or letters of credit provided to vendors in the ordinary course of business; (vi) equity interests in (x) excess of 66% in non-U.S. subsidiaries (other than the Canadian Subsidiaries (as defined in the Prepetition LP Credit Agreement)) held by a US subsidiary, (y) LightSquared Network LLC, and (z) any joint venture or similar entity to the extent and for so long as the terms of such investment restrict such security interest; and (vii) any consumer goods subject to the Canadian Security Agreement (as defined in the Prepetition LP Credit Agreement).

"Relevant Percentage" shall mean, as to any LP DIP Lender, the percentage set forth opposite such LP DIP Lender's name (in the column entitled "Relevant Percentage") in the table set forth in Schedule I to this Annex A.

"Seventh Replacement Notes" shall mean any promissory note(s) evidencing the Seventh Replacement LP DIP Loans in the form set forth in Annex C hereto.

SCHEDULE I TO ANNEX A

Seventh Replacement LP DIP Loan Allocation Schedule

Name of LP DIP Lender:	Relevant Percentage:	Principal Outstanding Under Sixth Replacement LP DIP Facility:	Accrued Interest Under Sixth Replacement LP DIP Facility as of 11/17/14:	Seventh Replacement LP DIP Loan Amount:	Net Funding Amount:
SP Special Opportunities LLC	54.0%	$63,981,762.21	$2,074,135.08	$87,637,750.17	$21,581,852.88
Capital Research and Management Company, on behalf of American High-Income Trust	16.9%	24,638,722.22	798,728.21	32,209,738.88	6,772,288.45
Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts	13.3%	12,873,229.54	417,319.19	18,606,057.21	5,315,508.48
Cyrus Capital Partners, L.P.	6.9%	10,006,052.37	324,372.19	13,080,724.36	2,750,299.80
SOLA LTD	4.6%	4,319,485.58	140,027.35	6,305,632.71	1,846,119.78
KKR Echo Investments I Limited	0.7%	–	–	276,060.21	276,060.21
KKR Credit Relative Value Mast Fund LP	0.6%	–	–	230,050.17	230,050.17
ULTRA MASTER LTD	–	1,153,538.32	37,394.94	1,190,933.26	–
Solus Senior High Income Fund LP	0.2%	259,807.04	8,422.32	355,865.55	87,636.18
Intermarket Corporation, on behalf of Fernwood Associates LLC	0.6%	742,865.56	24,081.92	1,017,525.37	250,577.89
Intermarket Corporation, on behalf of Fernwood Restructurings Ltd.	0.6%	742,865.56	24,081.92	1,017,525.37	250,577.89
Aurelius Capital Master, Ltd.	0.8%	976,211.74	31,646.44	1,337,146.68	329,288.49
ACP Master, Ltd.	0.6%	676,670.94	21,936.05	926,856.61	228,249.62
Aurelius Convergence Master, Ltd.	0.2%	241,586.46	7,831.65	330,908.26	81,490.15
Total	**100.0%**	**$120,612,797.54**	**$3,909,977.26**	**$164,522,774.80**	**$40,000,000.00**

ANNEX B

SEVENTH REPLACEMENT LP DIP BUDGET

Seventh Replacement LP DIP Budget (November 2014 – January 2015) (1)

Dollars in thousands

	Month	Nov-14	Dec-14	Jan-15
	Beginning Cash Balance	**15,640**	**(13,039)**	**(26,242)**
	Sources			
	Satellite Revenue	1,413	1,310	1,156
	Interest Income	3	-	-
	Equity Financing	-	-	-
	Net Debt Financing	-	-	-
	Financing Fees	-	-	-
	Other	-	-	-
	Total Sources	**1,416**	**1,310**	**1,156**
Uses (OPEX)	In-Orbit / Launch Insurance	2,339	-	-
	ISAT Coop Agmt	17,500	-	-
	Spectrum (NOAA)	-	-	-
	Staffing Related (entire company)	1,694	2,166	1,908
	Legal / Regulatory / Lobbying / International	1,191	1,214	978
	Facilities/Telecom	658	658	671
	G&A	1,435	446	336
	Travel Expenses (entire company)	50	50	50
	Boeing Related Expenses	212	332	637
	Other Items	1,083	636	665
	Subtotal - USES (OPEX)	**26,162**	**5,501**	**5,244**
Uses (CAPEX)	Boeing	-	-	1,400
	Qualcomm	-	-	-
	Alcatel Lucent S-BTS	-	-	-
	Current Network Maintenance / Capex	-	150	150
	Subtotal - USES (CAPEX)	**-**	**150**	**1,550**
Debt Service	Cash Interest	-	-	-
Restructuring Related	Restructuring Professionals	3,934	8,862	7,585
	LP Adequate Protection Payments (2)	-	-	-
	Total Uses	**30,096**	**14,513**	**14,379**
	Net Uses (Total Sources - Total Uses)	**(28,680)**	**(13,203)**	**(13,223)**
	LP Group Ending Cash Balance (excl. Cash at TMI)	**(13,039)**	**(26,242)**	**(39,465)**

Note: Does not include any costs associated with NOAA spectrum
(1) Projected payments
(2) Assumes no Adequate Protection Payments

ANNEX C

FORM OF TERM NOTE

$_____ New York, New York
_____ __, 2014

FOR VALUE RECEIVED, **LIGHTSQUARED LP**, a Delaware limited partnership, a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code (the "LP DIP Borrower"), hereby promises to pay to **[**_____**]** [or its registered assigns] (the "LP DIP Lender"), in lawful money of the United States of America in immediately available funds the principal sum of _____ DOLLARS ($_____), as such amount may be increased by the addition of interest that has been paid in kind in accordance with the Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay [Docket No. __] (the "Seventh Replacement LP DIP Order")[1] or, if less, the unpaid principal amount of all Seventh Replacement LP DIP Loans made by the LP DIP Lender under the Seventh Replacement LP DIP Facility in accordance with the Seventh Replacement LP DIP Order, payable at such times and in such amounts as provided for in the Seventh Replacement LP DIP Order.

The LP DIP Borrower also promises to pay interest on the unpaid principal amount of each Seventh Replacement LP DIP Loan made by the LP DIP Lender in kind, from the date hereof until all principal, accrued and unpaid interest, and all other amounts have been indefeasibly paid in full in cash, at the rates and at the times specified in the Seventh Replacement LP DIP Order.

This Note is one of the Seventh Replacement Notes referred to in Annex A to the Seventh Replacement LP DIP Order and is entitled to the benefits thereof and of the other Seventh Replacement LP DIP Credit Documents. This Note is secured by the LP DIP Collateral and is entitled to the benefits of the guaranties from the LP DIP Guarantors. This Note, and any Seventh Replacement LP DIP Loans and other obligations (including any accrued and unpaid interest) represented hereby, shall be repaid in full in cash upon the occurrence of the Final Maturity Date as set forth in the Seventh Replacement LP DIP Order.

The LP DIP Borrower hereby waives presentment, demand, protest, or notice of any kind in connection with this Note.

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Seventh Replacement LP DIP Order.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH, AND BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

LIGHTSQUARED LP

By: _____
Name:
Title:

ANNEX D

FORM OF LP DIP OBLIGOR GUARANTY

LP DIP OBLIGOR GUARANTY (as amended, modified, restated, and/or supplemented from time to time, this "Guaranty"), dated as of [_____ __], 201[_], made by and among each of the undersigned guarantors (each, an "LP DIP Guarantor" and, collectively, the "LP DIP Guarantors") in favor of the LP DIP Lenders. Except as otherwise defined herein, all capitalized terms used herein and defined in the Seventh Replacement LP DIP Order (as defined below) shall be used herein as therein defined.

W I T N E S S E T H :

WHEREAS, pursuant to that certain Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay [Docket No. __] (including all annexures, exhibits, and schedules thereto, the "Seventh Replacement LP DIP Order"), the LP DIP Lenders shall make Seventh Replacement LP DIP Loans to the LP DIP Borrower on the terms and subject to the conditions set forth therein;

WHEREAS, each LP DIP Guarantor is a direct or indirect subsidiary of the LP DIP Borrower;

WHEREAS, the Seventh Replacement LP DIP Order requires that each LP DIP Guarantor shall have executed and delivered to the LP DIP Lenders this Guaranty; and

WHEREAS, each LP DIP Guarantor will obtain benefits from the incurrence of Seventh Replacement LP DIP Loans by the LP DIP Borrower and, accordingly, desires to execute this Guaranty in order to satisfy the requirements of the Seventh Replacement LP DIP Order and to induce the LP DIP Lenders to make Seventh Replacement LP DIP Loans to the LP DIP Borrower;

NOW, THEREFORE, in consideration of the foregoing and other benefits accruing to each LP DIP Guarantor, the receipt and sufficiency of which are hereby acknowledged, each LP DIP Guarantor hereby covenants and agrees with each other LP DIP Guarantor and the LP DIP Lenders as follows:

1. GUARANTY. The LP DIP Guarantors hereby jointly and severally guarantee, as a primary obligor and not as a surety, to each LP DIP Lender and their respective successors and assigns, the prompt payment in full when due (whether at stated maturity, by required prepayment, declaration, demand, acceleration, or otherwise) of all Seventh Replacement LP DIP Obligations. The LP DIP Guarantors hereby jointly

and severally agree that if LP DIP Borrower or any other LP DIP Guarantor(s) shall fail to pay in full in cash when due (whether at stated maturity, by acceleration, or otherwise) any of the Seventh Replacement LP DIP Obligations, the LP DIP Guarantors will promptly pay the same in cash, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Seventh Replacement LP DIP Obligations, the same will be promptly paid in full in cash when due (whether at extended maturity, by acceleration, or otherwise) in accordance with the terms of such extension or renewal.OBLIGATIONS UNCONDITIONAL. The obligations of the LP DIP Guarantors under Section 1 shall constitute a guaranty of payment and, to the fullest extent permitted by applicable requirements of law, are absolute, irrevocable, and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity, or enforceability of the Seventh Replacement LP DIP Obligations of the LP DIP Borrower under the Seventh Replacement LP DIP Order, the Seventh Replacement Notes, or any other Seventh Replacement LP DIP Credit Documents, or any substitution, release, or exchange of any other guarantee of or security for any of the Seventh Replacement LP DIP Obligations, and, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or LP DIP Guarantor (except for payment in full). Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the LP DIP Guarantors hereunder which shall remain absolute, irrevocable, and unconditional under any and all circumstances as described above:

(a) at any time or from time to time, without notice to any LP DIP Guarantors, the time for any performance of, or compliance with, any of the Seventh Replacement LP DIP Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of the Seventh Replacement LP DIP Order, the Seventh Replacement Notes, if any, or any other Seventh Replacement LP DIP Credit Document shall be done or omitted;

(c) the maturity of any of the Seventh Replacement LP DIP Obligations shall be accelerated, or any of the Seventh Replacement LP DIP Obligations shall be amended in any respect, any right under the Seventh Replacement LP DIP Credit Documents or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect, or any other guarantee of any of the Seventh Replacement LP DIP Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(d) any lien or security interest granted to, or in favor of, any LP DIP Lender as security for any of the Seventh Replacement LP DIP Obligations shall fail to be perfected; or

(e) the release of any other LP DIP Guarantor pursuant to the terms of the Seventh Replacement LP DIP Order.

The LP DIP Guarantors hereby, to the fullest extent permitted by applicable requirements of law, expressly waive diligence, presentment, demand of payment, protest, and all notices whatsoever, and any requirement that any LP DIP Lender exhaust any right, power, or remedy or proceed against the LP DIP Borrower under the Seventh Replacement LP DIP Order, the Seventh Replacement Notes, if any, or any other Seventh Replacement LP DIP Credit Document, or against any other person under any other guarantee of, or security for, any of the Seventh Replacement LP DIP Obligations. The LP DIP Guarantors waive any and all notice of the creation, renewal, extension, waiver, termination, or accrual of any of the Seventh Replacement LP DIP Obligations and notice of, or proof of reliance by any LP DIP Lender upon, this Guaranty or acceptance of this Guaranty, and the Seventh Replacement LP DIP Obligations, and any of them, shall conclusively be deemed to have been created, contracted, or incurred in reliance upon this Guaranty, and all dealings between LP DIP Borrower and the LP DIP Lenders shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty. This Guaranty shall be construed as a continuing, absolute, irrevocable, and unconditional guarantee of payment without regard to any right of offset with respect to the Seventh Replacement LP DIP Obligations at any time or from time to time held by LP DIP Lenders, and the obligations and liabilities of the LP DIP Guarantors hereunder shall not be conditioned or contingent upon the pursuit by the LP DIP Lenders or any other person at any time of any right or remedy against LP DIP Borrower or against any other person which may be or become liable in respect of all or any part of the Seventh Replacement LP DIP Obligations or against any collateral security or guarantee therefor or right of offset with respect thereto. This Guaranty shall remain in full force and effect and be binding in accordance with, and to the extent of, its terms upon the LP DIP Guarantors and the successors and assigns thereof, and shall inure to the benefit of the LP DIP Lenders, and their respective successors and assigns, notwithstanding that from time to time during the term of the Seventh Replacement LP DIP Order there may be no Seventh Replacement LP DIP Obligations outstanding.

3. REINSTATEMENT. The obligations of the LP DIP Guarantors under this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment by, or on behalf of, the LP DIP Borrower or other LP DIP Obligors in respect of the Seventh Replacement LP DIP Obligations is rescinded or must be otherwise restored by any holder of any of the Seventh Replacement LP DIP Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

4. SUBROGATION; SUBORDINATION. Each LP DIP Guarantor hereby agrees that until the indefeasible payment and satisfaction in full in cash of all Seventh Replacement LP DIP Obligations, it shall waive any claim and shall not exercise any right or remedy, direct or indirect, arising by reason of any performance by it of its guarantee in Section 1, whether by subrogation or otherwise, against the LP DIP Borrower or any other LP DIP Obligor of any of the Seventh Replacement LP DIP Obligations or any security for any of the Seventh Replacement LP DIP Obligations.

5. REMEDIES. After the Final Maturity Date, the LP DIP Guarantors jointly and severally agree that, as between the LP DIP Guarantors and the LP DIP Lenders, the obligations of LP DIP Borrower under the Seventh Replacement LP DIP Order and the Seventh Replacement Notes shall be due and payable as provided in the Seventh Replacement LP DIP Order for purposes of Section 1, notwithstanding any stay, injunction, or other prohibition preventing such obligations from becoming automatically due and payable as against LP DIP Borrower and that such obligations (whether or not due and payable by LP DIP Borrower) shall become forthwith due and payable by the LP DIP Guarantors for purposes of Section 1.

6. INSTRUMENT FOR THE PAYMENT OF MONEY. Each LP DIP Guarantor hereby acknowledges that this Guaranty constitutes an instrument for the payment of money, and consents and agrees that any LP DIP Lender, at its sole option, in the event of a dispute by such LP DIP Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213.

7. CONTINUING GUARANTY. The Guaranty is a continuing guarantee of payment and shall apply to all Seventh Replacement LP DIP Obligations whenever arising.

8. GENERAL LIMITATION ON SEVENTH REPLACEMENT LP DIP OBLIGATIONS. In any action or proceeding involving any state corporate limited partnership or limited liability company law, or any applicable state, federal, or foreign bankruptcy, insolvency, reorganization, or other law affecting the rights of creditors generally, if the obligations of any LP DIP Guarantor under Section 1 would otherwise be held or determined to be void, voidable, invalid, or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 1, then, notwithstanding any other provision to the contrary, the amount of such liability shall, without any further action by such LP DIP Guarantor, any other LP DIP Obligor, or any other person, be automatically limited and reduced to the highest amount (after giving effect to the right of contribution established in Section 9) that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

9. RIGHT OF CONTRIBUTION. Each LP DIP Guarantor hereby agrees that to the extent that an LP DIP Guarantor shall have paid more than its proportionate share of any payment made hereunder, such LP DIP Guarantor shall be entitled to seek and receive contribution from and against any other LP DIP Guarantor hereunder which has not paid its proportionate share of such payment. Each LP DIP Guarantor's right of contribution shall be subject to the terms and conditions of Section 4. The provisions of this Section 9 shall in no respect limit the obligations and liabilities of any LP DIP Guarantor to the LP DIP Lenders, and each LP DIP Guarantor shall remain liable to the LP DIP Lenders for the full amount guaranteed by such LP DIP Guarantor hereunder.

10. COUNTERPARTS. This Guaranty may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A set of counterparts executed by all the parties hereto shall be lodged with the LP DIP Borrower and the LP DIP Lenders. Delivery of an executed counterpart hereof by facsimile or other electronic means (including ".pdf", ".tif" or similar format) shall be effective as delivery of a manually executed counterpart hereof.

11. HEADINGS DESCRIPTIVE. The headings of the several Sections of this Guaranty are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Guaranty.

12. GOVERNING LAW, ETC. This Guaranty and the contents hereof are subject to the governing law, jurisdiction, venue, waiver of jury trial, currency indemnity, indemnification, and expense reimbursement provisions set forth in the Seventh Replacement LP DIP Order (including Annex A thereto) and such provisions are hereby incorporated herein by reference, *mutatis mutandis*.

*** * ***

IN WITNESS WHEREOF, each LP DIP Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

Address:

[_____]
[_____]
Tel:[_____]
Fax:[_____]

[_____],
as a LP DIP Guarantor

By:_____,
Name:
Title:

[Accepted and Agreed to:

[_____],
as LP DIP Lender

By:_____,
Name:
Title:

By:_____,
Name:
Title:]

TAB B

Exhibit "**B**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Docket #1928 Date Filed: 11/14/2014

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
LIGHTSQUARED INC., *et al.*,	)	Case No. 12-12080 (SCC)
Debtors.[1]	)	Jointly Administered

TENTH ORDER AMENDING AMENDED AGREED FINAL ORDER (A) AUTHORIZING DEBTORS TO USE CASH COLLATERAL, (B) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, AND (C) MODIFYING AUTOMATIC STAY

Upon the initial motion (the "Initial Motion")[2] of LightSquared Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, "LightSquared" or the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), seeking entry of an interim order and a final order, under sections 105, 361, 362, 363(c), and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), *inter alia:*

(a) authorizing the use of Cash Collateral (within the meaning of section 363(a) of the Bankruptcy Code) of the Prepetition Secured Parties and providing adequate protection to the Prepetition Secured Parties for any diminution in value of their

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Initial Motion and the Amended Cash Collateral Order (as defined below), as applicable.

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interests in the Prepetition Collateral, pursuant to sections 361, 362, and 363 of the Bankruptcy Code;

(b) vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Initial Cash Collateral Order (as defined below), as limited pursuant thereto;

(c) scheduling, pursuant to Bankruptcy Rule 4001, an interim hearing to consider the relief requested in the Motion on an interim basis; and

(d) scheduling, pursuant to Bankruptcy Rule 4001, a final hearing (the "Final Hearing") to consider the relief requested in the Motion on a final basis.

