

SRF 34006

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WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007  
Gary T. Holtzer  
Sunny Singh

*Proposed Attorneys for Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	: <b>Chapter 11</b>
<b>FUSION CONNECT, INC., et al.,</b>	: <b>Case No. 19-11811 (SMB)</b>
<b>Debtors.<sup>1</sup></b>	: <b>(Jointly Administered)</b>
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**OMNIBUS CERTIFICATE OF NO OBJECTION  
PURSUANT TO 28 U.S.C. § 1746 REGARDING  
MOTIONS SCHEDULED FOR HEARING ON JULY 1, 2019**

TO THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE:

Pursuant to 28 U.S.C. § 1746 and Rule 9075-2 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), the undersigned hereby certifies as follows:

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

1. On June 3, 2019 (the “**Commencement Date**”), Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code. The Debtors filed the following motions and applications (collectively, the “**Motions**”) with the Court for hearing on July 1, 2019, and in certain cases the Court entered interim orders granting the relief requested:

- a. Motion of Debtors for (I) Authorization to (A) Continue Using Existing Cash Management System, Bank Accounts, and Business Forms, (B) Implement Changes to the Cash Management System in the Ordinary Course of Business, (C) Continue Intercompany Transactions, (D) Provide Administrative Expense Priority for Postpetition Intercompany Claims, (E) Extend Time to Comply with, or Seek Waiver of, 11 U.S.C. § 345(b), and (II) Related Relief (ECF No. 4, Interim Order ECF No. 48)
- b. Motion of Debtors for (I) Authorization to (A) Pay Employee Obligations and (B) Continue Employee Benefit Programs and (II) Related Relief (ECF No. 5, Interim Order ECF No. 54)
- c. Motion of Debtors for (I) Authorization to (A) Continue to Maintain their Insurance Policies and Programs and Surety Bond Program and (B) Honor All Obligations with Respect Thereto and (II) Modification of the Automatic Stay with Respect to the Workers' Compensation Program (ECF No. 6, Interim Order ECF Nos. 70 and 71)
- d. Motion of Debtors for Authorization to Pay (I) Certain Prepetition Taxes and Fees and (II) Fees of Third Party Service Providers (ECF No. 7, Interim Order ECF Nos. 49 and 72)
- e. Motion of Debtors for (I) Authorization to Pay Certain Prepetition Obligations to Critical Vendors, Lien Claimants, and Foreign Creditors, (II) Approval of Related Procedures, (III) Confirmation of Administrative Expense Priority Status for Certain Goods Delivered and Services Provided Postpetition, and (IV) Related Relief (ECF No. 11, Interim Order ECF No. 55)
- f. Motion of Debtors for Authorization to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto (ECF No. 12, Interim Order ECF No. 51)
- g. Motion for Entry of an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (ECF No. 82)

- h. Application to Employ Prime Clerk LLC as Administrative Agent *Nunc Pro Tunc* to Commencement Date (ECF No. 83)
- i. Application to Employ PJT Partners LP as Investment Banker *Nunc Pro Tunc* to the Commencement Date (ECF No. 84)
- j. Application to Employ Kelley Drye & Warren LLP as Special Counsel *Nunc Pro Tunc* to the Commencement Date (ECF No. 85)
- k. Application to Employ FTI Consulting, Inc. as Financial Advisor *Nunc Pro Tunc* to the Commencement Date (ECF No. 86)
- l. Motion of Debtors for Authorization to Employ Professionals Used in Ordinary Course of Business (ECF No. 87)
- m. Application to Employ Weil, Gotshal & Manges LLP as Attorneys for the Debtors *Nunc Pro Tunc* to the Commencement Date (ECF No. 88)

2. The Debtors served the Motions and interim orders (the “**Interim Orders**”) as reflected in the affidavits of service filed at ECF Nos. 31, 61, and 104.

3. The Motions and Interim Orders established a deadline (the “**Objection Deadline**”) for parties to object or file responses to the Motions. The Objection Deadline for the Motions was set for June 24, 2019 at 4:00 p.m. (Prevailing Eastern Time) and was extended solely with respect to the Official Committee of Unsecured Creditors to June 26, 2019 at 4:00 p.m. (Prevailing Eastern Time). Local Rule 9075-2 provides that a motion or application may be granted without a hearing, provided that no objections or other responsive pleadings have been filed or served before 48 hours after the relevant objection deadline and the attorney for the entity who filed the pleadings complies with certain procedural and notice requirements.

4. The Objection Deadline has passed, and, to the best of my knowledge, no objection, responsive pleading, or request for a hearing with respect to the Motions has been

(a) filed with the Court on the docket of the above-captioned cases or (b) served on counsel to the Debtors.

5. Accordingly, the Debtors will request at the hearing scheduled for July 1, 2019, at 2:00 p.m. (Prevailing Eastern Time) that the proposed orders granting the relief requested in the Motions, annexed hereto as **Exhibit A** through **Exhibit M**, be entered. A redline reflecting a comparison of each proposed order to the respective Interim Order approving the Motion or the proposed order filed with the Motion, as applicable, follows each proposed order. The modifications to the proposed orders also incorporate certain conforming and non-substantive changes.

I declare that the foregoing is true and correct.

Dated: June 28, 2019  
New York, New York

/s/ Sunny Singh  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007  
Gary T. Holtzer  
Sunny Singh

*Proposed Attorneys for Debtors  
and Debtors in Possession*

**EXHIBIT A**  
**(Proposed Order – ECF No. 4)**

**Clean Cash Management Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	: <b>Chapter 11</b>
<b>FUSION CONNECT, INC., et al.,</b>	: <b>Case No. 19-11811 (SMB)</b>
<b>Debtors.<sup>1</sup></b>	: <b>(Jointly Administered)</b>
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**FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE USING EXISTING CASH MANAGEMENT SYSTEM, BANK ACCOUNTS, AND BUSINESS FORMS, (B) IMPLEMENT CHANGES TO THE CASH MANAGEMENT SYSTEM IN THE ORDINARY COURSE OF BUSINESS, (C) CONTINUE INTERCOMPANY TRANSACTIONS, AND (D) PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 4) of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 345(b), 363, 364, 503, and 507 of the Bankruptcy Code (the “**Bankruptcy Code**”) for entry of an order (this “**Final Order**”) (i) authorizing, but not directing, the Debtors to: (a) continue their existing cash management system, including the continued maintenance of their existing bank accounts and business forms; (b) honor certain prepetition obligations related thereto; (c) implement changes to

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.



their cash management system in the ordinary course of business, including, without limitation, opening new bank accounts or closing existing bank accounts; (d) continue to perform under and honor intercompany transactions in the ordinary course of business, in their business judgment and at their sole discretion; and (e) provide administrative expense priority for postpetition intercompany claims, all