The Court having considered the Initial Motion, the *Declaration of Marc R. Montagner, Chief Financial Officer and Interim Co-Chief Operating Officer of LightSquared Inc., (A) in Support of First Day Pleadings and (B) Pursuant to Rule 1007-2 of Local Bankruptcy Rules for United States Bankruptcy Court for Southern District of New York* [Docket No. 3], the exhibits and schedules attached thereto, and the evidence submitted at the Final Hearing; and notice of the Final Hearing having been given in accordance with Bankruptcy Rules 4001(b) and (d) and 9014; and the Final Hearing to consider the relief requested in the Initial Motion having been held and concluded; and all objections, if any, to the relief requested in the Initial Motion having been withdrawn, resolved, or overruled by the Court; and the Court having entered the *Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 136] (the "Initial Cash Collateral Order") on June 13, 2012 upon consent of LightSquared, the Prepetition LP Agent, on behalf of the Prepetition LP Lenders, and the Ad Hoc LP Secured Group; and the Prepetition LP Agent, on behalf of the Prepetition LP Lenders, and the Ad Hoc LP Secured Group having agreed to permit LightSquared to amend the Initial Cash Collateral Order to continue to use the Prepetition LP Lenders' Cash Collateral through and including December 31, 2013 on

substantially similar terms as were then set forth in the Initial Cash Collateral Order in connection with that certain *Order Pursuant to 11 U.S.C. § 1121(d) Further Extending LightSquared's Exclusive Periods To File a Plan of Reorganization and Solicit Acceptances Thereof* [Docket No. 522] (the "Second Exclusivity Extension Order"); and the Court having entered the *Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 544] (as amended or modified, the "Amended Cash Collateral Order"); and the Prepetition LP Agent, on behalf of the Prepetition LP Lenders, and the Ad Hoc LP Secured Group having agreed to permit LightSquared to amend the Amended Cash Collateral Order to, among other things, continue to use the Prepetition LP Lenders' Cash Collateral through and including January 31, 2014 on substantially similar terms as were then set forth in the Amended Cash Collateral Order; and the Court having entered the *Order Amending Amended Agreed Final Order (A) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1118] (the "First Cash Collateral Extension Order"); and the Court having considered the Debtors' subsequent motion, submitted at the direction, and with the support, of the special committee of the boards of directors for LightSquared Inc. and LightSquared GP Inc., for an order (a) authorizing the LP DIP Obligors to obtain superpriority senior secured priming postpetition financing, (b) granting superpriority liens and providing superpriority administrative expense status, (c) granting adequate protection, and (d) modifying automatic stay [Docket No. 1237] (the "LP DIP Facility Motion") seeking, *inter alia*, entry of an order further amending the Amended Cash Collateral Order to, among other things, permit the LP Debtors to continue to use the Prepetition LP Lenders' Cash Collateral through and including April 15, 2014 on substantially similar terms as

currently set forth in the Amended Cash Collateral Order; and all objections, if any, to the relief requested in the LP DIP Facility Motion having been withdrawn, resolved, or overruled by the Court; and the Court having entered (a) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1291] (the "Initial LP DIP Order"), (b) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1476] (the "Replacement LP DIP Order"), (c) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Second Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1614] (the "Second Replacement LP DIP Order"); (d) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Third Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1639] (the "Third Replacement LP DIP Order"); (e) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Fourth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1668] (the "Fourth Replacement LP DIP Order"); (f) that certain *Final Order (A) Authorizing LP DIP*

Obligors To Obtain Fifth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay [Docket No. 1681] (the "Fifth Replacement LP DIP Order"); (g) that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Sixth Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 1736] (the "Sixth Replacement LP DIP Order"); (h) that certain *Second Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1292] (the "Second Cash Collateral Extension Order"), (i) that certain *Third Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1477] (the "Third Cash Collateral Extension Order"), (j) that certain *Fourth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1580] (the "Fourth Cash Collateral Extension Order"), (k) that certain *Fifth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1615] (the "Fifth Cash Collateral Extension Order"), (l) that certain *Sixth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1638] (the "Sixth Cash Collateral Extension Order"), (m) that certain *Seventh*

Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay [Docket No. 1667] (the "Seventh Cash Collateral Extension Order"), (n) that certain *Eighth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1682] (the "Eighth Cash Collateral Extension Order"), and (o) that certain *Ninth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [Docket No. 1735] (the "Ninth Cash Collateral Extension Order" and, collectively with the First Cash Collateral Extension Order, the Second Cash Collateral Extension Order, the Third Cash Collateral Extension Order, the Fourth Cash Collateral Extension Order, the Fifth Cash Collateral Extension Order, the Sixth Cash Collateral Extension Order, the Seventh Cash Collateral Extension Order, and the Eighth Cash Collateral Extension Order, the "Cash Collateral Extension Orders"); and the Court having entered on a date even herewith that certain *Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* (the "Seventh Replacement LP DIP Order"); and the Prepetition LP Agent, on behalf of the Prepetition LP Lenders, and the Ad Hoc LP Secured Group having agreed to permit LightSquared to amend the Amended Cash Collateral Order to, among other things, continue to use the Prepetition LP Lenders' Cash Collateral through and including January 30, 2015 on substantially similar terms as currently set forth in the Amended Cash Collateral Order, as modified by the Cash Collateral Extension Orders and the

terms set forth herein (this "Order"); and it appearing to the Court that entry of the Order is fair and reasonable and in the best interests of the Debtors, their estates, and their stakeholders, and is essential for the continued management of the Debtors' businesses; and after due deliberation and consideration, and for good and sufficient cause appearing therefor; it is hereby **ORDERED** that:

1. All of the terms of the Amended Cash Collateral Order shall remain in full force and effect pursuant to the terms thereof, except to the extent modified or further modified by this Order. For the avoidance of doubt, paragraph 25 of the Amended Cash Collateral Order shall read as follows:

> "Except as otherwise provided herein, no waiver, modification, or amendment of any of the provisions hereof shall be effective unless set forth in writing, signed by, or on behalf of, all the Debtors, the Prepetition LP Agent, the Ad Hoc LP Secured Group, and SP Special Opportunities, LLC, and approved by the Court after notice to parties in interest."

2. The last sentence of paragraph F(ii) of the Amended Cash Collateral Order is hereby amended in its entirety as follows: "Notwithstanding anything to the contrary in this Amended Final Order, capital expenditure lines totaling $1,700,000 may be used on an aggregate basis at any time until January 30, 2015."

3. Paragraph 7 of the Amended Cash Collateral Order is hereby amended as follows: Section (d) of paragraph 7 is hereby amended by replacing the words "November 15, 2014" with the words "January 30, 2015."

4. Paragraph 14 of the Amended Cash Collateral Order is hereby amended as follows:

(a) The first sentence of section (f) of paragraph 14 is hereby amended by inserting the words ", the *Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* (the "Seventh Replacement LP DIP Order")" after the words "(the "Sixth Replacement LP DIP Order"),";

(b) Section (h) of paragraph 14 is hereby amended by (i) deleting the word "and" before the words "the Sixth Replacement LP DIP Order" and inserting "," in lieu thereof, and (ii) inserting the words "and the Seventh Replacement LP DIP Order" after the words "the Sixth Replacement LP DIP Order";

(c) The first sentence of section (k) of paragraph 14 is hereby amended by (i) inserting ", and the *Notice of Presentment of Final Order (A) Authorizing LP DIP Obligors To Obtain Seventh Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* (the "Seventh Replacement LP DIP Facility Notice")" following the words ("Sixth Replacement LP DIP Facility Notice") and (ii) deleting the word "and" following the words "Other than the LP DIP Facility Motion (as defined in the LP DIP Order)" and inserting "," in lieu thereof;

(d) The first sentence of section (l) of paragraph 14 is hereby amended by (i) inserting the words "and the Seventh Replacement LP DIP Facility Notice" after the words "Sixth Replacement LP DIP Facility Notice" and (ii) deleting the word "and" before the words "Sixth Replacement LP DIP Facility Notice" and inserting "," in lieu thereof; and

(e) Section (n) of paragraph 14 is hereby amended by deleting the words "November 15, 2014." and inserting the words "January 30, 2015."

5. The Budget attached as Schedule 1 to the Ninth Cash Collateral Extension Order is hereby replaced in its entirety by the Budget attached hereto as Schedule 1. Notwithstanding anything to the contrary in the Amended Cash Collateral Order or the Cash Collateral Extension Orders, failure to comply with the Budget shall not constitute an LP Termination Event.

6. Upon entry of this Order, the LP Obligors shall not be required to pay the LP Adequate Protection Payment to the Prepetition LP Agent, for the benefit of the Prepetition

LP Lenders, for the months of July 2014, August 2014, September 2014, October 2014, November 2014, December 2014, and January 2015; provided, however, that the LP Obligors shall pay, for the benefit of the Prepetition LP Lenders: (a) all reasonable, actual, and documented fees and expenses of White & Case LLP and The Blackstone Group L.P. on the first Business Day of September 2014, October 2014, November 2014, December 2014, and January 2015, or as otherwise previously agreed to for the months of July 2014 and August 2014; (b) all outstanding reasonable, actual, and documented fees and expenses of (i) Bennett Jones LLP, as Canadian counsel to the Ad Hoc LP Secured Group, (ii) McDermott Will & Emery LLP, as counsel to the Prepetition LP Agent, (iii) Latham & Watkins LLP, as counsel to UBS AG, Stamford Branch, the former Prepetition LP Agent, and (iv) Pillsbury Winthrop Shaw Pittman LLP, in each case on the first Business Day of December 2014 and January 2015; and (c) the annual fee of the Prepetition LP Collateral Trustee as set forth in that certain Schedule of Fees, dated September 29, 2010, agreed to and accepted by LightSquared LP; provided, further, however, that payment of the LP Adequate Protection Payments for the months of July 2014, August 2014, September 2014, October 2014, November 2014, December 2014, and January 2015 shall not be deemed waived in the event that the Amended Cash Collateral Order is further extended, and such unpaid amounts shall be due and payable, and shall be paid, upon entry by this Court of an order approving any additional debtor-in-possession financing to the LP Obligors in these Chapter 11 Cases.

7. Any objections to the entry of this Order, to the extent not withdrawn or resolved, are hereby overruled.

8. This Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect immediately upon execution thereof.

9. This Court has and will retain jurisdiction to enforce this Order according to its terms.

Dated: November 14, 2014
New York, New York

/S/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

SCHEDULE 1

BUDGET

Seventh Replacement LP DIP Budget (November 2014 – January 2015)

Dollars in thousands

	Month	Nov-14	Dec-14	Jan-15
	Beginning Cash Balance	**15,640**	**(13,039)**	**(26,242)**
	Sources			
	Satellite Revenue	1,413	1,310	1,156
	Interest Income	3	-	-
	Equity Financing	-	-	-
	Net Debt Financing	-	-	-
	Financing Fees	-	-	-
	Other	-	-	-
	Total Sources	**1,416**	**1,310**	**1,156**
Uses (OPEX)	In-Orbit / Launch Insurance	2,339	-	-
	ISAT Coop Agmt	17,500	-	-
	Spectrum (NOAA)	-	-	-
	Staffing Related (entire company)	1,694	2,166	1,908
	Legal / Regulatory / Lobbying / International	1,191	1,214	978
	Facilities/Telecom	658	658	671
	G&A	1,435	446	336
	Travel Expenses (entire company)	50	50	50
	Boeing Related Expenses	212	332	637
	Other Items	1,083	636	665
	Subtotal - USES (OPEX)	**26,162**	**5,501**	**5,244**
Uses (CAPEX)	Boeing	-	-	1,400
	Qualcomm	-	-	-
	Alcatel Lucent S-BTS	-	-	-
	Current Network Maintenance / Capex	-	150	150
	Subtotal - USES (CAPEX)	**-**	**150**	**1,550**
Debt Service	Cash Interest	-	-	-
Restructuring Related	Restructuring Professionals	3,934	8,862	7,585
	LP Adequate Protection Payments [2]	-	-	-
	Total Uses	**30,096**	**14,513**	**14,379**
	Net Uses (Total Sources - Total Uses)	**(28,680)**	**(13,203)**	**(13,223)**
	LP Group Ending Cash Balance (excl. Cash at TMI)	**(13,039)**	**(26,242)**	**(39,465)**

Note: Does not include any costs associated with NOAA spectrum
(1) Projected payments
(2) Assumes no Adequate Protection Payments

TAB C

Exhibit "**C**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Court File No. CV-12-9719-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO LIGHTSQUARED INC., LIGHTSQUARED INVESTORS HOLDINGS INC., ONE DOT FOUR CORP., ONE DOT SIX CORP., SKYTERRA ROLLUP LLC, SKYTERRA ROLLUP SUB LLC, SKYTERRA INVESTORS LLC, TMI COMMUNICATIONS DELAWARE, LIMITED PARTNERSHIP, LIGHTSQUARED GP INC., LIGHTSQUARED LP, ATC TECHNOLOGIES, LLC, LIGHTSQUARED CORP., LIGHTSQUARED FINANCE CO., LIGHTSQUARED NETWORK LLC, LIGHTSQUARED INC. OF VIRGINIA, LIGHTSQUARED SUBSIDIARY LLC, LIGHTSQUARED BERMUDA LTD., SKYTERRA HOLDINGS (CANADA) INC., SKYTERRA (CANADA) INC. AND ONE DOT SIX TVCC CORP. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

AFFIDAVIT OF ELIZABETH CREARY

(Sworn July 4, 2014)

I, Elizabeth Creary of the City of Ottawa, in the Province of Ontario, **MAKE OATH AND SAY THAT**:

1. I am the Vice President and Assistant General Counsel of LightSquared LP ("**LightSquared**" or the "**Foreign Representative**"). As such, I have personal knowledge of the matters to which I herein depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and verily believe it to be true.

2. This affidavit is filed in support of the Foreign Representative's motion for an order, *inter alia*, recognizing in Canada and giving full force and effect in all provinces and territories of Canada, pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C. 36, as amended (the "**CCAA**"), the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Bankruptcy Court**") made in the Chapter 11 Cases (as defined below):

(a) *Final Order (A) Authorizing LP DIP Obligors To Obtain Second Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket no. 1614] (the "**Second Replacement LP DIP Order**");

(b) *Fourth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket no. 1580] (the "**Fifth Amended Cash Collateral Order**");

(c) *Fifth Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection To Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket no.1615] (the "**Sixth Amended Cash Collateral Order**");

(d) *Order* Selecting *Mediator and Governing Mediation Procedure* [U.S. Bankruptcy Court Docket no.1557] (the "**Mediation Order**"); and

(e) *Order Scheduling Certain Hearing Dates And Establishing Deadlines In Connection With Chapter 11 Plan Process And Subordination Trial* [U.S. Bankruptcy Court Docket no. 1621] (the "**Fourth Amended Plan Confirmation Schedule Order**").

3. Copies of the Foreign Orders are attached to this my affidavit as **Exhibits 'A'-'E'** respectively.

CORPORATE OVERVIEW

4. The Chapter 11 Debtors were collectively the first private satellite-communications company to offer mobile satellite services throughout North America,

initially using two geostationary satellites, as well as a portion of the electromagnetic spectrum known as the L-Band.

5. The Chapter 11 Debtors are in the process of building what was at the time of the filing the only 4th Generation Long Term Evolution ("**4G LTE**") open wireless broadband network that incorporates nationwide satellite coverage throughout North America and offers users, wherever they may be located, the speed, value and reliability of universal connectivity.

6. Through a unique wholesale business model, entities without their own wireless networks, or that have limited geographic coverage or spectrum, will be able to market and sell their own devices, applications and services at a competitive price using the Chapter 11 Debtors' 4G LTE network.

BACKGROUND ON PROCEEDINGS

7. On May 14, 2012, the Chapter 11 Debtors commenced cases in the U.S. Bankruptcy Court by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 in the U.S. Bankruptcy Court.

8. On May 15, 2012, the chapter 11 cases were consolidated for procedural purposes only, to be jointly administered by the U.S. Bankruptcy Court under Case No. 12-12080 (SCC), the case number assigned to LightSquared Inc. (the "**Chapter 11 Cases**"). Other than the Chapter 11 Cases and these proceedings, there are no other foreign proceedings in respect of the Chapter 11 Debtors.

9. On May 15, 2012, the Honourable Justice Morawetz (as he then was) of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") granted an order providing certain interim relief to the Chapter 11 Debtors, including a stay of proceedings in respect of the Chapter 11 Debtors, the property and business of the Chapter 11 Debtors and the directors and officers of the Chapter 11 Debtors.

10. On May 15, 2012 and May 16, 2012, the U.S. Bankruptcy Court in the Chapter 11 Cases entered various "first day" orders, including an interim order authorizing LightSquared to act as the Foreign Representative of the Chapter 11 Debtors.

11. On May 18, 2012, the Honourable Justice Morawetz (as he then was) granted an Initial Recognition Order in these proceedings, which among other things: (i) recognized LightSquared as the "foreign representative" of the Chapter 11 Debtors; (ii) declared the consolidated proceedings of the jointly administered Chapter 11 Cases to be a "foreign main proceeding" pursuant to Part IV of the CCAA; and (iii) stayed all proceedings against the Chapter 11 Debtors.

12. On May 18, 2012, the Honourable Justice Morawetz also granted a Supplemental Order in these proceedings, which among other things: (i) appointed Alvarez & Marsal Canada Inc. as Information Officer in these proceedings (the "**Information Officer**"); (ii) stayed all claims and proceedings in respect of the Chapter 11 Debtors, the property and business of the Chapter 11 Debtors and the directors and officers of the Chapter 11 Debtors; (iii) granted a super-priority charge over the Chapter 11 Debtors' property, in favour of the Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings; and (iv) recognized and enforced in Canada certain orders of the U.S. Bankruptcy Court in the Chapter 11 Cases, including the Interim Order Authorizing LightSquared LP to Act as Foreign Representative Pursuant to 11 U.S.C. § 1505.

13. On June 14, 2012, August 21, 2012, March 8, 2013, March 20, 2013, August 13, 2013, October 9, 2013, October 17, 2013, January 3, 2014 and February 26, 2014 the Canadian Court granted orders in these proceedings recognizing and enforcing in Canada certain additional orders of the U.S. Bankruptcy Court made in the Chapter 11 Cases;

14. In addition to the recognition orders referred to in the preceding paragraph, on February 5, 2014 the Canadian Court recognized and enforced in Canada certain orders of the U.S. Bankruptcy Court made in the Chapter 11 Cases, including:

(a) *Final* Order *(A) Authorizing LP DIP Obligors To Obtain Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1291] (the "**Initial LP DIP Order**"); and

(b) *Second Order Amending Amended Agreed Final Order (A) Authorizing Debtors To Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1292] (the "**Third Amended Cash Collateral Order**").

15. The Initial LP DIP Order provided for, among other things, the provision of certain superpriority senior secured priming postpetition financing by the LP DIP Lenders to the LP DIP Obligors through April 15, 2014 (the "**Initial LP DIP Facility**").

16. The Initial LP DIP Order together with the extensions under the Initial Cash Collateral Order[1] were intended to provide sufficient funds for the Chapter 11 Debtors to implement a comprehensive reorganization plan and conclude the Chapter 11 Cases. As described below, the process to achieve such a result is ongoing.

17. In December 2013, LightSquared, at the direction of the special committee of the boards of directors for LightSquared Inc. and LightSquared GP Inc., determined not to pursue confirmation of the first amended plan and cancelled the attendant sale and auction process.

18. On December 24, 2013, LightSquared filed the second amended plan, which contemplated a reorganization of LightSquared through the provision of new financing and equity investments from certain of LightSquared's existing stakeholders as well as third party investors.[2]

19. Beginning on January 9, 2014, the U.S. Bankruptcy Court held a trial on certain issues being litigated in the "Ergen Adversary Proceeding".[3]

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[1] the *Amended Agreed Final Order (A) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 544] (as amended, the "**Initial Cash Collateral Order**")

[2] Those parties include (a) Fortress Investment Group, on behalf of its affiliates' funds and/or managed accounts, (b) Melody Capital Advisors, LLC and/or Melody NewCo, LLC, each on behalf of itself and its funds, (c) Harbinger Capital Partners, LLC or its designated affiliates, and (d) JPMorgan Chase & Co. or its designated affiliates.

[3] The proceedings commenced by the filing of a complaint against Charles W. Ergen, Echostar Corporation, DISH Network Corporation, L-Band Acquisition LLC, SPSO, SP Special

20. On February 14, 2014, LightSquared filed the *Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code* [U.S. Bankruptcy Court Docket no. 1308] (as amended, modified, or supplemented, the "**Third Amended Plan**"), which, following a U.S. Bankruptcy Court approved solicitation process, was accepted by all creditors and holders of equity interests eligible to vote on the Plan, other than SP Special Opportunities, LLC, which voted to reject (and actively opposed confirmation of) the Third Amended Plan.

21. On February 26, 2014 and in relation to the Third Amended Plan, the Canadian Court recognized the *Order Approving (A) LightSquared's Third Amended Specific Disclosure Statement and (B) Shortened Time To Object to Confirmation of LightSquared's Third Amended Plan and Streamlined Re-solicitation Thereof*.

22. The process seeking to confirm the Third Amended Plan (the "**Third Amended Plan Confirmation Process**") has so far required two separate trials in order to bring all of the relevant facts to the U.S. Bankruptcy Court's attention.

DEVELOPMENTS IN THE CHAPTER 11 CASES

CONFIRMATION HEARINGS

23. Since the date of the last Canadian Court appearance (being April 11, 2014) the parties in the Chapter 11 Cases filed post-trial briefs, findings of fact, joinders and reply briefs related to the Third Amended Plan Confirmation Process and the Ergen Adversary Proceeding.

24. The evidentiary portion of the Ergen Adversary Proceeding trial took place over a five day period, and concluded on March 17, 2014 following closing arguments.

25. On March 19, 2014, the U.S. Bankruptcy Court commenced the confirmation hearing for the Third Amended Plan (the "**Third Amended Plan Confirmation Hearings**"). The evidentiary portion of the Third Amended Plan Confirmation Hearings

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Opportunities Holdings LLC, Sound Point Capital Management LP, and Stephen Ketchum, and is captioned as Adversary Proceeding No. 13-01390-SCC.

concluded on March 31, 2014, and closing arguments took place on May 5 and May 6, 2014.

26. On May 8, 2014, Judge Chapman of the U.S. Bankruptcy Court issued a bench ruling with respect to the Ergen Adversary Proceeding, finding, among other things, that the defendants in such proceeding engaged in misconduct warranting equitable subordination in an amount to be determined at a later stage.

27. Also on May 8, 2014, Judge Chapman (a) issued a bench decision denying confirmation of the Third Amended Plan, (b) directed that the parties work to reach a consensual resolution on a reorganization path, taking into account the U.S. Bankruptcy Court's findings with respect to both plan confirmation and the Ergen Adversary Proceeding, and (c) imposed a deadline of May 27, 2014 to reach any such resolution, absent which the U.S. Bankruptcy Court would appoint the Honorable Robert D. Drain, United States Bankruptcy Judge for the Southern District of New York, (the "**Mediator**") as a mediator.

MEDIATION

28. Following Judge Chapman's May 8, 2014 bench decisions, the U.S. Bankruptcy Court held a status conference on May 27, 2014, at which time the parties informed the U.S. Bankruptcy Court that no resolution had been reached. Accordingly, on May 28, 2014, the U.S. Bankruptcy Court entered the Mediation Order.

29. Pursuant to the Mediation Order, the Mediator was authorized by the U.S. Bankruptcy Court to mediate any issues concerning, among other things, the terms of a plan or plans of reorganization for the Debtors, including the following disputes:

(a) the amount of equitable subordination of the claim of SP Special Opportunities LLC ("**SPSO**" and the "**SPSO Claim**" respectively) and the classification and treatment of the SPSO Claim in a plan of reorganization;

(b) the allocation of estate value among the various constituencies and the structure of a plan or plans of reorganization for the Debtors;

(c) certain other plan confirmation or other issues appropriate for mediation, as determined by the parties to the mediation and the Mediator.

30. The mediation consisted of three day-long mediation sessions, on June 9, 17 and 23, 2014.

31. On June 27, 2014 the Mediator issued a memorandum (the "**Mediator's Memorandum**") that provided that "[w]ith the exception of one party, all of the parties to the mediation have agreed on the key business terms of a chapter 11 plan for the debtors that should be confirmable without the support of the one party, SPSO, which has not agreed". The Mediator's Memorandum is attached to this my affidavit as **Exhibit "F"**.

32. As the Mediation Order also impacts the Canadian assets of the Chapter 11 Debtors, the Foreign Representative respectfully request that the Canadian Court recognize the Mediation Order as the terms and conditions contained in such Order is in the best interests of the Chapter 11 Debtors' stakeholders.

SCHEDULING

33. On July, 1 and 2, 2014 the U.S. Bankruptcy Court held a status hearing during which the parties agreed to the proposed schedule in respect of what is expected to be the Debtors' Fourth Amended Joint Plan to Chapter 11 of Bankruptcy Code (the "**Fourth Amended Plan**"). The Fourth Amended Plan is estimated to be filed with the U.S. Bankruptcy Court by mid-July 2014.

34. On July 3, 2014, the U.S. Bankruptcy Court issued the Fourth Amended Plan Confirmation Schedule Order.

35. The timeline established under the Fourth Amended Plan Confirmation Schedule Order:

(a) provides a streamlined and orderly process (the "**Fourth Amended Plan Confirmation Process**") that allows all issues arising to be litigated and

considered by the U.S. Bankruptcy Court, thereby preserving the rights of all stakeholders;

(b) is fair in the circumstances, providing stakeholders with ample notice and time to understand and participate in the plan process;

(c) is expeditious and appropriate in the circumstances and does not result in unnecessary delays; and

(d) minimizes restructuring costs, thereby maximizing value for the benefit of all stakeholders.

36. To my knowledge, no party has appealed the Fourth Amended Plan Confirmation Schedule Order in the Chapter 11 Cases.

37. The Foreign Representitive thus respectfully request that the Canadian Court recognize the Fourth Amended Plan Confirmation Schedule Order, as the terms and conditions contained in the Fourth Amended Plan Confirmation Schedule Order are fair and reasonable and in the best interests of the Chapter 11 Debtors' estates and creditors, and thus the Foreign Representative requests to have the Fourth Amended Plan Confirmation Schedule Order recognized.

FINANCING MATTERS

38. Certain of the Chapter 11 Debtors are party to a Credit Agreement, dated as of October 1, 2010 (as amended, supplemented, amended and restated, or otherwise modified from time to time), between, *inter alia*, LightSquared LP, as borrower, LightSquared Inc. and the other parent guarantors party thereto (collectively, the "**Prepetition LP Parent Guarantors**"), the subsidiary guarantors party thereto (collectively, the "**Prepetition LP Subsidiary Guarantors**" and, collectively with LightSquared LP and the Prepetition LP Parent Guarantors, the "**LP Obligors**"), the lenders party thereto (the "**Prepetition LP Lenders**"), and UBS AG, Stamford Branch, as administrative agent (in such capacity, and together with Wilmington Trust FSB, the "**Prepetition LP Agent**"), under which the Prepetition LP Lenders provided term loans

in the aggregate principal amount of $1,500,000,000 (the "**Prepetition LP Credit Facility**").

39. As previously advised, the Chapter 11 Debtors required additional funds to carry them through to the date an order is entered confirming any chapter 11 plan(s). The Chapter 11 Debtors agreed to obtain replacement postpetition financing (the "**Replacement DIP Facility**") for the estates of the LP DIP Obligors (as defined below) with financing to be provided by certain members of the ad hoc group of Prepetition LP Lenders, including Capital Research and Management Company, and Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., as well as by Solus Alternative Asset Management LP, Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, fund entities managed by Aurelius Capital Management, LP, and SP Special Opportunities, LLC (each of the foregoing, an "**LP DIP Lender**" and, collectively, the "**LP DIP Lenders**").

40. On April 10, 2014, the U.S. Bankruptcy Court entered the following Orders:

(a) *Final Order (A) Authorizing LP DIP Obligors To Obtain Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1476] (the "**Replacement LP DIP Order**"); and

(b) *Third Order Amending Amended Agreed Final Order (a) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, and (C) Modifying Automatic Stay* [U.S. Bankruptcy Court Docket No. 1477] (the "**Fourth Amended Cash Collateral Order**").

41. The Replacement LP DIP Order and Fourth Amended Cash Collateral Order were recognized by the Canadian Court on April 11, 2014.

42. The LP Obligors have been funding their businesses through the use of the Prepetition LP Collateral (as defined in the Initial Cash Collateral Order), including Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code (the "**Cash Collateral**")) and the proceeds of the Initial LP DIP Facility and subsequently the Replacement DIP Facility.

43. The Replacement LP DIP Facility was set to expire on June 15, 2014. However, pursuant to paragraph 17(i) of the Replacement LP DIP Order the Final Maturity Date (as such term is defined in the Replacement LP DIP Order) was permitted to be extended to June 30, 2014 without further order of the U.S. Bankruptcy Court.

44. On June 9, 2014 all of the LP DIP Lenders provided written consent to an extension of the Final Maturity Date from June 15, 2014 to June 30, 2014 and the *Notice Of Extension Of Final Maturity Date Under Replacement LP Dip Facility* [U.S. Bankruptcy Court Docket no. 1574] (the "**LP DIP Extension Notice**") was filed to reflect such extension.

45. A copy of the LP DIP Extension Notice is attached to this my Affidavit as **Exhibit 'G'**.

Second Replacement LP DIP Order

46. Given that the Fourth Amended Plan Confirmation Schedule in the Chapter 11 Cases is now contemplated to extend well past the Final Maturity Date specified by the previously recognised Replacement LP DIP Facility, the Chapter 11 Debtors require additional funds to carry them through to July 15, 2014. The current budget (the "**Budget**")[4] for the Chapter 11 Debtors shows that they require the funding to be made available pursuant to the Second Replacement LP DIP Facility (as defined below) until July 15, 2014.

47. Therefore, the Chapter 11 Debtors agreed to obtain further replacement postpetition financing for the estates of the LP DIP Obligors with financing to be

[4] The Budget is attached as Annex B of the Second Replacement LP DIP Order and Schedule 1 of the Sixth Amended Cash Collateral Order.

provided by certain members of the ad hoc group of Prepetition LP Lenders, including Capital Research and Management Company, and Cyrus Capital Partners, L.P., on behalf of its affiliates' managed funds and/or accounts, as well as by Intermarket Corp., as well as by Solus Alternative Asset Management LP, Fortress Credit Corp., on behalf of its affiliates' managed funds and/or accounts, fund entities managed by Aurelius Capital Management, LP, and SP Special Opportunities, LLC (each of the foregoing, an "**LP DIP Lender**" and, collectively, the "**LP DIP Lenders**").

48. On June 26, 2014, the Chapter 11 Debtors filed the *Notice of (I) Presentment of Final Order (A) Authorizing LP DIP Obligors To Obtain Second Replacement Superpriority Senior Secured Priming Postpetition Financing, (B) Granting Superpriority Liens And Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, And (D) Modifying Automatic Stay* in connection with the agreed upon replacement DIP financing facility (the "**Second Replacement LP DIP Facility**") to be provided by the LP DIP Lenders.

49. Each of the LP DIP Obligors (as defined in the Initial LP DIP Order) and the LP DIP Lenders under the Replacement DIP Facility have consented to the entry of the Second Replacement LP DIP Order and the Second Replacement LP DIP Facility, the proceeds of which shall be used to (i) pay in full all LP DIP Obligations under (and as defined in) the Replacement LP DIP Facility and the Replacement LP DIP Order, (ii) finance the general corporate and working capital needs of the LP DIP Obligors (and other purposes described in paragraph 3(a) of the Second Replacement LP DIP Order) through the Final Maturity Date (as defined in the Second Replacement LP DIP Order) and (iii) pay the LP DIP Professional Fees (as defined in the Second Replacement LP DIP Order).

50. On June 30, 2014, the Second Replacement LP DIP Order was granted by the U.S. Bankruptcy Court. As a condition subsequent to the Second Replacement LP DIP Order, the DIP Lenders required that the LP DIP Obligors obtain the Canadian Court's recognition of the Second Replacement LP DIP Order by no later than July 10, 2014.

51. Save for the term (ie. the Final Maturity Date being extended from June 30, 2014 to July 15, 2014), the terms of the Second Replacement LP DIP Order are

substantially the same as the terms set forth in the Replacement LP DIP Order, which was recognized by the Canadian Court on April 11, 2014.

52. The ability of the Chapter 11 Debtors to ensure a value-maximizing exit from the Chapter 11 Cases requires the availability of capital from the Second Replacement LP DIP Facility. Without such funds, the Chapter 11 Debtors will not have sufficient available sources of capital and financing to operate its businesses and maintain its properties in the ordinary course of business.

53. In summary, the Second Replacement LP DIP Order will provide the LP DIP Obligors with $76,323,253 of financing through July 15, 2014. As the Fourth Amended Plan Confirmation Process is set to extend into the fall of 2014, the Foreign Representative anticipates obtaining further time in front of the Canadian Court on July 15, 2014 seeking recognition of further DIP arrangements to cover the period of July 15, 2014 to September 30, 2014.

54. To prevent the unfettered use of the proceeds of the Second Replacement LP DIP Facility, the LP DIP Obligors have agreed to use such proceeds in accordance with the Budget developed by the LP DIP Obligors and their financial advisors. The LP DIP Obligors believe that the Budget is achievable and will allow the LP DIP Obligors to operate without the accrual of unpaid administrative expenses.

55. In the absence of the availability of the Second Replacement LP DIP Facility serious and irreparable harm to the LP Debtors and their estates and creditors would occur. Further, any remaining possibility for confirmation of a chapter 11 plan would be at severe risk in the absence of the availability of funds in accordance with the terms of the Second Replacement LP DIP Order.

56. The Foreign Representative thus respectfully request that the Court recognize the Second Replacement LP DIP Order, as the terms and conditions contained in the Second Replacement LP DIP Order are fair and reasonable and in the best interests of the LP Obligors' estates and creditors.

Cash Collateral Extension Order

57. In connection with the Second Replacement LP DIP Facility the LP Obligors also required continued authorization from the U.S. Bankruptcy Court to use the Cash Collateral of the Prepetition LP Lenders. Such relief is necessary to ensure that the LP Obligors can (i) address working capital needs, (ii) fund reorganization efforts and (iii) continue to operate in the ordinary course during the Chapter 11 Cases.

58. Pursuant to the Fourth Amended Cash Collateral Order, the LP Obligors were consensually permitted to use the Prepetition LP Lenders' Cash Collateral through June 15, 2014. Such date was previously recognized by the Canadian Court on April 11, 2014 being the date upon which the Canadian Court recognized the Fourth Amended Cash Collateral Order.

59. As a result of the continuing nature of the Chapter 11 Cases, the Chapter 11 Debtors engaged in discussions with the Prepetition LP Lenders with respect to additional extensions and, upon agreement among the parties, the U.S. Bankruptcy Court entered the Fifth Amended Cash Collateral Order and the Sixth Amended Cash Collateral Order.

60. Under the Fifth Amended Cash Collateral Order granted by the U.S. Bankruptcy Court on June 13, 2014, the Chapter 11 Debtors were permitted to use the Prepetition LP Lenders' Collateral through June 30, 2014.

61. Under the Sixth Amended Cash Collateral Order granted by the U.S. Bankruptcy Court on June 30, 2014, the Chapter 11 Debtors were permitted to use the Prepetition LP Lenders' Collateral through July 15, 2014.

62. The Foreign Representative thus respectfully request that the Canadian Court recognize the Fifth Amended Cash Collateral Order and the Sixth Amended Cash Collateral Order, as the terms and conditions contained in those Orders are fair and reasonable and in the best interests of the LP Obligors' estates and creditors.

SUMMARY

63. The secured creditors registered against the Canadian Chapter 11 Debtor entities are being given notice of the motion.

64. As a result, the Foreign Representative is requesting that the Canadian Court recognize in Canada and enforce the Second Replacement LP DIP Order, Fifth Amended Cash Collateral Order, the Sixth Amended Cash Collateral Order, the Mediation Order, and the Fourth Amended Plan Confirmation Schedule Order pursuant to Section 49 of the CCAA.

65. The Foreign Representative anticipates seeking further time in front of the Canadian Court on July 15, 2014 seeking recognition of further financing arrangements to cover the period of July 15, 2014 to September 30, 2014.

66. I make this affidavit in support of the motion of the Foreign Representative returnable July 8, 2014 and for no other or improper purpose.

SWORN before me in the City of Ottawa in the Province of Ontario this 4th day of July, 2014

Commissioner for Taking Affidavits, etc.

Elizabeth Creary

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

TAB D

Exhibit "**D**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

August 2014

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5	6	7	8	9
10	11 Status Conference	12 Deadline To File Harbinger Disclosure Statement	13	14	15 Deadline To File LP Debtor Only Plan	16
17	18	19	20 Deadline for Initial Discovery Requests	21	22	23
24	25 Voting Record Date	26	27	28 Commencement of Solicitation Period for Plans	29	30
31						

September 2014

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 Labor Day	2	3	4 Deadline for Responses to Initial Discovery Requests	5	6
7	8	9	10	11	12 Deadline for Substantial Completion of Initial Document Production	13
14	15	16 Deadline To File (1) Plan Supplements and (2) Harbinger Estimation Motion	17	18	19 Deadline for Supplemental Discovery Requests	20
21	22	23 (1) Voting Deadline for Plans; and (2) Deadline To File Vote Designation Motion (If Any)	24 Deadline for Responses to Supplemental Discovery Requests	25	26 Deadline for Substantial Completion of Supplemental Document Production	27
28	29 Designation of Potential Witnesses and Potential Experts (If Any) and Submission of Their Reports	30 Fact Depositions (September 30-October 2)				

October 2014

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2 (1) Deadline To File Voting Report; and (2) Discovery Cutoff for Confirmation Hearing (Except for Expert Discovery)		4
			Fact Depositions (September 30-October 2)			
5	6 Deadline To File Objections to Vote Designation Motion (If Any)					11
	Expert Depositions (October 6-9)					
12						18
19	20 Commencement of Confirmation Hearing on Plans	21	22	23		25
	Confirmation Hearing on Plans (October 20-23 and October 27-31)					
26	27	28	29	30	31	
	Confirmation Hearing on Plans (October 20-23 and October 27-31)					

November 2014

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3				7	8
9						15
16						22
23	24	25	26	27 Thanksgiving	28	29
30						

TAB E

Exhibit "**E**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Docket #1898 Date Filed: 10/30/2014

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
LIGHTSQUARED INC., *et al.*,	)	Case No. 12-12080 (SCC)
Debtors.	)	Jointly Administered

BENCH DECISION DENYING MOTION TO (A) EXPUNGE THE GUARANTY CLAIM ASSERTED BY THE LP LENDERS OR, IN THE ALTERNATIVE, (B) ESTIMATE THE GUARANTY CLAIM AT ZERO PURSUANT TO 11 U.S.C. § 502(c)

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SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

Before the Court is the motion of Harbinger Capital Partners LLC ("Harbinger") to (a) expunge the guaranty claim asserted by the LP Lenders against the LP Parent Guarantors (the "Guaranty Claim") or, in the alternative, (b) estimate the Guaranty Claim at zero for purposes of allowance (the "Motion"). A statement in support of the Motion was filed by SIG Holdings, Inc. ("SIG"), together with the Declaration of Sandeep Qusba. Objections to the Motion were filed by (i) SP Special Opportunities, LLC ("SPSO"), which submitted the Declaration of James C. Dugan in support of its objection, and (ii) the Ad Hoc Secured Group of LightSquared LP Lenders (the "Ad Hoc Secured Group"), which filed the Declaration of Steven Zelin in support of its objection. Harbinger and SIG both filed replies to the objections on October 13, 2014, and Harbinger has submitted two declarations of David M. Friedman in support of the Motion. A hearing on the Motion was held on October 27, 2014. At the hearing, the Court elected to hear legal argument only and declined to hold an evidentiary hearing on the Motion. For the reasons that follow, the Motion is denied.[1]

I. Background

While the Court assumes familiarity with the extensive prior record of these proceedings and with the pleadings submitted by the parties with respect to the Motion, the Court will provide limited factual background for the purposes of this Bench Decision.

Pursuant to the October 1, 2010 Credit Agreement (the "LP Credit Agreement") among LightSquared LP, as borrower (the "Borrower"); LightSquared Inc. and the other parent guarantors party thereto (the "Parent Guarantors"); the subsidiary guarantors party thereto (the

[1] This decision was read into the record on October 30, 2014.

"Subsidiary Guarantors"); the administrative agent; and the lenders party thereto (the "LP Lenders"), the LP Lenders provided a term loan to LightSquared LP in the aggregate principal amount of $1.5 billion. Amounts outstanding under the LP Credit Agreement are secured by a first-priority security interest in, among other things, (i) substantially all of the assets of LightSquared LP and the LP Subsidiary Guarantors; (ii) the equity interests of LightSquared LP; and (iii) the equity interests of the LP Subsidiary Guarantors (collectively, the "LP Collateral"). Pursuant to Article VII of the LP Credit Agreement, the Subsidiary Guarantors and the Parent Guarantors (collectively, the "Guarantors") have each provided an unconditional joint and several guaranty (the "Guaranty") of what is defined in the LP Credit Agreement as the "Guaranteed Obligations." The Guaranteed Obligations include the payment in full in cash, when due, of the principal and interest on the LP Loans to, and the notes held by each LP Lender of, LightSquared LP, as well as all other obligations owing to the LP Lenders by any of LightSquared LP or the Guarantors under any loan document. (LP Credit Agreement § 7.01.)

Section 7.01 of the LP Credit Agreement further provides, in pertinent part, that "[t]he Guarantors hereby jointly and severally guarantee, as a primary obligor and not as a surety to each Secured Party and their respective successors and assigns, the prompt payment in full when due" of the principal and interest on the Loans. If LightSquared LP, as Borrower, or any of the Guarantors, which are all primary obligors, does not pay in full all of the Guaranteed Obligations when due, Section 7.01 provides that the Guarantors are jointly and severally liable to "promptly pay the same in cash." (LP Credit Agreement § 7.01.) The LP Credit Agreement also provides the LP Lenders with the right to seek recovery from the Guarantors even if the lenders do not first, or ever, seek it from the Borrower. (*See* LP Credit Agreement § 7.02.)

On May 14, 2012, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code, triggering an Event of Default under the LP Credit Agreement. On June 6, 2012, the Court entered a final agreed order approving the Debtors' Cash Collateral Motion (the "Cash Collateral Order"). The Cash Collateral Order defines "Prepetition Obligations" to include, *inter alia*, the $1,700,571,106 in aggregate principal amount outstanding under the LP Credit Agreement as of the Petition Date, and the defined term "Prepetition Obligations" encompasses the Guaranty. The Cash Collateral Order established August 11, 2012 as the "Investigation Termination Date" by which parties in interest could investigate the validity and enforceability of the Prepetition Obligations or would be forever barred from doing so after such date. No challenge to the Prepetition Obligations was filed on or before August 11, 2012. On September 6, 2012, the prepetition agents for the LP Lenders filed a master proof of claim, which was deemed to be filed against LightSquared LP and the Guarantors (the "Proof of Claim"). The Proof of Claim encompassed all claims for the Guaranteed Obligations under the LP Credit Agreement.

At this time, there are two pending plans of reorganization proposed for the Debtors; the Court has not yet held a confirmation hearing with respect to either Plan. The so-called "LP Only Plan" has been withdrawn, and the Ad Hoc Secured Group has filed its Second Amended Joint Plan, dated October 13, 2014,[2] which proposes a plan of reorganization for all of the Debtors; votes on this plan have not yet been solicited. Harbinger, a substantial equity holder and also a debt holder in LightSquared Inc., is the sponsor of a proposed plan of reorganization

[2] The Court notes that the naming convention of the plans of reorganization filed in these cases has changed over time. The Court's Bench Decision read on May 8, 2014 and superseding published decision filed on July 11, 2014 denied confirmation of the Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code. On August 7, 2014, the Joint Plan Pursuant to Chapter 11 of Bankruptcy Code Proposed by Debtors and Ad Hoc Secured Group of LightSquared LP Lenders was filed. On October 13, 2014, the Ad Hoc Secured Group filed the Second Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code Proposed by Ad Hoc Secured Group of LightSquared LP Lenders.

for LightSquared Inc. and certain of its related Debtors. This plan, referred to as the "Inc. Plan" by the parties, is supported by the other major constituencies of LightSquared Inc. – SIG and MAST Capital Management LLC. It is a condition to confirmation of the Inc. Plan that the Court expunge or estimate the Guaranty Claim at zero. Although the Inc. Plan does not classify the Guaranty Claim at all, in its recently revised form it proposes to make a distribution to Holders of the Guaranty Claim by "surrender[ing] to the Prepetition LP Agent" the equity in LightSquared LP and LightSquared GP held by two of the Parent Guarantors, TMI Communications Delaware, Limited Partnership and LightSquared Investors Holdings Inc. The Inc. Plan also provides that, if the Court estimates a claim that has not yet been allowed, then the estimated amount shall constitute either the allowed amount of such claim or the maximum limitation on such claim.

II. The Motion

By the Motion, Harbinger argues that the Court can and should find that the LP Collateral is worth at least as much as the LP Debt plus the amount outstanding under the LP Debtors' DIP Facility and that, therefore, the LP Lenders will be paid in full under the terms of the LP Only Plan. Undaunted by the fact that the LP Only Plan has been withdrawn, Harbinger in its Reply argues that the Inc. Plan "accomplishes the very same thing" through its proposed surrender of 100% of the equity interests in LightSquared GP and LightSquared LP to the LP Lenders, the value of which, Harbinger submits, constitutes payment in full because its value exceeds the amount of the LP Debt. (Reply at ¶ 18.) Once the LP Lenders are "paid in full" in this way under the Inc. Plan, the Guaranty Claim would be discharged under the terms of the LP Credit Agreement. Accordingly, Harbinger and SIG submit that the Court can and should expunge the Guaranty Claim or, alternatively, estimate it at zero.

The Ad Hoc Secured Group and SPSO (together, the "Objectors") argue that the Motion should be denied because the Guaranty Claim cannot be expunged or estimated at zero **until** the LP Lenders are paid in full, and, aside from speculation that the LP Lenders will receive a full recovery sometime in the future, there has been no showing that the LP Debt can and will be satisfied. The LP Only plan has been withdrawn; the Second Amended Joint Plan has not been presented for confirmation; other than adequate protection payments, the LP Lenders have received no payment on the LP Debt since the Petition Date. Moreover, even though the Inc. Plan purports to pay the LP Lenders "in full" through the surrender of the equity of LightSquared LP and LightSquared GP, the Objectors point out that the value of such equity interests has not been monetized, or even determined, and the Inc. Plan has not yet been confirmed. The Objectors continuously emphasize that, under the LP Credit Agreement, the LP Lenders are entitled to assert the full amount of the Guaranty Claim against each of the Guarantors until the lenders are paid in full, which has not occurred; thus, there is no basis to expunge the Guaranty Claim. In addition, the Guaranty Claim is not subject to estimation, argue the Objectors, because the claim does not meet the requirements set forth in section 502(c) of the Bankruptcy Code.

DECISION

I. The Request to Estimate the Guaranty Claim at Zero

Section 502(c)(1) of the Bankruptcy Code provides that "[t]here shall be estimated for purposes of allowance under this section – (1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case. . . ." 11 U.S.C. § 502(c)(1). This Court has stated that, "when estimating claims, bankruptcy courts may use whatever method is best suited to the contingencies of the case, so long as the procedure is consistent with the fundamental policy of Chapter 11 that a reorganization 'must be

accomplished quickly and efficiently.'" *In re Adelphia Commc'ns Corp.*, 368 B.R. 140, 278 (Bankr. S.D.N.Y. 2007) (citations omitted). In order to seek estimation, however, a party must demonstrate that the gating requirements for estimation are met – namely, that the claim to be estimated is contingent or unliquidated and that the delay associated with the fixing or liquidation of such claim would be "undue." *See In re Dow Corning Corp.*, 211 B.R. 545, 562-63 (Bankr. E.D. Mich. 1997). Courts have observed that "it is within [the court's] sound discretion and not the obligation of [the court] to estimate a claim." *In re Apex Oil Co.*, 107 B.R. 189, 193 (Bankr. E.D. Mo. 1989).

a. The Guaranty Claim is Not Contingent

Harbinger argues that the Guaranty Claim is contingent, as a guaranty is a "classic illustration of a contingent claim." (Motion at ¶ 81 (citing to *In re Barnett*, 42 B.R. 254, 257 (Bankr. S.D.N.Y. 1984)).) While the Bankruptcy Code does not define the term "contingent" for purposes of section 502(c), courts have held that "a claim is contingent as to liability if the debtor's legal duty to pay does not come into existence until triggered by the occurrence of a future event" and "the occurrence or happening of [such] extrinsic event . . . will trigger . . . liability." *Mazzeo v. U.S. (In re Mazzeo)*, 131 F.3d 295, 303 (2d Cir. 1997) (citation omitted). Upon default of the principal on the underlying debt, liability on a guaranty becomes fixed and is no longer contingent because all predicates to enforcement have occurred. *See, e.g., In re Rhead*, 179 B.R. 169, 172 (Bankr. D. Ariz. 1994) (stating that, "but for the bankruptcy, SKW could seek a judgment against the Rheads for the full amount guaranteed, without the occurrence of any future event");[3] *In re F.B.F. Indus., Inc.*, 165 B.R. 544, 548-49 (Bankr. E.D. Penn. 1994) ("[t]he law is clear that a guaranty or surety claim is not contingent after a default by the primary obligor

[3] *See also* October 27, 2014 Hr'g Tr. at 111:12-18.

has occurred."). Because the Guarantors have primary obligations to pay the LP Loans when due, their liability is not contingent upon any future event.

While many words and pages have been devoted to the question of the existence or not of a prepetition default, the question is entirely beside the point. The LP Loans are now indisputably due and payable, and remain unpaid. The filing of the LightSquared chapter 11 cases was an Event of Default under the LP Credit Agreement which, pursuant to Section 7.01, triggered the Guarantors' obligation to pay the principal and interest in full and in cash and, pursuant to Section 8.01, entitled the Administrative Agent and the LP Lenders to exercise any and all remedies. The Guarantors' liability is no longer contingent on any future event. To borrow the words of the *Rhead* court, if LightSquared Inc. and the other Guarantors were not debtors, the LP Lenders could demand full payment – in cash – from LightSquared Inc. and the other Guarantors today.

Nor does the fact that the Borrower may be able to satisfy the claim render a guaranty claim contingent, as Harbinger attempts to argue. *See, e.g.*, *In re Rhead*, 179 B.R. at 172 (stating that "[a]dmittedly, it is possible, perhaps even probable, that the obligation due under the guarantee will be paid from another source. However, that fact alone does not make the debt either unliquidated []or contingent."); *In re F.B.F.*, 165 B.R. at 552 (stating that, in estimating guaranty claim of secured creditor, the court will not look to the collateral or the financial resources of other obligors and would instead estimate debtor's liability (as a surety) to be equal to 100 percent of the underlying liability, provided the creditor could not collect more than the total amount of the debt.).

Harbinger has cited several cases to this Court which it claims support the relief it seeks, including *In re Fox*, 64 B.R. 148 (Bankr. N.D. Ohio 1986); *In re Zucker*, 1979 Bankr. LEXIS

891 (Bankr. S.D.N.Y. July 2, 1979); and *In re Kaplan*, 186 B.R. 871 (Bankr. D.N.J. 1995). While the courts in each of these cases held that, when estimating a contingent guaranty claim, it is in fact appropriate to factor in the ability of the primary obligor to satisfy the obligation, the facts of each such case are notably distinguishable. In each case, the guarantees had not yet been triggered and the obligations remained conditional and contingent. In *Fox*, the debt on the obligations underlying the guaranty claim was current and the debt was not in default; in *Zucker*, the guarantors' obligations were contingent on both the default and the death of the primary obligor, neither of which had yet occurred; and, in *Kaplan*, the primary obligor was not in default on the loan, as the court found that there had been a waiver of a prior default. In contrast to these facts, as already discussed, no contingency remains here because a payment default has occurred and the Guarantors are guarantors of payment, and not collection – they are primary obligors under the LP Credit Agreement. The LP Credit Agreement provides the LP Lenders with the right to seek recovery from any Guarantors even if the lenders do not first, or ever, seek it from the Borrower. In addition, under New York law, the lender – not the obligor – has the right to decide what remedies to exercise, in what order, and against which co-obligor. *See*, *e.g.*, *In re King*, 2010 Bankr. LEXIS 3830, at *9-10 (Bankr. N.D.N.Y. Oct. 20, 2010) ("[i]t is universally understood that the UCC does not require a secured creditor to elect a remedy . . . . Rather, the rights afforded a secured creditor are cumulative and may be exercised simultaneously.") (citations omitted).

Harbinger also attempts to rely on *Chemical Bank v. Meltzer*, 93 N.Y.2d 296 (N.Y. 1999), which it asserts "establishes the duty of LightSquared LP to LightSquared Inc. with respect to the discharge of the Guaranty Claim, thus further establishing a contingency to the claim." (Reply at ¶ 45.) In *Meltzer*, the New York Court of Appeals allowed a lender to pursue

its claims in full against a joint and several guarantor, holding that the guarantor would have the right to be subrogated to the lender upon payment in full by the guarantor. *Meltzer*, 93 N.Y.2d at 304. *Meltzer* dealt with the issue of subrogation rights, however, and its holding cannot be cited to create a requirement that LightSquared LP must pay the LP Debt prior to the LP Lenders seeking payment from any Guarantor, nor does its holding support the proposition that the Guaranty Claim is contingent. In fact, Harbinger cites to no case which holds that the LP Lenders must pursue payment from the Borrower first and waive their right to seek payment from the Guarantors rather than first asserting their full cash claim against the Guarantors, should they elect to do so. Finally, Harbinger's reliance on New York General Obligations Law Section 15-103 for the proposition that the value of consideration paid on account of a debt be credited to co-obligors, such that the Guaranty Claim can be reduced by the value of the equity collateral surrendered to the LP Lenders, is also unavailing. No payments on the LP Debt are being made by any obligor under the LP Credit Agreement, and the General Obligations Law does not require a "credit" because one or more co-obligors has *the ability* to pay or *will pay* in the future.

The parties disagree on the applicability of the Supreme Court's decision in *Ivanhoe Building & Loan Ass'n of Newark, N.J. v. Orr*, 295 U.S. 243 (1935). In *Ivanhoe*, the United States Supreme Court held that a creditor was permitted to assert the full value of its claim against a debtor co-obligor, unreduced by the stipulated value of the collateral, subject only to the "single-satisfaction rule" that the creditor could not retain value beyond payment in full. *Id.* at 245-46. Relying on *Ivanhoe*, the court in *In re F.W.D.C., Inc.* allowed a claimant to assert the full value of its claim against one obligor even after receiving collateral from a co-obligor, subject again to the rule that the claimant not retain more than 100 percent of the amount it was owed. *See In re F.W.D.C., Inc.*, 158 B.R. 523, 527-28 (Bankr. S.D. Fla. 1993). Harbinger

asserts that *Ivanhoe* and its progeny are inapplicable here because they do not involve scenarios in which a debtor-obligor is capable of satisfying a creditor's claim in full without looking to a guarantor, as Harbinger contends will be accomplished by the Inc. Plan's surrender of collateral to the LP Lenders in allegedly full satisfaction of the LP Debt. Again, Harbinger fails to recognize that nothing has yet been paid to the LP Lenders under any plan. Moreover, should the LP Lenders receive the equity interests of LightSquared LP and LightSquared GP as proposed by Harbinger, there are numerous risks and uncertainties related to the value of such equity. Those risks are properly borne by equityholders, not secured lenders.

b. The Guaranty Claim is Not Unliquidated

By the Motion, Harbinger asserts – without any legal support whatsoever – that, in addition to the fact that the Debtors scheduled the Guaranty Claim as contingent and unliquidated, "the likelihood that the LP Lenders will be repaid in full through the LP Collateral creates a contingency in the Guaranty Claim and renders the claim unliquidated." (Motion at ¶ 82.) Harbinger argues that, because New York law requires that the value of any consideration paid by one obligor on account of a debt be credited to a co-obligor, the satisfaction of the LP Debt through the Inc. Plan renders the Guaranty Claim unliquidated, as the claim is subject to reduction in an amount yet to be determined. In support of this argument, Harbinger relies on *In re Teigen*, in which the Bankruptcy Court for the District of South Dakota held that, where the primary obligor will satisfy an unknown portion of a claim pursuant to a confirmed plan of reorganization in a separate case, the corresponding guaranty claim is unliquidated, can be estimated under section 502(c), and can be reduced by the present value of the total payments to be received by the creditor pursuant to the confirmed plan. 228 B.R. 720, 723-24 (Bankr. D.S.D. 1998). *Teigen*, which is not binding on this Court, is unpersuasive. Its facts are readily

distinguishable from those present here, given that no plan has been confirmed in these cases, providing no definitive other source of payments by which to reduce the Guaranty Claim, as was the case in *Teigen*.

Moreover, Harbinger's circular argument that payment through surrender of the collateral creates a contingency that renders the Guaranty Claim unliquidated confuses and conflates the principles of "contingent" and "unliquidated." The Court has found that the Guaranty Claim is not contingent, as there is no future event that must occur to trigger the Guarantors' obligation to pay the LP Debt. Further, as the Ad Hoc Secured Group argues, there is no dispute regarding the amount and enforceability of the Guaranty Claim that renders such non-contingent claim unliquidated. Courts have held that "where the claim is determinable by reference to an agreement or by a simple computation" and where "the value of a claim is easily ascertainable," the claim is generally viewed as liquidated. *Mazzeo*, 131 F.3d at 304. The liquidated amount of the Guaranty Claim is set forth in the Cash Collateral Order as $1,700,571,106, and any additional interest is determinable by reference to the LP Credit Agreement.

c. Liquidation of the Guaranty Claim Would not Unduly Delay the Administration of the Cases

Even if the Guaranty Claim were contingent or unliquidated (and it is neither), estimation would still be improper because Harbinger has failed to demonstrate that the liquidation of the Guaranty Claim would unduly delay the administration of the Guarantors' chapter 11 cases, as it is required to show pursuant to section 502(c). This prong of section 502(c)(1) was not addressed at all in the Motion; Harbinger's Reply simply argues that estimation will help "avoid future gamesmanship and provide clarity to the parties that will ease the path to exit." (Reply at ¶ 60.) At the Hearing, counsel summarized this as a "classic" example of delay, stating that "we can't wait for them any longer to make up their mind what they want to do." (Oct. 27, 2014

Hr'g. Tr. at 38:16-20 (Friedman).) But the cause of this so-called delay is really the inability, in the absence of estimation at zero or expungement of the Guaranty Claim, to confirm a plan that allows Harbinger to effect LightSquared Inc.'s divorce from the LightSquared LP Debtors. In other words, "if the Court expunges this claim, we can confirm the Inc. Plan." The Court observes that this type of bootstrap reasoning is reminiscent of the argument made in support of the failed Third Amended Joint Plan regarding the "necessity" of treating SPSO in an unfairly discriminatory fashion. While the Court recognizes and shares the desire of all parties in interest to bring these cases to a successful conclusion as soon as possible, it declines to consider the failure to meet the parties' self-imposed deadlines and conditions to confirmation of the Inc. Plan as an appropriate factor to be considered in an undue delay analysis. Delay, undue or otherwise, is not a justification for ignoring applicable law or undermining the settled expectations of parties who transact every day in reliance on the belief, for example, that credit documents such as guarantees mean what they say.

Moreover, as already discussed and as argued by the Ad Hoc Secured Group, liquidation of the Guaranty Claim would not unduly delay the administration of the Guarantors' cases because the dollar amount of such claim can be easily determined by reference to the Cash Collateral Order. The "undue delay" prong of the inquiry under section 502(c)(1) cannot be satisfied.

II. The Request to Expunge the Guaranty Claim

Finally, the Court turns to the parties' arguments regarding whether the Guaranty Claim can be expunged in its entirety. Harbinger contends that, as long as the value of the transferred collateral exceeds the amount of the underlying debt, a transfer of collateral from a debtor to its secured creditor can satisfy the secured creditor's right to payment in full. Here, Harbinger

submits that this requirement is satisfied by the Inc. Plan's proposed surrender of a portion of the LP Collateral – the equity interests in LightSquared LP and LightSquared GP – to the LP Lenders through the Inc. Plan. This transfer "gives the LP Lenders complete control over the LP Debtors, which on an 'as-is' basis provides a payment in full to the LP Lenders." (Reply at ¶ 36.) No asset is incapable of valuation, argues Harbinger, and the valuation report prepared by Lazard Freres & Co., Harbinger's financial advisor, is consistent with the prior valuations in these cases that show that the LP Collateral is worth more than the LP Debt. Thus, Harbinger claims, because the value of the LP Debtors "far exceeds" the value of the LP Debt and because the transfer of the equity interests in LightSquared LP and LightSquared GP transfers control of this valuable collateral to the LP Lenders, the Inc. Plan satisfies the LP Debt in full.

Without even reaching the factual aspects of the arguments raised by Harbinger that (i) the LP Debt can be satisfied and the Guaranty Claim can be discharged through a return of collateral rather than solely by payment in cash and (ii) the collateral being returned to the LP Lenders is sufficiently valuable to satisfy the LP Debt in full, the Court again observes that, as an initial matter, the LP Lenders have not been paid at all, in cash or otherwise. No plan for the Debtors has been confirmed at this time which provides for any payments to the LP Lenders. And, prior to actual satisfaction of the LP Lenders' claims, the Guaranty Claim survives, unscathed. There is simply no basis for finding that, as a matter of law, the proposed treatment of secured lenders in a plan of reorganization that has yet to be confirmed is sufficient to constitute payment in full and discharge the secured lenders' guaranty claims against other obligors before any actual distributions to such lenders have been made. As SPSO succinctly states in its objection, "The only way to expunge the debt is to pay the claim." (SPSO Objection at ¶ 5.) Pursuant to Section 7.01 of the LP Credit Agreement, the Guarantors are primary

obligors with respect to the Guaranteed Obligations, which obligations must be paid in full when due. Prior to any payment to the LP Lenders in satisfaction of the LP Debt, each LP Lender continues to hold a claim against every Guarantor under the LP Credit Agreement for any amount that is unpaid when due, and each of the LP Lenders' claims continues to exist until the LP Debt is paid, in full.

The Court observes that many of the uncertainties causing delay in these cases are outside of the parties' control – in particular, the regulatory uncertainty that continues to plague the Debtors as they wait for the FCC to make a determination on the License Modification Application filed on September 28, 2012. In arguing that the LP Lenders are oversecured, Harbinger makes much of the Court's prior observations with respect to the value of the Debtors' assets, quoting three times in the Motion the Court's statement at an August 2014 status conference that there may well be enough value in the LP Lenders' collateral, with or without government action, to pay the LP Debt in full. As further support for its argument that the LP Collateral is sufficient to satisfy the LP Debt in full, Harbinger also relies on valuation ranges found in each of the three "credited" valuation reports submitted in connection with the Debtors' Third Amended Joint Plan (confirmation of which was denied in May 2014), two of which it argues "the Court itself has endorsed." (Motion at ¶¶ 30, 35; Reply at ¶ 62.) As the Court indicated in its Confirmation Decision, however, because no party has the ability to predict when and if regulatory approvals will be obtained, any assumptions regarding the timing or likelihood of such approvals are purely speculative. The Court's "guidance" in this regard has been, and continues to be, that valuations of the Debtors' assets remain uncertain, despite the parties' best efforts to submit evidence to the contrary; the Court has not "endorsed" any valuation. One thing that is certain, however, is that, despite its sweeping statements regarding the value of the

LP assets, Harbinger has not offered to finance, nor has it secured a third party to finance, a plan of reorganization for the Debtors. Accordingly, there remains a risk that the LP Lenders will not be repaid in full.

The Court makes one final observation, which was also noted by both SPSO and the Ad Hoc Secured Group in their Objections. If Harbinger is correct that the value of the LP estates is more than sufficient to pay the LP Debt in full, then it should not be troubled by the Court's refusal to expunge the Guaranty Claim; it could simply allow the Guaranty Claim in the Inc. Plan in its full face amount, confident that the Inc. Debtors will never be called upon to pay it. (SPSO Objection at ¶ 2; Ad Hoc Secured Group Objection at ¶¶ 9, 100.) Once again in these cases, holders of equity interests are attempting to leapfrog up the capital structure over secured creditors, inappropriately shifting downside risk to secured creditors that is properly borne by equity. This did not work in the Third Amended Joint Plan, and it does not work now.

III. Conclusion

In sum, Harbinger has cited no caselaw that supports the extraordinary relief it requests. Long-standing principles of commercial law would be overturned if, as Harbinger argues, a secured creditor with a contractual right to seek payment from multiple sources could be precluded from seeking recovery from a co-obligor merely because of an allegation that it is oversecured by the collateral of another co-obligor. Granting such relief would compromise the clear meaning and value of a guaranty such as the one issued in support of the LP Credit Agreement, which, by its terms, is a primary obligation that specifically promises payment in full and in cash without any condition that the lender look first to the borrower.

For all of these reasons, the Motion is denied.

IT IS SO ORDERED.

Dated: October 30, 2014
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

TAB F

Exhibit "**F**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Docket #1922 Date Filed: 11/13/2014

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al*.,[1]	Case No. 12-12080 (SCC)
Debtors.	Jointly Administered

NOTICE OF APPEAL OF BENCH DECISION DENYING MOTION TO (A) EXPUNGE THE GUARANTY CLAIM ASSERTED BY THE LP LENDERS OR, IN THE ALTERNATIVE, (B) ESTIMATE THE GUARANTY CLAIM AT ZERO PURSUANT TO 11 U.S.C. § 502(C)

NOTICE IS HEREBY GIVEN, that Harbinger Capital Partners LLC, HGW US Holding Company, L.P., Blue Line DZM Corp., and Harbinger Capital Partners SP, Inc. (collectively "**Harbinger**" or "**Appellant**"), by and through its attorneys Kasowitz, Benson, Torres &

[1] The "Debtors" in these chapter 11 cases, along with the last four digits of each Debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763) ("One Dot Six"), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), One Dot Six TVCC Corp. (0040) (collectively, the "Inc. Debtors"), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631) and SkyTerra (Canada) Inc. (0629) (collectively, the "LP Debtors"). The location of the Debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

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Friedman LLP, hereby appeal pursuant to 28 U.S.C. § 158(a) and Federal Rules of Bankruptcy Procedure 8001, to the United States District Court for the Southern District of New York from the United States Bankruptcy Court for the Southern District of New York's *Bench Decision Denying Motion to (A) Expunge the Guaranty Claim Asserted by the LP Lenders or, in the Alternative, (B) Estimate the Guaranty Claim at Zero Pursuant to 11 U.S.C. § 502(c)* [Dkt. No. 1898], entered on October 30, 2014, in the above-captioned bankruptcy proceeding.

The names of the Appellant, Appellees, and Debtors, and the names, addresses, and telephone numbers of their respective attorneys, are as follows:

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Dated: November 13, 2014
New York, New York

By: */s/ David M. Friedman*
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TAB G

Exhibit "**G**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al.*,	Case No. 12-12080 (SCC)
Debtors.	Jointly Administered
LIGHTSQUARED LP, LIGHTSQUARED INC., LIGHTSQUARED INVESTORS HOLDINGS INC. TMI COMMUNICATIONS DELAWARE, LIMITED PARTNERSHIP, LIGHTSQUARED GP INC., ATC TECHNOLOGIES, LLC, LIGHTSQUARED CORP., LIGHTSQUARED INC. OF VIRGINIA, LIGHTSQUARED SUBSIDIARY LLC, SKYTERRA HOLDINGS (CANADA) INC., AND SKYTERRA (CANADA) INC.,	Adv. Pro. No. 13-1390 (SCC)
Plaintiff-Intervenors,	
-against-	
SP SPECIAL OPPORTUNITIES LLC, DISH NETWORK CORPORATION, ECHOSTAR CORPORATION, AND CHARLES W. ERGEN,	
Defendants.	

ORDER SELECTING MEDIATOR AND GOVERNING MEDIATION PROCEDURE

By this Order (the "***Order***"), the Court authorizes the Honorable Robert D. Drain, of the United States Bankruptcy Court for the Southern District of New York, to serve as a mediator (the "***Mediator***") in the above-captioned chapter 11 cases of LightSquared Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the "***Debtors***").

RECITALS

A. **WHEREAS**, on May 14, 2012, the Debtors each commenced a voluntary case (collectively, the "***Chapter 11 Cases***") under chapter 11 of title 11 of the United States Code (the "***Bankruptcy Code***") in the United States Bankruptcy Court for the Southern District of New York (the "***Court***");

B. **WHEREAS**, on August 6, 2013, Harbinger Capital Partners, LLC; HGW US Holding Company, L.P.; Blue Line DZM Corp.; and Harbinger Capital Partners SP, Inc. (collectively, "***Harbinger***") commenced the above-captioned adversary proceeding (the "***Adversary Proceeding***"). On August 22, 2013, the Debtors intervened in the Adversary Proceeding on limited grounds [Adv. Docket No. 15]. U.S. Bank National Association ("***U.S. Bank***"), Mast Capital Management LLC ("***Mast***"), and the Ad Hoc Secured Group of LightSquared LP Lenders (the "***Ad Hoc Secured Group***") also intervened on the same day [Adv. Docket Nos. 12, 14]. By Order dated November 14, 2013 (the "***November Order***"), this Court (i) granted motions to dismiss the amended complaint filed by Harbinger [Adv. Pro. Docket No. 43], (ii) granted Harbinger leave to file a second amended complaint that did not assert claims on Harbinger's own behalf, and (iii) authorized the Debtors to file a complaint setting forth the basis for their intervention. On November 21, 2013, the Court issued its *Memorandum Decision Granting Motions To Dismiss Complaint*, which set forth the bases for the November Order [Adv. Pro. Docket No. 68].

C. **WHEREAS**, on November 15, 2013, the Debtors filed a Complaint-in-Intervention in the Adversary Proceeding, and, on December 2, 2013, Harbinger filed a Second Amended Complaint (together, the "***Complaints***"). Certain counts of the Complaints were dismissed by Order dated December 12, 2013 [Adv. Pro. Docket No. 97].

D. **WHEREAS**, on January 9, 2014, the Court commenced a trial in the Adversary Proceeding, which trial concluded on January 17, 2014, with closing arguments held on March 17, 2014.

E. **WHEREAS**, on March 19, 2014, the Court commenced a confirmation hearing on the *Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code* (the "***Plan***"), which evidentiary hearing concluded on March 31, 2014, with closing arguments held on May 5 and May 6, 2014.

F. **WHEREAS**, on May 8, 2014, the Court issued two decisions from the bench. With respect to the Adversary Proceeding, the Court held, among other things, that the claim of SP Special Opportunities LLC ("***SPSO***") against LightSquared LP shall be equitably subordinated in an amount to be determined after further proceedings before the Court, and the Court denied claims for tortious interference and disallowance of SPSO's claim. In its confirmation decision in the Chapter 11 Cases, the Court denied confirmation of the Plan. After issuing its decisions, the Court directed the parties to work together to attempt to reach a resolution on all plan issues and on the amount of equitable subordination and to provide the Court with an update on May 27, 2014. After May 27, 2014, if no resolution had been reached, the Court informed the parties that it would seek to appoint a mediator.

G. **WHEREAS**, the Court held a status conference on May 27, 2014 (the "***Status Conference***") at which the following parties were present: the Debtors; the Special Committee of the Boards of Directors of LightSquared Inc. and LightSquared GP Inc. (the "***Special Committee***"); Harbinger; Mast; U.S. Bank; the Ad Hoc Secured Group; SIG Holdings, Inc.; Fortress Investment Group LLC; and SPSO (with their respective principals, attorneys, and

advisors, each a "***Party***" and, collectively, the "***Parties***"). At the Status Conference, the Parties informed the Court that no resolution had been reached.

H. **WHEREAS**, the Court indicated on the record of the Status Conference that it would contact the Mediator to determine his availability and willingness to mediate in the Chapter 11 Cases and the Adversary Proceeding.

ORDER

NOW, **THEREFORE**, in consideration of the foregoing recitals, which are incorporated into this Order, the Court hereby orders as follows:

1. The Court authorizes and appoints the Honorable Robert D. Drain, United States Bankruptcy Judge for the Southern District of New York, to serve as Mediator in these Chapter 11 Cases and in the Adversary Proceeding and to conduct the mediation as set forth herein (the "***Mediation***").

2. As outlined on the record at the Status Conference, the Mediator is authorized to mediate any issues concerning, among other things, the terms of a plan or plans of reorganization for the Debtors, including the following disputes:

- the amount of equitable subordination of the claim of SPSO (the "***SPSO Claim***") and the classification and treatment of the SPSO Claim in a plan of reorganization;
- the allocation of estate value among the various constituencies and the structure of a plan or plans of reorganization for the Debtors;
- certain other plan confirmation or other issues appropriate for mediation, as determined by the Parties and the Mediator.

3. The Parties shall meet and confer with the Mediator to establish procedures and timing for the mediation.

4. Unless otherwise directed by the Mediator, each of the Parties, including their respective principals, attorneys, and advisors, may attend and participate in the mediation sessions.

5. The Mediator may require each Party participating in the mediation sessions to appear with at least one (1) principal or other individual with authority to make a decision binding upon such Party.

6. On or before the first mediation session or submission to the Mediator, each Party shall submit to the Mediator and each other Party a separate statement setting forth with specificity such Party's claims against and/or interests in the Debtors (the "***Ownership Statement***"), provided, however, that neither the Debtors nor their Special Committee shall be required to submit an Ownership Statement. Any Party or its counsel that represents more than one claim or interest holder, or represents a party that in an agency or trustee capacity has received direction from one or more claim or interest holder(s) with respect to these Chapter 11 Cases, shall complete a separate Ownership Statement for each claim or interest holder that such Party represents or from whom it takes direction. The Ownership Statement shall include (a) the name and address of the Party and (b) the face amount of each disclosable economic interest (as defined in Bankruptcy Rule 2019) held in relation to the Debtors as of the date of the Ownership Statement. If any fact disclosed in an Ownership Statement changes materially during the course of the Mediation, such Party shall promptly submit a supplemental Ownership Statement setting forth the materially changed fact.

7. Subject to the consent of the Mediator and the Parties, the Parties may schedule mediation sessions as necessary.

8. Subject to the written consent of each of the Parties and the Mediator (including via email), any other party may participate in the Mediation.

9. The results of the Mediation are non-binding.

10. There shall be an absolute mediation privilege, and all communications made by a Party (a "***Disclosing Party***") in connection with the Mediation, including discussions or communications with or in the presence of the Mediator, shall be confidential, protected from disclosure (and shall not be disclosed) to other Parties (except as such Disclosing Party may agree) or to third parties (including holders of securities or claims for which the Party is acting in a representative or trustee capacity to the extent such holders are not themselves Parties), shall not constitute a waiver of any existing privileges and immunities, and shall not be used for any purpose other than the mediation (the "***Absolute Mediation Privilege***"). Submissions by each Party (or any third party participant) to the Mediator, including correspondence, offers, or counteroffers made in connection with the mediation, shall not be submitted to any other person or entity without the consent of the submitting Party (or any submitting third party participant). Nothing herein shall restrict any Party from providing its own Mediation submissions to any other Party. For the avoidance of doubt, the Parties shall not disclose to any court, including in any pleading or other submission to any court, any such discussions or communications made in connection with the Mediation, unless otherwise available to such Party and not subject to a separate confidentiality agreement or protective order which would prevent its disclosure. For the avoidance of doubt, and notwithstanding any separate confidentiality agreements or confidentiality provisions in relevant credit agreements or indentures, all Parties participating in the Mediation shall comply with the terms of this Order and maintain the Absolute Mediation Privilege. The terms of this Order (as may be supplemented or amended by further orders), and

not any separate confidentiality agreement or confidentiality provisions in relevant credit agreements or indentures, shall govern the protection of communications or discussions in connection with the Mediation.

11. All settlement proposals, counterproposals, and offers of compromise made during the mediation sessions (collectively, "***Settlement Proposals***") shall (a) remain confidential unless the Party making such Settlement Proposal agrees to the disclosure of any such Settlement Proposal, (b) be subject to protection under Rule 408 of the Federal Rules of Evidence and any equivalent or comparable state law, and (c) shall not constitute material nonpublic information.

12. No Party shall (a) be or become an insider, a temporary insider, or fiduciary of any Debtor or any affiliate of any Debtor (collectively, the "***Debtor Parties***"), (b) be deemed to owe any duty to any of the Debtor Parties or the Debtors' estates, (c) undertake any duty to any party in interest, or (d) be deemed to misappropriate any information of any of the Debtor Parties, with respect to each of foregoing clauses (a) through (d), as a result of (x) participating in the Mediation conducted pursuant to this Order without reliance on this Order, (y) being aware, or in possession, of any Settlement Proposal, or (z) with respect to the Mediation, acting together in a group with other holders of securities issued by the Debtor Parties ("***Debtor Party Securities***"); provided, however, that nothing herein shall affect any Party's pre-existing fiduciary obligations.

13. No party in interest in these Chapter 11 Cases, including each of the Debtors or any successor to the Debtors, shall have any claim, defense, objection, or cause of action of any nature whatsoever against a Party, including, but not limited to, any objection to a claim, or any other basis to withhold, subordinate, disallow, or delay payment or issuance of any consideration

to a Party on account of a claim based on such Party's trading in Debtor Party Securities by reason of such Party's receipt, as a result of participation in the Mediation, of (a) information with respect to which, at the time of such trading, such Party has no duty of confidentiality under a Confidentiality Agreement, or (b) a Settlement Proposal, whether or not such Settlement Proposal is confidential; provided, however, that nothing herein shall be deemed to waive any claims for non-compliance with this Order or any other contractual confidentiality obligations.

14. At the conclusion of the Mediation, the Mediator shall file with the Court a memorandum stating (a) that the Mediator has conducted the Mediation, (b) the names, addresses, and telephone numbers of counsel and advisors who participated in the Mediation, and (c) whether and to what extent the Mediation was successful.

15. The Mediator shall be authorized to report to the Court on the good faith of any or all of the Parties.

16. The sanctions available under Fed. R. Civ. P. 16(f) shall apply to any violation of this Order and, except as modified herein, the provisions of Rule 9019-1 of the Local Bankruptcy Rules of the Southern District of New York governing alternative dispute resolution and mediation matters shall apply to the Mediation.

17. This Order shall be governed by, and construed in accordance with, the laws of the state of New York without regard to the conflicts of laws principles thereof.

18. The Parties are authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate the terms of this Order.

19. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), 7062, and 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

20. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: May 28, 2014
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

TAB H

Exhibit "**H**" to the Affidavit of Elizabeth Creary,
sworn before me this this 14th day of November, 2014.

Commissioner for Taking Affidavits, etc.

Sandra Diana Wendy Kleinert,
a Commissioner, etc., Province of Ontario
for Dentons Canada LLP
Barristers and Solicitors. Expires June 7, 2016

Hearing Date: October 29, 2014 at 10:00 a.m. (prevailing Eastern time)
Objection Deadline: October 22, 2014 at 4:00 p.m. (prevailing Eastern time)

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Alan J. Stone
Michael L. Hirschfeld
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Special Litigation Counsel to Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al*.,	Case No. 12-12080 (SCC)
Debtors.[1]	Jointly Administered

NOTICE OF HEARING ON LIGHTSQUARED'S
MOTION TO STAY HARBINGER'S LITIGATION EFFORTS

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

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PLEASE TAKE NOTICE that LightSquared Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, "LightSquared" or the "Debtors") in the above-captioned chapter 11 cases, at the direction, and with the support, of the special committee of the boards of directors (the "Special Committee") for LightSquared Inc. and LightSquared GP Inc., hereby file the motion (the "Motion") for entry of an order substantially in the form attached thereto as Exhibit A (the "Order") staying certain litigation efforts by or on behalf of Harbinger Capital Partners, LLC or its affiliates or predecessors in interest (collectively, "Harbinger").

PLEASE TAKE FURTHER NOTICE that a hearing (the "Hearing") on the Motion will be held before the Honorable Shelley C. Chapman, Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York (the "Court"), on **October 29, 2014 at 10:00 a.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Motion and the relief requested therein must be made in writing, conform to the Federal Rules of Bankruptcy Procedure and the Local Rules for the Bankruptcy Court for the Southern District of New York, set forth the basis for the objection and the specific grounds therefor, and be filed with the Court (a) by registered users of the Court's case filing system, electronically in accordance with General Order M-399 (which can be found at http://nysb.uscourts.gov) and (b) by all other parties in interest, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Court and General Order M-399 and shall be served in accordance with General Order M-399 upon each of the following: (i) LightSquared Inc., 10802 Parkridge Boulevard, Reston, VA 20191, Attn: Marc R. Montagner and Curtis Lu, Esq., (ii) counsel to LightSquared, Milbank, Tweed, Hadley & M^{c}Cloy LLP, One Chase Manhattan Plaza, New York, NY 10005, Attn:

Matthew S. Barr, Esq. and Karen Gartenberg, Esq., (iii) special litigation counsel to LightSquared, Kirkland & Ellis LLP, 655 Fifteenth Street NW, Washington, DC 20005-5793, Attn: Eugene F. Assaf, Esq., Patrick F. Philbin, Esq., and K. Winn Allen, Esq., (iv) counsel to the Special Committee, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022, Attn: James H.M. Sprayregen, Esq., Paul M. Basta, Esq., and Joshua A. Sussberg, Esq., (v) the Office of the United States Trustee for the Southern District of New York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Susan D. Golden, Esq., (vi) counsel to U.S. Bank National Association, as administrative agent under the Prepetition Inc. Credit Agreement and administrative agent under the Inc. DIP Credit Agreement, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036, Attn: Philip C. Dublin, Esq. and Kenneth A. Davis, Esq., (vii) counsel to Wilmington Savings Fund Society, FSB, as administrative agent under the Prepetition LP Credit Agreement, McDermott Will & Emery LLP, 340 Madison Avenue, New York, NY 10173, Attn: Leonard Klingbaum, Esq. and Darren Azman, Esq., (viii) counsel to the ad hoc secured group of Prepetition LP Lenders, White & Case LLP, 1155 Avenue of the Americas, New York, NY 10036, Attn: Thomas E Lauria, Esq. and Andrew C. Ambruoso, Esq., (ix) counsel to Harbinger, Kasowitz, Benson, Torres & Friedman LLP, 1633 Broadway, New York, NY 10019, Attn: David M. Friedman, Esq. and Adam L. Shiff, Esq., (x) the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, (xi) the Federal Communications Commission, 445 Twelfth Street SW, Washington, DC 20554, (xii) the U.S. Attorney's Office for the Southern District of New York, One St. Andrews Plaza, New York, NY, 10007, (xiii) Industry Canada, and (xiv) counsel to the GPS Defendants (as defined in the Motion) so as to be actually received **no later than October 22, 2014 at 4:00**

p.m. (prevailing Eastern time). Only those responses or objections that are timely filed, served, and received will be considered at the Hearing.

PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve a written objection to the relief requested in the Motion, the Court may deem any opposition waived, treat the Motion as conceded, and enter an order granting the relief requested in the Motion without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that a copy of the Motion may be obtained at no charge at http://www.kccllc.net/LightSquared or for a fee via PACER at http://www.nysb.uscourts.gov.

New York, New York
Dated: October 8, 2014

/s/ Matthew S. Barr
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- AND -

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Special Litigation Counsel to Debtors and Debtors in Possession

Hearing Date: October 29, 2014 at 10:00 a.m. (prevailing Eastern time)
Objection Deadline: October 22, 2014 at 4:00 p.m. (prevailing Eastern time)

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Special Litigation Counsel to Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al*.,	Case No. 12-12080 (SCC)
Debtors.[1]	Jointly Administered

LIGHTSQUARED'S MOTION TO STAY HARBINGER'S LITIGATION EFFORTS

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

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INTRODUCTION

1. Since LightSquared filed for bankruptcy, Harbinger[2] has filed two lawsuits seeking to recover its investment in LightSquared by claiming that third parties forced LightSquared into chapter 11, thereby damaging Harbinger. Those lawsuits assert derivative causes of action that are either directly property of the bankruptcy estates or significantly overlap with, or affect, property of the bankruptcy estates. By virtue of LightSquared's bankruptcy filing, Harbinger is subject to the automatic stay under section 362, which exists to prevent third parties, including equity holders such as Harbinger, from attempting to jump the Bankruptcy Code's priority scheme and seek special recovery for their alleged losses outside the bankruptcy process. The automatic stay prevents Harbinger from asserting its claims against the GPS industry and the United States, and by this motion, LightSquared seeks to immediately prevent such proceedings from moving forward.

2. Prior to the effective date of any plan of reorganization, LightSquared intends to seek a determination that the derivative causes of action asserted by Harbinger in its lawsuits against the GPS industry and the United States are property of LightSquared's estates and should be permanently enjoined. That relief will be sought at a later date. At this time, LightSquared is merely seeking to stay Harbinger's lawsuits until the effective date of any plan of reorganization or until such a motion for a permanent injunction can be brought and ruled upon.

3. The factual background of Harbinger's lawsuits shows why the suits must be stayed. Harbinger has filed two sets of claims to recover its investment of $1.9 billion in LightSquared. *First*, Harbinger sued GPS manufacturers and industry associations responsible for stalling LightSquared's planned nationwide broadband network, raising claims that mirror

2 Unless otherwise specified, "LightSquared" and "Harbinger" each refer to the ultimate parent company as well as all affiliates and predecessors in interest.

LightSquared's own claims against the same defendants. Indeed, in some sections of Harbinger's complaint, Harbinger refers to actions involving "Harbinger" when it really means "LightSquared." This is a recurring issue: in another context, this Court recognized that "[n]ot for the first time in these Bankruptcy Cases, Harbinger conflates its interests with those of [LightSquared]." *Harbinger Capital Partners LLC v. Ergen (In re LightSquared Inc.)*, 504 B.R. 321, 353 (Bankr. S.D.N.Y. 2013). *Second*, Harbinger sued the United States to recover the exact same investment, claiming that the Government unlawfully took Harbinger's property and breached a contract by effectively suspending ***LightSquared's*** authorization to deploy its network. In both of these suits, Harbinger's claimed injuries were, at bottom, the diminution of the value of its investment in LightSquared.

4. The Bankruptcy Code does not allow an investor, like Harbinger, to recoup its investment in a bankrupt company by circumventing the bankruptcy process. Quite the opposite: the fundamental purpose of the bankruptcy case is to centrally gather, protect, and equitably distribute the debtor's property, including its causes of action against third parties. As a result, "once a company or individual files for bankruptcy, creditors lack standing to assert claims that are 'property of the estate.'" *Bd. of Trs. of Teamsters Local 863 Pension Fund v. Foodtown, Inc.*, 296 F.3d 164, 169 (3d Cir. 2002); *see Marshall v. Picard (In re Bernard L. Madoff Inv. Sec. LLC)*, 740 F.3d 81, 88 (2d Cir. 2014). To that end, the Bankruptcy Code automatically stays attempts to exercise control over property of the estate—including when investors, like Harbinger, assert causes of action belonging to the debtor. *See* 11 U.S.C. § 362.

5. This Court's equitable powers under section 105(a) provide even broader authority to protect the estates and the reorganization process by staying litigation that may interfere with ongoing bankruptcy cases or a debtor's reorganization efforts. Actions that

overlap with claims belonging to the estates, that could diminish recovery by the estates, that could harm reorganization efforts, and even claims that would distract key personnel from the reorganization process, may be stayed under section 105(a). Courts have thus broadly applied section 105(a) to hold in abeyance lawsuits (like those asserted by Harbinger) that threaten to adversely impact the orderly reorganization of the debtor. This Court thus need not determine that ***all*** of Harbinger's claims are derivative of LightSquared's claims in order for a stay to be appropriate under section 105(a).

6. In short, both the automatic stay and principles of equity protect LightSquared and its stakeholders from opportunistic stakeholders like Harbinger, who seek to usurp claims or causes of action belonging to the estates and spawn satellite litigation that would interfere with reorganization efforts. If Harbinger's claims against the GPS industry and the United States proceed, Harbinger could accomplish outside of the bankruptcy what it could not do by participating in the reorganization: unilaterally leapfrogging over LightSquared's creditors and preferred equity holders in violation of the absolute-priority rule entitling senior stakeholders to payment before equity holders.

7. For these reasons, among others, the Court should stay Harbinger's lawsuits against the GPS industry and the United States until the effective date of the plan of reorganization or until LightSquared brings, and this Court rules upon, a future motion that will seek a determination that the derivative causes of action asserted by Harbinger are property of the Debtors' estates and should be permanently enjoined. The current litigation is critically important to LightSquared and should not be left—to the company's detriment—to be driven or influenced by Harbinger's conduct. The GPS industry has been a key opponent to LightSquared's network and the FCC is the regulator from which LightSquared needs permission

to operate its network. Dealing with the GPS industry and the FCC through litigation is complex and should now be closely controlled by LightSquared—not Harbinger.

JURISDICTION

8. This Court has subject-matter jurisdiction over this matter under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

9. Venue in this Court is proper under 28 U.S.C. §§ 1408 and 1409.

10. The statutory bases for the relief requested are sections 105, 362, and 541 of the Bankruptcy Code.

BACKGROUND

A. LightSquared And Its Planned Nationwide Wireless Network

11. LightSquared is a mobile-communications company that for over a decade has been working to deploy a new, nationwide wireless broadband network that would enhance competition in the wireless broadband market and deliver broadband access to rural and underserved areas. Ex. [3] 1, LightSquared's Am. Compl. ¶¶ 36-42, *LightSquared GPS Action* (Mar. 18, 2014), [4] ECF No. 42 ("LAC"). To make its network a reality, LightSquared participated in extensive regulatory proceedings before the Federal Communications Commission ("FCC") from 2001 onward to move from using its wireless spectrum for satellite-only communications towards deploying a state-of-the-art, land-based ("terrestrial") broadband network. *Id.* ¶¶ 3, 47. During that time, the FCC issued a series of orders that approved LightSquared's plans to launch its nationwide terrestrial wireless network. *Id.* ¶ 3.

12. LightSquared's assigned spectrum is near the spectrum allocated for GPS. *Id.* ¶ 33. When LightSquared applied for FCC approval of its planned terrestrial network, the three

[3] "Ex." refers to the exhibits attached to the Declaration of Devin A. DeBacker.

[4] "LightSquared GPS Action" refers to *LightSquared Inc. v. Deere & Co.*, No. 1:13-cv-08157-RMB (S.D.N.Y.), and "Harbinger GPS Action" refers to *Harbinger Capital Partners LLC v. Deere & Co.*, No. 1:13-cv-05543-RMB (S.D.N.Y.).

largest manufacturers of GPS products and two industry associations (collectively, "the GPS Defendants") objected to the proposed network, citing concerns that the network could interfere with the operation of GPS receivers. *Id.* ¶¶ 48, 73. Because the design of GPS receivers is proprietary and confidential, and LightSquared had "no reasonable or practicable way of knowing" those designs, LightSquared asked the GPS Defendants to disclose all then-knowable sources of potential interference. *Id.* ¶ 8. In response, the GPS Defendants told LightSquared that its terrestrial network would be compatible with the operation of GPS receivers save for only one source of potential interference: out-of-band emissions, in which transmissions from LightSquared's terrestrial base stations "bleed over" into the nearby spectrum used by GPS receivers. *Id.* ¶ 49.

13. LightSquared then privately negotiated agreements with the GPS Defendants to resolve their out-of-band-emissions concerns. *Id.* ¶ 51. LightSquared agreed to develop and use new filters in its base-station transmitters to limit any "bleeding over" of its transmissions into nearby frequencies, and agreed to create a buffer zone between the LightSquared and GPS spectrum by forgoing the terrestrial use of 4 MHz of its assigned spectrum. *Id.* ¶ 55. In return, the GPS Defendants agreed to withdraw their pending objections, to not object in the future based on then-knowable sources of interference, and to conduct their own operations in a way that would not interfere with the planned network. *Id.* ¶¶ 57, 80, 157, 165. With that agreement in place and the out-of-band emissions issues resolved, LightSquared relied on the GPS Defendants' representations and proceeded to invest billions of dollars in its network. *Id.* ¶¶ 88–93, 95, 120, 188, 197.

14. Late in LightSquared's near-decade-long process to obtain FCC approval for its network, develop and deploy the required infrastructure, and negotiate with the GPS Defendants,

one of LightSquared's investors, Harbinger, wanted to increase its equity ownership. *See* Ex. 2, Mem. Op. and Order and Declaratory Ruling ¶¶ 5, 8, *In re SkyTerra Commc'ns, Inc. and Harbinger Capital Partners Funds*, 25 FCC Rcd. 3059 (2010) ("Transfer Order"). As required by the Federal Communications Act, 47 U.S.C. § 310(d), Harbinger applied for FCC approval in 2009 to expand its 48% interest to 100% and thus obtain a controlling interest in LightSquared. *See* Ex. 2, Transfer Order ¶¶ 5, 8–9. In total, Harbinger invested approximately $1.9 billion in LightSquared. *See* Ex. 3, Compl. ¶ 103, *Harbinger FCC Action* (July 11, 2014),[5] ECF No. 1 ("Harbinger's FCC Compl.").

15. In September 2010, GPS Defendants began to disclose that there was another source of potential interference that they had not disclosed. Ex. 1, LAC ¶¶ 7, 98–99. Unbeknownst to LightSquared, the GPS Defendants had deliberately designed their devices to receive signals from outside their allocated spectrum—including signals from LightSquared's own assigned spectrum. The GPS Defendants thus claimed that if LightSquared transmitted signals from terrestrial base stations on the spectrum that the FCC had assigned to LightSquared, the GPS devices would receive those signals, "overload," and malfunction. *Id*. ¶¶ 99, 102–03. In 2012, the FCC responded to this new interference problem by proposing to suspend LightSquared's authority to operate a terrestrial network. *Id*. ¶ 11.

B. LightSquared Bankruptcy

16. The GPS Defendants' belated disclosure caused LightSquared to lose the billions it had invested in its network infrastructure and many of its third-party business relationships.[6] Ex. 1, LAC ¶¶ 137–41. As a result, LightSquared sought bankruptcy protection by filing

[5] "Harbinger FCC Action" refers to *Harbinger Capital Partners LLC v. United States*, No. 1:14-cv-00597-MCW (Fed. Cl.).

[6] These included wholesale agreements, roaming agreements with third-party wireless carriers, and partnerships with chipset companies. Ex. 1, LAC ¶ 93.

voluntary petitions for reorganization under Chapter 11 on May 14, 2012. *See generally* LightSquared Inc. Voluntary Pet. (May 14, 2012), ECF No. 1.[7] In describing its assets, LightSquared specifically "reserve[d] all of its rights with respect to any causes of action against third parties," and claims and causes of action against the GPS Defendants and potentially the United States Government have been mentioned on a number of occasions during these bankruptcy cases. *See* Global Notes, Methodology and Specific Disclosures Regarding LightSquared's Schedules of Assets and Liabilities ¶ 11 (June 27, 2012), ECF No. 154. LightSquared continues to operate its businesses and manage its property as a debtor in possession.

17. As this Court is aware, LightSquared has spent and continues to spend considerable time, money, and effort negotiating a viable reorganization plan that would both fairly maximize the value of its estates for the benefit of its stakeholders and allow LightSquared to emerge from bankruptcy with a sustainable capital structure to make productive use of its assets.

C. Harbinger's Attempts to Recover Its Investment Losses

18. Despite LightSquared's efforts to maximize the value of its estates for the benefit of its stakeholders, Harbinger has gone outside of the bankruptcy process through two separate lawsuits in an effort to recover its investment losses in LightSquared.

19. Harbinger's GPS Claims. Harbinger started by suing the GPS Defendants on August 9, 2013, in the United States District Court for the Southern District of New York. *See generally* Compl., *Harbinger GPS Action* (Aug. 9, 2013), ECF No. 1.

[7] Unless otherwise noted, all citations to ECF entries refer to *In re LightSquared Inc.*, No. 12-12080-SCC (Bankr. S.D.N.Y.).

20. In the Harbinger GPS Action, Harbinger sought damages for "what [it] invested in the new [LightSquared] network" alleging state-law claims for fraud, negligent misrepresentation, equitable estoppel, breach of contract, and federal securities-fraud claims (collectively, "Harbinger's GPS Claims"). Ex. 4, Harbinger's Third Amended Compl. ¶¶ 25–32, 222–60, *Harbinger GPS Action* (Mar. 18, 2014), ECF No. 58 ("Harbinger's GPS Compl."). Harbinger's central allegation was that it invested about "$1.9 billion" in LightSquared in reliance on material misrepresentations and omissions made by the GPS Defendants. *Id.* ¶ 165. Specifically, Harbinger alleged that the GPS Defendants failed to disclose for over a decade that they had designed their GPS devices to receive signals from LightSquared's assigned spectrum. *Id.* ¶¶ 1–8. Harbinger claims that this failure to disclose caused LightSquared to spend money building out its network infrastructure and to commit to third-party business relationships, resulted in the FCC proposing to suspend LightSquared's authorization, and caused Harbinger to lose the value of its investment. *See, e.g.*, *id.* ¶¶ 1–9.

21. To make some of the key allegations in its GPS Complaint, Harbinger had to treat itself as if it were interchangeable with LightSquared—alleging that Harbinger took actions or suffered the impact of others' actions when it was really LightSquared that was involved. For example, Harbinger's GPS Complaint states that the "FCC conditionally granted the waiver [to use handsets that would transmit only terrestrial-based signals], holding that 'the totality of the facts and circumstances' of ***Harbinger's waiver request*** 'collectively serve to promote the public interest[.]'" *Id.* ¶ 182. But it was LightSquared—not Harbinger—that filed a waiver request with the FCC and got it granted. *See* Ex. 5, Order & Authorization ¶ 25, *In re LightSquared Subsidiary LLC*, 26 FCC Rcd. 566 (FCC Jan. 26, 2011) ("Handset Waiver Order") ("We find the totality of the facts and circumstances surrounding ***LightSquared's proposal***, including the

specific commitments ***it makes in its filing*** and several unique circumstances of ***LightSquared's activities in the [spectrum]***, to be consistent with the public interest and the purpose of [various] criteria.") (emphasis added); *see also id.* ¶ 1 (making clear that "***LightSquared*** submitted an application for modification" and that the FCC "grant[ed] ***LightSquared Subsidiary LLC***" a waiver) (emphasis added). Likewise, Harbinger repeatedly and explicitly co-opts LightSquared's predecessors, SkyTerra and Mobile Satellite Ventures, as if they were Harbinger's own predecessors. *See, e.g.*, Ex. 4, Harbinger's GPS Compl. ¶¶ 125 (claiming that there were "private negotiations and agreements between ***Harbinger predecessors*** and Deere, Garmin, and Trimble, through and also including the USGPSIC"), 198 ("Defendants had, after all, previously called LightSquared ***and Harbinger predecessors*** 'good spectrum neighbors . . . .'"); *but see, e.g.*, Ex. 5, Handset Waiver Order ¶ 2 n.4 (referring to "SkyTerra Subsidiary, LLC (now known as LightSquared)").

22. Soon after Harbinger sued the GPS Defendants, LightSquared moved to stay Harbinger's claims for sixty days. *See* LightSquared's Emergency Mot. for Entry of Order Staying Related Litig. at 7 (Sep. 30, 2013), ECF No. 888. LightSquared argued that the stay was appropriate because, among other things, there was "a substantial question" whether Harbinger's GPS Claims actually belonged to LightSquared and there was a risk of prejudice to LightSquared and its stakeholders because of the "substantial overlap" between Harbinger's and LightSquared's claims against the GPS Defendants. *Id.* ¶¶ 15–18. Harbinger consented to the stay, and this Court granted LightSquared's motion, specifically preserving LightSquared's right to seek a further stay of Harbinger's GPS Claims in the future. *See* Order Staying Related Litigation ¶ 2 (Oct. 9, 2013), ECF No. 931 (sixty-day stay "shall not prejudice the ability for LightSquared to request further stay of the [Harbinger] GPS Action").

23. During the stay, LightSquared ultimately decided to commence its suit against the GPS Defendants in this Court. *See generally* Compl., *LightSquared, Inc. v. Deere & Co.*, Adv. Proc. No. 13-01670-SCC (Bankr. S.D.N.Y. Nov. 1, 2013), ECF No. 1. Like Harbinger, LightSquared alleged state-law contract, quasi-contract, and tort claims based on the GPS Defendants' broken promises and misrepresentations ("LightSquared's GPS Claims"). *See id.* ¶¶ 1, 142–227.

24. The GPS Defendants then moved in the District Court to withdraw the reference of LightSquared's GPS Claims. *See* Defs.' Mot. to Withdraw the Reference, *LightSquared GPS Action* (Nov. 15, 2013), ECF No. 1. In granting that motion, the District Court relied, among other things, on the fact that Harbinger's GPS Claims were "closely related" to and "based upon the same set of operative facts" as the LightSquared GPS Claims. Decision & Order at 3, 10–11, *LightSquared GPS Action* (Jan. 31, 2014), ECF No. 33. LightSquared's case was transferred to the United States District Court for the Southern District of New York, where the GPS Defendants have since moved to dismiss both Harbinger's and LightSquared's claims. The GPS Defendants' motion to dismiss is currently pending. *See* Notice of Mots. to Dismiss, *LightSquared GPS Action* (May 28, 2014), ECF No. 49. LightSquared and Harbinger have each opposed the GPS Defendants' motion to dismiss and the GPS Defendants submitted their reply brief on September 15, 2014. *See* Reply Mem. in Supp. of Mot. to Dismiss, *LightSquared GPS Action* (Sept. 15, 2014), ECF No. 65.

25. Harbinger's FCC Claims. LightSquared continues to believe that a consensual resolution with the FCC is in the best interests of its stakeholders. To that end, throughout these bankruptcy cases LightSquared has negotiated with the FCC to find a solution that maximizes the value of the spectrum assigned to LightSquared. Harbinger, however, sued the United States

in the United States Court of Federal Claims on July 11, 2014. *See* Ex. 3, Harbinger's FCC Compl. Harbinger argued, among other things, that the FCC had taken final action that constituted a "taking" of Harbinger's purported property interest in the spectrum assigned to LightSquared. *See generally id.* The unilateral decision to sue the United States is inconsistent with LightSquared's chosen strategy for dealing with the FCC to maximize the value of LightSquared's most important assets—its spectrum licenses.

26. In its case against the United States, Harbinger is trying to recover the ***exact same*** $1.9 billion reduced value of LightSquared that Harbinger claimed in the *Harbinger GPS Action*. This time, Harbinger cast its investment losses in the guise of claims for breach of contract, breach of the implied covenant of good faith and fair dealing, and the unconstitutional taking of private property without just compensation. *See* Ex. 3, Harbinger's FCC Compl. ¶¶ 132–68. Harbinger alleged that, as a result of the FCC's proposed suspension of LightSquared's terrestrial authorization, "LightSquared was forced to declare bankruptcy in May 2012, and Harbinger . . . lost most of its approximately $1.9 billion investment," *id.* ¶ 17—the same investment damages sought by Harbinger's claims against the GPS Defendants.

27. As in its GPS Complaint, some of Harbinger's key allegations against the FCC relied on the pretense that Harbinger was interchangeable with LightSquared. For example, Harbinger's FCC Complaint asserts that the FCC required ***Harbinger*** to address overload concerns, *see* Ex. 3, Harbinger's FCC Compl. ¶ 126, but the FCC plainly required ***LightSquared*** to address these concerns, *see* Ex. 5, Handset Waiver Order ¶¶ 42–43 (placing requirements on LightSquared).

28. Significantly, the United States must file an answer or a Rule 12 motion in response to Harbinger's FCC Complaint by November 10, 2014. *See* Order, *Harbinger FCC*

Action (Aug. 12, 2014), ECF No. 8. That impending filing deadline forces LightSquared to decide whether it should intervene in the case or take some other action. Any intervention by LightSquared, of course, would distract LightSquared leadership during a key time of the reorganization and would be inconsistent with LightSquared's decision to continue efforts to amicably resolve the FCC's interference concerns.

29. By filing its action against the United States, Harbinger appears to be purposefully attempting to destroy the value of at least a portion of LightSquared's estates and interfere with LightSquared's reorganization. Throughout this bankruptcy case, evidence has been presented that Harbinger intends to disrupt LightSquared's bankruptcy if things do not go its way. Harbinger is making good on those threats now that it does not appear to have a vested interest in the successful resolution of all of LightSquared's estates. For instance, despite knowing that LightSquared was actively negotiating with the FCC and without advising LightSquared of its intentions, Harbinger's attorneys met *ex parte* with officials from the FCC and DOJ, threatening to sue the government unless the FCC acted to "mitigate further damage to Harbinger." Ex. 6, May 28, 2014 Letter from C. Cooper to M. Dortch et al., IB Docket No. 11-109; DA 12-1863. Apparently not satisfied with the FCC's response, and again without notifying LightSquared, Harbinger filed its complaint against the United States on July 11, 2014. *See generally* Ex. 3, Harbinger's FCC Compl. Harbinger thus brought its lawsuit to remedy what it deems to be an inadequate recovery in these bankruptcy cases without regard to the harm that such action would cause to some or all of LightSquared's estates.

RELIEF REQUESTED

30. LightSquared respectfully requests that the Court enter the proposed order attached as Exhibit A, staying Harbinger's claims against the GPS Defendants and United States until the effective date of the plan of reorganization or until LightSquared brings, and this Court

rules upon, a future motion that will seek a determination that the derivative causes of action asserted by Harbinger in its lawsuits are property of the Debtors' estates and should be permanently enjoined.

ARGUMENT

31. The claims brought by Harbinger against the GPS Defendants and the United States assert derivative causes of action that are either directly property of the bankruptcy estates or significantly overlap with, or affect, property of the bankruptcy estates. All of Harbinger's claims allege wrongdoing that impaired ***LightSquared's*** operations. The claimed injuries to Harbinger are entirely derivative, reflecting solely the diminution in value of its $1.9 billion equity interest in LightSquared. But in order to prove its derivative claims, Harbinger must first prove LightSquared's claims—*i.e.*, that the alleged wrongdoing by the defendants ***injured LightSquared***. Such claims belong to LightSquared, and the law permits only the company, not an investor, to pursue them. The Second Circuit has been clear that "where a non-debtor's [lawsuit] with respect to an interest that is ***intertwined*** with that of a bankrupt debtor would have the legal effect of diminishing or eliminating property of the bankrupt estate, such [lawsuit] is barred by the automatic stay." *Official Comm. of Unsecured Creditors v. PSS S.S. Co. (In re Prudential Lines Inc.)*, 928 F.2d 565, 574 (2d Cir. 1991) (emphasis added). Allowing Harbinger to proceed with its cases would permit Harbinger, as an equity holder, to circumvent core protections of the bankruptcy process.

32. Even if the automatic stay does not apply to Harbinger's claims (which it does), a stay is still warranted under this Court's broad equitable powers under section 105(a). Harbinger's claims, at a minimum, overlap with LightSquared's claims, requiring determination of LightSquared's claims as the precondition for any ruling on Harbinger's claims, and thus are the kind of claims that are routinely stayed during bankruptcy. Continued prosecution of

Harbinger's claims thus risks prejudicing LightSquared's ability to pursue its claims, including by interfering with LightSquared's ability to litigate its own claims in the manner it sees fit, by potentially raising a collateral estoppel bar, and by potentially creating adverse precedent. In addition, Harbinger's claims will impede the reorganization by distracting key LightSquared officers and employees at a critical phase of the bankruptcy cases. This Court should thus immediately stay Harbinger's claims under section 105(a) until the effective date of the plan of reorganization or until LightSquared brings, and this Court rules upon, a future motion seeking to permanently enjoin Harbinger's claims.

33. LightSquared respectfully submits that the Court should act to protect LightSquared's estates and to ensure an orderly process for LightSquared's planned reorganization. In the Harbinger FCC Action, the United States must answer or move to dismiss Harbinger's claims by November 10, 2014. *See* Order, *Harbinger FCC Action* (Aug. 12, 2014), ECF No. 8. As a result, LightSquared must decide shortly whether it must protect its interest by intervening in that case, thereby further compounding the diversion of its limited resources and the limited time of its executives to overseeing extraneous litigation initiated by Harbinger. Similarly, LightSquared's GPS Action is ongoing, and any further involvement from Harbinger threatens to continue to prejudice LightSquared's ability to litigate or resolve its own claims as it sees fit. To avoid any further prejudice to LightSquared and the unnecessary diversion of LightSquared's resources at a critical time in the bankruptcy process, LightSquared respectfully requests that this Court act expeditiously to enter a stay.

I. The Claims Asserted By Harbinger Are Property Of The Estates.

34. The automatic stay under section 362 of the Bankruptcy Code is "one of the fundamental debtor protections provided by the bankruptcy laws." *Midlantic Nat'l Bank v. N.J. Dep't of Envtl. Prot.*, 474 U.S. 494, 503 (1986) (citation and internal quotation marks omitted).

The automatic stay serves the vital role of protecting the debtor's estate (and thus stakeholders' interests in recovery) from usurpation outside the bankruptcy proceedings. Under 11 U.S.C. § 362(a)(3), LightSquared's petition for bankruptcy automatically stayed "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." Property of the estate, moreover, includes "all legal or equitable interests of the debtor in property as of the commencement of the case," 11 U.S.C. § 541(a)(1), including all "causes of action possessed by the debtor at the time of filing," *Jackson v. Novak (In re Jackson)*, 593 F.3d 171, 176 (2d Cir. 2010).

35. Where, as here, "an injury is suffered by a corporation and the shareholders suffer solely through depreciation in the value of their stock, only the corporation itself . . . may maintain an action against the wrongdoer." *Vincel v. White Motor Corp.*, 521 F.2d 1113, 1118 (2d Cir. 1975). In determining to whom a particular claim belongs, "courts in this district have looked past the nominal title of the cause of action pleaded in assessing whether or not a claim is in substance duplicative or derivative of a claim that is the property of the [estate]." *Fox v. Picard (In re Madoff)*, 848 F. Supp. 2d 469, 482 (S.D.N.Y. 2012), *appeal dismissed* (2d Cir. May 25, 2012), *aff'd sub nom. Marshall v. Picard (In re Bernard L. Madoff Inv. Sec. LLC)*, 740 F.3d 81 (2d Cir. 2014); *see Penn Terra Ltd. v. Dep't of Envtl. Res., Comm'n of Pa.*, 733 F.2d 267, 275 (3d Cir. 1984) ("[T]he legislative intent behind subsection 362(b)(5) should not be defeated by artful pleading that depends on form rather than substance."); *see infra* para. 43 (explaining that an investor cannot claim a company's injury as its own by recharacterizing the injury as a loss of investment in that company).

36. If this Court determines that Harbinger's claims belong to LightSquared, Harbinger's lawsuits are automatically "void and without vitality" because they were filed "after

the automatic stay [took] effect." *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 157 F.3d 169, 172 (2d Cir. 1998) (citation and internal quotation marks omitted); *In re Enron Corp.*, 300 B.R. 201, 212 (Bankr. S.D.N.Y. 2003) ("The Second Circuit has held that actions taken in violation of the automatic stay are void and without effect.").

37. Here, no matter how creatively pled, Harbinger's claims are run-of-the-mill claims by a shareholder to recover the diminution in the value of its equity investments in a company based on claims that third parties injured the company. Such claims ultimately allege injury to—and thus belong to—LightSquared, not its investors.

A. As The Spectrum Licensee, LightSquared, Not Harbinger, Owns Any Takings Claims Against The United States.

38. Harbinger's takings claim against the United States alleges that the FCC unconstitutionally took property without just compensation by requiring LightSquared "to accommodate the GPS industry's trespass upon and use of the LightSquared spectrum." *See* Ex. 3, Harbinger's FCC Compl., ¶¶ 139–46.[8]

39. Harbinger's FCC Complaint may be read as asserting two forms of takings claims—a physical taking and a regulatory taking. *See Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 538 (2005); *Buffalo Teachers Fed'n v. Tobe*, 464 F.3d 362, 374 (2d Cir. 2006). The government commits a physical taking when it confiscates or permanently occupies a private property interest. *See, e.g., Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 441 (1982) (holding that the government automatically owes compensation for physically occupying private property); *United States v. Gen. Motors Corp.*, 323 U.S. 373, 382 (1945) (same for

[8] To the extent that Harbinger's FCC Complaint alleges facts that suggest tortious conduct by the United States, Harbinger's FCC Complaint does not assert any claims for tort or fraud—nor could it, because such claims are beyond the jurisdiction of the Court of Federal Claims. *See* 28 U.S.C. § 1491, *see also, e.g., Briddell v. United States*, No. 11-889C, 2012 WL 3268658, at *5 (Fed. Cl. Aug. 10, 2012) (dismissing claims for fraudulent inducement for lack of jurisdiction).

government's appropriation of the unexpired term of a warehouse lease). By contrast, a regulatory taking occurs when the government's restrictions on the use of private property deprive the owner of its economic value. *See, e.g.*, *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1018–19 (1992) (holding that the government automatically owes compensation for regulatory takings resulting in complete elimination of the economically beneficial uses of property); *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 124–25 (1978) (holding that whether just compensation is owed for any other regulatory taking is determined by a case-by-case balancing test). Here, both types of claims belong exclusively to LightSquared, not Harbinger.

40. Any physical takings claim based on an alleged confiscation of LightSquared's spectrum belongs solely to LightSquared as the spectrum license holder. Harbinger claims that the FCC physically took its property interest in LightSquared's spectrum by allowing the GPS industry to use a portion of it. *See* Ex. 3, Harbinger's FCC Compl. ¶ 142 ("By requiring Harbinger to accommodate the GPS industry's trespass upon and use of the LightSquared spectrum, the United States effectively conferred upon the GPS Industry an easement or other property interest in this spectrum . . . ."). But ***LightSquared***, not Harbinger, holds the spectrum license. *See, e.g.*, Ex. 2, Transfer Order ¶ 3. Indeed, both Harbinger and the FCC have repeatedly acknowledged that LightSquared is the license holder. *See* Ex. 3, Harbinger's FCC Compl. ¶ 15 (Chief of the FCC's International Bureau, Mindel De La Torre analogized spectrum to traffic lanes: "remember this is LightSquared's lane" and "LightSquared's longstanding right to be in the left lane.") (emphasis omitted); *id.* ¶¶ 17–18, 46–49; Ex. 4, Harbinger's GPS Compl. ¶¶ 130 ("SkyTerra [LightSquared's predecessor] had licensed authority to operate in the [relevant parts of] the MSS spectrum[.]"), 142 ("SkyTerra was the holder of the FCC licenses for

the MSS spectrum[.]"). Thus, to the extent that anyone can hold a property interest in that spectrum, it is LightSquared, the licensee, who holds it. Harbinger has none, and without an enforceable property interest, it has no claim for a physical taking. *See, e.g.*, *Ganci v. N.Y.C. Transit Auth.*, 420 F. Supp. 2d 190, 202 (S.D.N.Y. 2005), *aff'd*, 163 F. App'x 7 (2d Cir. 2005).

41. Harbinger claims that it had a property interest in LightSquared's spectrum on the theory that it "was entitled to use [LightSquared's Spectrum] based upon its acquisition of LightSquared." Ex. 3, Harbinger's FCC Compl. ¶ 142. But that theory ignores the law's fundamental respect for the separate legal identity of corporations. Investors do not obtain enforceable property interests in a company's assets simply by investing in the company. *See, e.g., Dole Food Co. v. Patrickson*, 538 U.S. 468, 475 (2003) ("A corporate parent which owns the shares of a subsidiary does not, for that reason alone, own or have legal title to the assets of the subsidiary . . . ."); *EM Ltd. v. Republic of Argentina*, 473 F.3d 463, 475–76 (2d Cir. 2007); *Penn Nat'l Gaming, Inc. v. Ratliff*, 954 So. 2d 427, 431 (Miss. 2007) (holding that parent does not own wholly-owned subsidiary's license, even in a highly regulated industry).

42. Despite Harbinger's suggestion otherwise, the FCC did not silently carve out an exception to that well-settled law when it authorized "Harbinger to acquire control of any license or authorization issued to SkyTerra." Ex. 2, Transfer Order ¶ 77. To the contrary, the FCC's Transfer Order merely authorized Harbinger to obtain a controlling stake ***in LightSquared*** by expanding from minority to majority investor. *See, e.g.*, *id.* ¶ 16 (authorizing Harbinger to "own indirectly 100 percent of . . . SkyTerra Communications, which, in turn, *indirectly wholly owns and controls* SkyTerra, a common carrier radio licensee") (emphasis added). Nothing in the FCC's Transfer Order remotely suggested that Harbinger itself had a direct property interest in the license held by its subsidiary. Harbinger specifically applied and obtained approval for a

"transfer of control of any corporation holding [an FCC] permit or license" (*i.e.*, LightSquared), ***not*** for a transfer of the license itself. 47 U.S.C. § 310(d); Ex. 2, Transfer Order ¶ 8 (describing the approved transaction as one in which "Harbinger would hold an indirect, instead of a direct, interest in [LightSquared] through a wholly-owned holding company, HGW Holding Company L.P. . . . , which would own shares of [LightSquared]"); *see also In re S. Canaan Cellular Invs., Inc.*, 427 B.R. 44, 69 (Bankr. E.D. Pa. 2010) ("The purpose of section 310(d) is to prohibit the transfer of a controlling *interest in an entity holding an FCC license* . . . without FCC approval.") (emphasis added).

43. Stripped of the transparent attempt to usurp LightSquared's (and thus the estate's) property interest in the spectrum for its own recovery, Harbinger falls back on a regulatory-takings theory. Harbinger claims that by allowing GPS receivers to use LightSquared's spectrum, the FCC adopted a regulatory policy that destroyed Harbinger's investment-backed expectations by effectively destroying LightSquared's value. Harbinger alleges that this "caused LightSquared to declare bankruptcy, and led Harbinger to lose its investment in LightSquared." Ex. 3, Harbinger's FCC Compl. ¶ 145. But it is well established that investors like Harbinger cannot seize a company's injury as their own by recharacterizing the injury as a loss of their investment in the company. *Vincel*, 521 F.2d at 1118 ("[W]here an injury is suffered by a corporation and the shareholders suffer solely through depreciation in the value of their stock, only the corporation itself . . . may maintain an action against the wrongdoer."); *In re Interpictures, Inc.*, 86 B.R. 24, 28 (Bankr. E.D.N.Y. 1988) ("Our Circuit Court of Appeals and district courts within this Circuit have uniformly held that where a corporation is wronged by the acts of others, it is the corporation, not the individual shareholders, who possesses the cause of action."). It is well settled that, "'[f]or a wrong against a corporation, a shareholder has no

individual cause of action, ***though he loses the value of his investment***.'" *Fiore v. McDonald's Corp.*, Nos. CV-95-2708 & 96-CV-0376, 1996 WL 331090, at *2 (E.D.N.Y. June 12, 1996) (brackets in original) (emphasis added) (citing *Abrams v. Donati*, 66 N.Y.2d 951, 953 (N.Y. 1985)); *see also CMEG NYMEX Holding Inc. v. Optionable, Inc.*, No. 09-cv-3677 (GBD)(JLC), 2012 WL 3683560, at *9 (S.D.N.Y. Aug. 24, 2012) ("[E]ven though a shareholder loses the value of his investment, he has no individual cause of action if the alleged wrong is against the corporation.") (citing *Abrams*, 66 N.Y.2d at 953). And that remains true regardless of whether the investor is a minority, majority, or even sole shareholder of the company. *See, e.g.*, *In re Interpictures, Inc.*, 86 B.R. at 27 ("Even a sole shareholder acquires no personal cause of action because of an injury—real or threatened—to the corporation.") (emphasis omitted). Even though Harbinger wants to proceed as if its holds all the rights held by LightSquared, Harbinger "cannot employ the corporate form to [its] advantage in the business world and then choose to ignore its separate entity when [it] gets to the courthouse." *Fiore*, 1996 WL 331090, at *3 (concluding that allowing shareholder to pursue claim "would require the Court to ignore the corporation[]") (citing *Koal Indus. Corp. v. Asland, S.A.*, 808 F. Supp. 1143, 1164 (S.D.N.Y. 1992)).

44. The vital distinction between claims that belong to the corporation and claims that may be raised independently by stakeholders, including shareholders, is critical in the bankruptcy context. Part of the purpose of the automatic stay is to prevent opportunistic shareholders from usurping the company's claims and to ensure that creditors' recovery in the bankruptcy does not turn on which creditor wins the race to judgment in another courthouse outside the bankruptcy proceeding. *See, e.g.*, *AP Inuds., Inc. v. SN Phelps & Co. (In re AP Indus., Inc.)*, 117 B.R. 789, 798–801 (Bankr. S.D.N.Y. 1990). By protecting stakeholders from each other, the automatic stay also shields the debtor from opportunistic stakeholders—which is all the more important

where (as here) the debtor hopes to reorganize its affairs and exit bankruptcy with some property intact to continue its business. *In re Enron Corp.*, 300 B.R. 201, 211 (Bankr. S.D.N.Y. 2003) ("[T]he purpose of the automatic stay is to give the debtor a breathing spell from creditors, to stop all collection efforts, and to permit the debtor to attempt repayment or reorganization.") (brackets in original) (citation and internal quotation marks omitted). Allowing Harbinger to pursue, in its own words, the "$1.9 billion investment" lost "[a]s a result of the Government's actions," Ex. 3, Harbinger's FCC Compl. ¶ 17, would effectively open the door for Harbinger to recoup its losses before LightSquared's senior stakeholders, thereby securing recovery from the estates without their agreement. Harbinger cannot unilaterally cut ahead of other stakeholders in the bankruptcy process, and it should not be allowed to circumvent the priority rules by jettisoning the bankruptcy process entirely, *see, e.g.*, *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 31 B.R. 25, 36 (B.A.P. 9th Cir. 2008) ("[A] party ought not be able to do indirectly what it cannot do directly . . . ."); *Manson v. Stacescu*, 11 F.3d 1127, 1131–32 (2d Cir. 1993).

B. Harbinger Cannot Use Contract Claims To Sue The United States For Its Investment Losses.

45. Like Harbinger's takings claim, its contract claims against the United States seek to recover the same investment losses that are wholly derivative of injuries to LightSquared. Only LightSquared, as a party to the purported contract, can bring claims for such injuries, *see supra* Part I.A, and district courts in this circuit have rejected attempts by shareholders to recharacterize such injuries as contract claims belonging directly to the shareholder.

46. Harbinger alleges that it entered into a contract with the FCC, under which Harbinger agreed to comply with certain conditions for the build-out of LightSquared's network infrastructure and use of LightSquared's spectrum. In exchange, the FCC allegedly agreed to approve Harbinger's application to acquire a controlling share of LightSquared and

LightSquared's corresponding application to modify its terrestrial authorization. Ex. 3, Harbinger's FCC Compl. ¶¶ 87, 93, 98. According to Harbinger, this "contract was memorialized in written instruments dated March 26, 2010"—namely, the FCC's order approving LightSquared's modification request and the Transfer Order authorizing Harbinger to obtain a controlling interest in LightSquared. Ex. 3, Harbinger's FCC Compl. ¶¶ 98, 133; *see* Ex. 2, Transfer Order; Ex. 7, Order and Authorization, *In re SkyTerra Subsidiary LLC*, 25 FCC Rcd. 3043 (2010) ("ATC Modification Order").

47. Harbinger alleges that the United States breached its contractual obligations when the FCC issued a public notice proposing to "suspend indefinitely LightSquared's underlying [terrestrial] authorization." Ex. 3, Harbinger's FCC Compl. ¶ 164 (citing International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver, IB Docket No. 11-109, DA 12-214 (FCC Feb. 15, 2012) ("Proposed Suspension Notice")). Similarly, Harbinger alleges that the United States breached the implied covenant of good faith and fair dealing when various agencies manipulated testing by exaggerating GPS receiver overload—the results of which formed the basis for issuing the Proposed Suspension Notice. *Id.* ¶¶ 157, 163, 165-66. Harbinger alleges that the Proposed Suspension Notice prevented "Harbinger from deploying the agreed-upon mobile broadband network, caused LightSquared to declare bankruptcy, and led to Harbinger losing its investment in LightSquared." *Id.* ¶ 136; *see also id.* ¶ 131.

48. The most salient fact here is that Harbinger's alleged damages are based exclusively on its investment in LightSquared and the reduced value of that investment. *Id.* ¶ 136. Just as with Harbinger's supposed takings claim, its alleged injury here is once again

solely derivative of the injury to LightSquared itself. Such claims belong to LightSquared. *See supra* Part I.A; *Vincel*, 521 F.2d at 1118.

49. Even accepting Harbinger's allegation that it was a party to an enforceable contract with LightSquared and the FCC, that alone cannot suffice to show that Harbinger has a separate cause of action. Even where a shareholder may be a signatory to a contract along with the company in which it has invested, to show an "independent duty" upon which the shareholder can state its own contract claims apart from the company, the shareholder "***must be able to prevail without showing an injury to the corporation itself***." *CMEG NYMEX*, 2012 WL 3683560, at *9 (emphasis added) (citing *Druck Corp. v. Macro Fund Ltd.*, 290 F. App'x 441, 443 (2d Cir. 2008)); *see St. Paul Fire & Marine Ins. Co. v. PepsiCo, Inc.*, 884 F.2d 688, 701 (2d Cir. 1989); *CMEG NYMEX*, 2012 WL 3683560, at *10 (explaining that "[d]espite being an independent signatory to [an] agreement" along with the corporation in which he invested, a shareholder could show no "independent duty" to itself and had no independent claim for breach of contract where the only claimed harm was loss of the investment in the corporation); *see also Piluso v. Siemens Info. & Commc'ns Networks, Inc.*, 149 F. App'x 44, 45 (2d Cir. 2005); *Fiore*, 1996 WL 331090, at *2 (cases where an equity holder can show such an independent duty to itself are "generally restricted to instances where the shareholder plaintiff and . . . defendant stand in a fiduciary relationship"). Under that test, Harbinger's own theory of damages is self-defeating. By claiming as damages the loss of its investment ***in LightSquared***—a theory of damages that depends on and derives from the injury to the corporation itself—Harbinger cannot prove an injury distinct from LightSquared's.

C. Harbinger's Claims Against The GPS Defendants Belong To LightSquared.

50. Harbinger's GPS Claims are also based entirely on Harbinger's investment in LightSquared and thus are derivative of LightSquared's own claims against the GPS Defendants.

Harbinger's state-law claims for fraud, negligent misrepresentation, constructive fraud, equitable estoppel, and breach of the 2009 Agreement all rely upon the GPS Defendants' misrepresentations and omissions made to LightSquared, ***not*** Harbinger. *See* Ex. 4, Harbinger's GPS Compl. ¶¶ 111, 116–19, 143–45. As the District Court held in withdrawing the reference, Harbinger's GPS Claims are "based upon the same set of operative facts" as LightSquared's claims: the "[GPS] Defendants' alleged misrepresentations and omissions regarding the ability of LightSquared's nationwide wireless network safely to coexist with Defendants' GPS products." Decision and Order, *LightSquared GPS Action* (Jan. 31, 2014), ECF No. 33.

51. Harbinger thus does not and cannot dispute that its only injury is the diminished value of its investment in LightSquared. In Harbinger's own words, its GPS Claims seek to recover the amount Harbinger "invested in the new network in reliance on [the GPS] Defendants' individual and collective course of conduct, concealment, and misrepresentations." Ex. 4, Harbinger's GPS Compl. ¶ 222. In fact, as Harbinger admits, its GPS Claims seek "damages that Harbinger has suffered as an investor." *Id.* ¶ 222. Far from being a distinct injury suffered by Harbinger, that sort of generalized claim could be brought by ***any*** shareholder whose investment turned south after the FCC proposed suspending LightSquared's network. *See St. Paul Fire & Marine Ins. Co.*, 884 F.2d at 701. Such generalized claims that depend on investor's injuries deriving from injury to the company belong to the estate, not the shareholder. *See id.*; *see supra* Part I.A.

52. Indeed, in a transparent effort to "plead around" the controlling authority, some of Harbinger's key allegations erroneously assert that Harbinger's predecessors were involved in key negotiations when, in fact, those negotiations actually involved LightSquared's predecessors. *See, e.g.*, Ex. 4, Harbinger's GPS Compl. ¶¶ 125 (claiming that there were "private negotiations

and agreements between ***Harbinger predecessors*** and Deere, Garmin, and Trimble, through and also including the USGPSIC"), 198 ("Defendants had, after all, previously called LightSquared ***and Harbinger predecessors*** 'good spectrum neighbors' when the parties had negotiated the 2002 . . . and 2009 [Agreements]."). The 2002 and 2009 Agreements were between *LightSquared's* predecessors—SkyTerra and Mobile Satellite Ventures—and the GPS Defendants. LightSquared is suing the GPS Defendants for breaching these very contracts.

53. Harbinger's recent request to withdraw its breach-of-contract claims only underscores its attempts to artfully plead independent causes of action where none exist. After initially asserting that it could separately enforce one of LightSquared's Agreements with the GPS Defendants as a third-party beneficiary, Harbinger has now moved to withdraw that claim "based on the evidence known to date," ***only months after asserting the claim in the first place***. *See* Letter from G. Elden to Judge Berman, *Harbinger GPS Action* (Aug. 7, 2014), ECF No. 83; Harbinger's Second Am. Compl. ¶¶ 248–54, *Harbinger GPS Action* (Jan. 22, 2014), ECF No. 47 (adding breach-of-contract claim on January 21, 2014). The reason Harbinger withdrew that claim, moreover, is clear: Harbinger ***never had*** any contractual agreements with the GPS Defendants. Instead, all of the relevant contractual agreements were between ***LightSquared*** and the GPS Defendants. Harbinger's gamesmanship confirms what LightSquared has said all along: that Harbinger has no independent claim for breach of contract (or any other cause of action) against the GPS Defendants and is simply trying out any theory of liability that might appear to give it an independent basis for suit. *See* Letter from E. Assaf to Judge Berman, *LightSquared GPS Action* (Aug. 7, 2014), ECF No. 63.[9]

[9] Harbinger has also asserted two securities-fraud claims against the GPS Defendants. LightSquared is not seeking to stay those securities-fraud claims, which LightSquared expects to be dismissed on the merits. *See, e.g.*, *Rand v. Anaconda-Ericsson, Inc.*, 794 F.2d 843, 848 (2d Cir. 1986) (rejecting an "artificial[]" and "virtually

54. For the reasons above, LightSquared believes that all the claims Harbinger has asserted in the *Harbinger GPS Action* and in the *FCC Action* properly belong to LightSquared and are subject to the automatic stay under section 362(a).

II. Harbinger's Claims Should Be Stayed Pursuant To This Court's Broad Equitable Powers Under Section 105(a) Of The Bankruptcy Code.

55. Even if the automatic stay does not apply to Harbinger's claims (which it does), a stay is still warranted under this Court's broad equitable powers under section 105(a). A stay is warranted both to protect LightSquared's overlapping claims against the GPS Defendants and the United States, and to prevent Harbinger's litigation from interfering with LightSquared's orderly reorganization.

56. Under 11 U.S.C. § 105(a), this Court has the power to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Section 105 is "construed liberally to enjoin suits that might impede the reorganization process" and to authorize injunctions that are "important" to the debtor's reorganization plan. *Lautenburg Found. v. Picard (In re Bernard L. Madoff Inv. Sec., LLC)*, 512 F. App'x 18, 20 (2d Cir. 2013) (citation and internal quotation marks omitted); *see also Official Comm. of Unsecured Creditors v. PSS S.S. Co. (In re Prudential Lines Inc.)*, 928 F.2d 565, 574 (2d Cir. 1991) ("[Section 105] has been construed liberally to enjoin [actions] that might impede the reorganization process.") (second brackets in original) (citation and internal quotation marks omitted); *McHale v. Alvarez (In re The 1031 Tax Grp., LLC)*, 397 B.R. 670, 684 (Bankr. S.D.N.Y. 2008); *In re Adelphia Commc'ns Corp.*, 298 B.R. 49, 54 (S.D.N.Y. 2003). This Court's equitable powers under section 105(a) are thus "broader than the automatic stay provisions of section 362," *Erti v. Paine Webber Jackson & Curtis, Inc. (In re Baldwin-United Corp. Litigation)*, 765 F.2d 343, 348 (2d Cir.

limitless" theory of securities fraud "that would convert any fraudulent conduct resulting in a corporate bankruptcy," such as "misrepresentations about the nature of a competitor's goods," into securities fraud).

1985), and it is "well-settled" that section 105(a) empowers bankruptcy courts to "enjoin suits by third parties against third parties if they threaten to thwart or frustrate the debtor's reorganization efforts," *Adelphia Commc'ns Corp. v. Associated Elec. & Gas Ins. Servs., Ltd. (In re Adelphia Commc'ns Corp.)*, 302 B.R. 439, 448 (Bankr. S.D.N.Y. 2003) (citation and internal quotation marks omitted); *Lyondell Chem. Co. v. Center Point Energy Gas Servs. Inc. (In re Lyondell Chem. Co.)*, 402 B.R. 571, 587 (Bankr. S.D.N.Y. 2009) (court may enjoin acts against third parties when they impair a debtor's ability to reorganize "even though such acts are not proscribed by the automatic stay of section 362 of the Code"). This Court thus has "substantial freedom" to exercise its equitable powers "to meet differing circumstances." *Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 609 (2d Cir. 2007) (citation and internal quotation marks omitted).

57. The traditional requirements for an injunction are not required to stay proceedings against third parties under section 105(a). "Because § 105(a) injunctions are authorized by statute, they do not need to comply with the traditional requirements" of Federal Rule of Civil Procedure 65. *In re The 1031 Tax Grp., LLC*, 397 B.R. at 684. As a result, the "usual grounds for injunctive relief such as irreparable injury need not be shown." *LTV Steel Co. v. Bd. of Educ. of Cleveland City Sch. Dist. (In re Chateaugay Corp.)*, 93 B.R. 26, 29 (S.D.N.Y. 1988).[10] "[A]

[10] Nevertheless, the traditional requirements for an injunction would be satisfied here even if they did apply. In bankruptcy, those four factors include: (1) the likelihood of a successful reorganization; (2) whether there is an imminent threat of irreparable harm to the estates or the bankruptcy process; (3) the balance of harms tips decidedly in the movant's favor; and (4) the public interest. *Nev. Power Co. v. Calpine Corp. (In re Calpine Corp.)*, 365 B.R. 401, 409 (S.D.N.Y. 2007). Given the recent plans submitted in this case, a successful reorganization is likely. Without a stay, Harbinger's claims will irreparably harm LightSquared's estates and the bankruptcy process for three separate reasons. First, Harbinger's claims overlap with LightSquared's claims and thus threaten to reduce the value of the estate. *See infra* ¶¶ 59–62. Second, allowing Harbinger to continue pursuing its cases could harm LightSquared's ability to pursue its own claims by potentially raising a collateral estoppel bar and by potentially creating adverse precedent. *See infra* ¶¶ 63–65 Harbinger's recent case against the the government could also interfere with LightSquared's ongoing negotiations with the FCC. *See infra* ¶¶ 63–69. Third, Harbinger's numerous lawsuits substantially burden LightSquared's management and threaten to prejudice the rights of the estates through principles of collateral estoppel and ongoing interference with LightSquared's litigation of its own claims. *See infra* ¶¶ 63–71. The balance of hardships tips decidedly in LightSquared's favor because a stay would

bankruptcy court may utilize section 105 of the Code to enjoin proceedings in other courts when it is satisfied that such a proceeding would defeat or impair its jurisdiction with respect to a case before it." *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec., LLC*, 460 B.R. 106, 120 (Bankr. S.D.N.Y. 2011) (citation and internal quotation marks omitted), *aff'd*, 474 B.R. 76 (S.D.N.Y. 2012).

58. Here, a stay is needed to protect the Court's jurisdiction and prevent substantial disruption of the reorganization efforts for three reasons: (1) given that Harbinger's claims overlap with LightSquared's claims, allowing them to proceed threatens to reduce the value of the estate; (2) allowing Harbinger to pursue its cases threatens to prejudice LightSquared's ability to pursue its own claims and is inconsistent with LightSquared's decision to negotiate with the FCC for approval; and (3) diverting time and resources to deal with Harbinger's lawsuits will substantially burden LightSquared's management.

59. ***First***, there is, at a minimum, a substantial question whether Harbinger's claims are, in whole or in part, claims that actually belong to LightSquared. *See supra* Part I. Although LightSquared believes that Harbinger's claims are in fact property of the estates, the Court need not reach a definite decision because the Court's power under section 105(a) to stay a lawsuit is "broader than the automatic stay provisions of section 362," *In re Baldwin-United Corp. Litigation*, 765 F.2d at 348, and can be exercised regardless of whether the claims are property of the estate, *see, e.g.*, *In re The 1031 Tax Group.*, 397 B.R. at 683–4 (staying all claims under section 105(a) even after determining that some claims were *not* property of the bankruptcy estate and thus not subject to the automatic stay).

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not prejudice Harbinger. *See infra* ¶ 71. It would merely delay Harbinger's right to pursue any claims, not eliminate that right entirely. *See id.*; *In re Archdiocese of Milwaukee*, 511 B.R. 551, 555 (Bankr. E.D. Wis. 2014); *In re Comdisco, Inc.*, 271 B.R. 273, 277–78 (Bankr. N.D. Ill. 2002). A stay would also promote the public interest in protecting the integrity of the bankruptcy process.

60. At a minimum, Harbinger's claims overlap with LightSquared's own claims. Harbinger's claims against the GPS Defendants mirror the exact claims LightSquared is pursuing against the same defendants based on the same facts in the same court. *See supra* Part I.C. Harbinger bases its takings claim on the United States' alleged redistribution of the spectrum licensed by LightSquared and the company's lost value—injuries that LightSquared could just as much assert as a takings claim. *See supra* Part I.A. And Harbinger's contract claims against the United States are based on FCC proceedings concerning LightSquared's spectrum licenses and terrestrial network. *See supra* Part I.B.

61. Because Harbinger's claims at least overlap with LightSquared's own claims, any recovery by Harbinger risks reducing the value of the estates available to other creditors. The ability of Harbinger and LightSquared to both recover for these claims is at best unclear, given prohibitions on double recovery. *See, e.g.*, *In re Optimal U.S. Litig.*, 813 F. Supp. 2d 351, 376 (S.D.N.Y. 2011) (double recovery for shareholders and corporation is prohibited). Any amount Harbinger recovers thus threatens to directly reduce the amount available for LightSquared's estate. *See In re Prudential Lines Inc.*, 928 F.2d at 574; *MacArthur Co. v. Johns-Manville Corp.*, 837 F.2d 89, 93 (2d Cir. 1988) (Section 105 "has been construed liberally to enjoin [lawsuits] that might impede the reorganization process."); *Fisher v. Apostolou*, 155 F.3d 876, 878 (7th Cir. 1998) (enjoining claims that were not property of the estate because they were "sufficiently related to property of the estate" so that they would potentially reduce estate recovery or value).

62. In a similar situation where the trustee and a third party pursued similar claims, this District recognized that the bankruptcy court's "broader powers under § 105(a) could appropriately enjoin the [third party] from prosecuting [its claims] even if the claims asserted in those actions were not the property of the estate, because the overlap between the claims asserted

in the [trustee's lawsuit] and the [third party's lawsuit were] so closely related that allowing the [third party] to convert the bankruptcy proceeding into a race to the courthouse would derail the bankruptcy proceedings." *Fox v. Picard (In re Madoff)*, 848 F. Supp. 2d 469, 487 (S.D.N.Y. 2012) (citation and internal quotation marks omitted), *aff'd sub nom. Marshall v. Picard (In re Bernard L. Madoff Inv. Sec. LLC)*, 740 F.3d 81 (2d Cir. 2014) (affirming the bankruptcy court's order staying the third party's lawsuit while allowing the trustee to continue its lawsuit). A stay in this case similarly would preserve the assets of the estates for the benefit of all stakeholders and avoid Harbinger's attempts to siphon off relief for itself. *See Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 453 (1999) ("[P]reserving going concerns and *maximizing property available to satisfy creditors*" are the "two recognized policies underlying Chapter 11 . . . .") (emphasis added).

63. ***Second***, allowing Harbinger's claims to proceed now could prejudice LightSquared's ability to pursue its own claims. In a case involving claims brought by LightSquared, the GPS Defendants or the United States might argue that LightSquared's claims are barred under principles of collateral estoppel or that adverse precedent established in Harbinger's litigation wholly undermines LightSquared's identical claims. It is well-recognized that both concerns about preclusion and the effect of adverse precedent warrant a stay to protect the bankruptcy estate. *See, e.g.*, *In re Adelphia Commc'ns Corp.*, 302 B.R. at 451–52; *In re The 1031 Tax Grp., LLC*, 397 B.R. at 684 (listing risk of collateral estoppel as factor in determining whether to issue injunction); *In re Am. Film Techs., Inc.*, 175 B.R. 847, 850 (Bankr. D. Del. 1994) (same).

64. A decision on any contested issue raised by Harbinger's FCC Claims could materially impact LightSquared's rights. This is true even though LightSquared has not initiated

a similar suit against the United States. To take just one example, if the court agrees with Harbinger that the FCC "effectively reallocated [LightSquared's] spectrum to the GPS industry," Ex. 3, Harbinger's FCC Compl. ¶ 128, or that the FCC "in essence conferred upon the GPS industry an easement or property interest," *id.* ¶ 128, that finding could preclude LightSquared's arguments before the FCC that GPS receivers enjoy no right to protection from interference caused by LightSquared's operations, *see generally* Ex. 8, LightSquared's Pet. for Decl. Ruling, IB Docket No. 11-109 (FCC Jan. 30, 2012); *see also* LightSquared's Comments at 58, IB Docket No. 11-109 (FCC Mar. 19, 2012) ("Like commercial GPS devices, government GPS devices that fall within the category of 'federal stations' are not entitled to protection from any 'overload' that they may experience when they 'listen' in [LightSquared's spectrum] . . . .").

65. Harbinger's GPS Claims present a similar risk of prejudice to LightSquared's claims. Harbinger's GPS Claims are inextricably interwoven with LightSquared's claims against the GPS Defendants, both of which are currently pending before the District Court. As the District Court recognized, "[t]he [LightSquared GPS claims] bear[] [a] strong resemblance to [the Harbinger GPS claims]," and the two actions are "based upon the same set of operative facts." Decision and Order at 2–3, *LightSquared GPS Action* (Jan. 31, 2014), ECF No. 33. That extensive legal and factual overlap is precisely part of the reason why the District Court withdrew the reference of LightSquared's GPS Claims earlier this year.

66. Beyond the risk of preclusion and adverse precedent, Harbinger's lawsuits threaten to interfere with and prejudice LightSquared's ability to litigate its claims as it sees fit. This is not merely a matter of speculation. Harbinger's claims have ***already*** disrupted LightSquared's ability to pursue its claims on its own terms and are likely to continue to do so going forward.

67. For example, although LightSquared could have chosen ***where*** to sue the GPS Defendants—such as in federal or state court in Virginia or D.C.—Harbinger filed its claims in the Southern District of New York, effectively compelling LightSquared to do the same. LightSquared also should have been able to decide ***when*** these issues were aired in litigation, but Harbinger's unilateral decision to sue all but compelled LightSquared to litigate claims against the GPS Defendants on Harbinger's schedule. Moreover, LightSquared and Harbinger have different views and approaches to this case, which has impacted everything from case strategy to even allotment of pages for briefs.

68. Likewise, whether LightSquared chooses to challenge the FCC's Proposed Suspension Order within the regulatory process, *see* 47 U.S.C. § 316(a), negotiate a solution with GPS Defendants and other interested parties, bring its own claims against the FCC, or take some other action is a decision that should be left up to LightSquared on behalf of the estate—not dictated by one equity holder's unilateral decision to opt for potentially binding litigation at the expense of all creditors.

69. In light of these past examples of prejudice, there is every reason to believe that Harbinger's prosecution of its lawsuits will continue to prejudice LightSquared's ability to pursue its own claims. The District Court has required LightSquared to coordinate with Harbinger with respect to the GPS Claims, and thus LightSquared faces serious risks that Harbinger's presence will continue to disrupt LightSquared's ability to conduct effective discovery, present oral argument to the Court, submit future written filings, and engage in other litigation activity. Harbinger's continued prosecution of its lawsuits, in short, will directly interfere with LightSquared's ability to litigate its own claims in a manner best suited to maximize the value of the estate.

70. ***Third***, Harbinger's lawsuits have the potential to "burden and distract the debtor's management by diverting its manpower from reorganization" to the ongoing litigations. *In re The 1031 Tax Group, LLC*, 397 B.R. at 684. The United States must file an answer or a motion to dismiss Harbinger's claims by November 10, 2014. Thus, at a critical point in the bankruptcy, LightSquared's executives must now divert their attention away from the confirmation process and instead decide whether to intervene in the *Harbinger FCC Action*. Even if LightSquared ultimately does not intervene, LightSquared's executives will still be substantially burdened by monitoring and responding to third-party discovery. That is evident from the face of Harbinger's FCC Complaint, which repeatedly relies on interactions between LightSquared employees and the GPS Defendants. It is well settled that a stay under section 105 is appropriate when a third-party lawsuit like Harbinger's would cause "a significant burden and distraction of key employees from [the] restructuring effort." *Nev. Power Co. v. Calpine Corp. (In re Calpine Corp.)*, 365 B.R. 401, 410 (S.D.N.Y. 2007) (citation and internal quotation marks omitted); s*ee also In re The 1031 Tax Group, LLC*, 397 B.R. at 684.

71. Finally, the balance of hardships tips decidedly in LightSquared's favor because a stay would not prejudice Harbinger. Staying Harbinger's actions until the effective date of the plan of reorganization would merely delay Harbinger's right to pursue any claims, not eliminate its right entirely. Thus, by staying Harbinger's claims under section 105, this Court will be eliminating a significant hindrance to the reorganization process and allowing the bankruptcy case to proceed in the most efficient manner possible. Staying Harbinger's claims would greatly serve the best interests of both LightSquared and all other relevant stakeholders.

NOTICE

72. Notice of this Motion will be provided by electronic mail, facsimile, regular or overnight mail, and/or hand delivery to: (a) the U.S. Trustee; (b) the entities listed on the

Consolidated List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the special committee of LightSquared's board of directors; (d) counsel to the Prepetition Agents; (e) counsel to the DIP Agent; (f) counsel to the ad hoc secured group of Prepetition LP Lenders; (g) counsel to Harbinger Capital Partners LLC; (h) the Internal Revenue Service; (i) the United States Attorney for the Southern District of New York; (j) the Federal Communications Commission; (k) Industry Canada; (l) counsel to the GPS Defendants; and (m) all parties who have filed a notice of appearance in the Chapter 11 Cases. LightSquared respectfully submits that no other or further notice is required or necessary.

MOTION PRACTICE

73. This Motion includes citations to the applicable rules, statutes, and authorities and discusses their application to this Motion. Accordingly, LightSquared submits that this Motion satisfies this Court's Local Bankruptcy Rule 9013-1(a).

NO PREVIOUS REQUEST

74. On September 30, 2013, LightSquared moved to stay Harbinger's GPS Claims for sixty days. *See* LightSquared's Emergency Mot. for Entry of Order Staying Related Litigation (Sept. 30, 2013), ECF No. 888. On October 9, 2013, this Court granted LightSquared's motion, thereby enjoining Harbinger from prosecuting the *Harbinger GPS Action* until December 9, 2013. *See* Order Staying Related Litigation (Oct. 9, 2013), ECF No. 931. In granting the stay, this Court specifically protected LightSquared's ability to seek a further stay of Harbinger's GPS Claims. *See id.* ¶ 2.

CONCLUSION

LightSquared respectfully requests this Court to enter the attached proposed order staying Harbinger's claims against the GPS Defendants and the United States and to award any other appropriate relief.

New York, New York
Dated: October 8, 2014

/s/ Matthew S. Barr
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EXHIBIT A:
PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
LIGHTSQUARED INC., *et al*.,	Case No. 12-12080 (SCC)
Debtors.[1]	Jointly Administered

ORDER STAYING LITIGATION

Upon the motion (the "Motion")[2] of LightSquared Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, "LightSquared" or the "Debtors") in the above-captioned Chapter 11 cases (the "Chapter 11 Cases"), for entry of an order (the "Order"), pursuant to sections 105, 362, and 541 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), staying the cases captioned *Harbinger Capital Partners LLC v. Deere & Co.*, No. 1:13-cv-05543-RMB (S.D.N.Y.) (Berman, J.) ("Harbinger GPS Action") and *Harbinger Capital Partners LLC v. United States*, No. 1:14-cv-00597-MCW (Fed. Cl.) (Williams, J.) ("Harbinger FCC Action"), as more fully set forth in the Motion; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and it appearing that this proceeding is a core proceeding under 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion in this Court is proper under 28 U.S.C. §§ 1408 and 1409; and notice of the Motion appearing adequate and appropriate under the circumstances; and

[1] The debtors in these Chapter 11 Cases (as defined below), along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), LightSquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.

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

the Court having found that no other or further notice is needed or necessary; and the Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before the Court (the "Hearing"); and the 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 it appearing, and the Court having found, that the relief requested in the Motion is in the best interests of LightSquared, its estates, its creditors, and other parties in interest; and any objections to the relief requested in the Motion having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is granted.

2. The claims asserted by Harbinger in the Harbinger GPS Action and in the Harbinger FCC Action are stayed until the effective date of the plan of reorganization or until LightSquared brings, and this Court rules upon, a future motion seeking to permanently enjoin Harbinger's claims.

3. The Harbinger GPS Action and the Harbinger FCC Action are hereby stayed and all parties to the Harbinger GPS Action and the Harbinger FCC Action are enjoined from litigating, prosecuting, defending, or furthering any claims or defenses in those cases.

4. LightSquared may petition the Court to lift or modify the stay at any time.

5. Nothing in this Order prevents any litigant or party from communicating with the courts regarding the status of the Harbinger GPS Action, the Harbinger FCC Action, or any of the proceedings in the Chapter 11 Cases.

6. Nothing in this Order shall prejudice LightSquared's ability to seek further relief related to the Harbinger GPS Action or the Harbinger FCC Action.

7. This Court shall retain jurisdiction to hear and determine any and all matters arising from the interpretation, implementation, and enforcement of this Order.

Date: _____, 2014
New York, New York

_____
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

Court File No: CV-12-9719-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C 36, AS AMENDED, AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO THE CHAPTER 11 DEBTORS

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF ELIZABETH CREARY
(Sworn November 14, 2014)

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Court File No: CV-12-9719-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, APPLICATION OF LIGHTSQUARED LP UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED, AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO THE CHAPTER 11 DEBTORS

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

MOTION RECORD
(Returnable November 20, 2014)

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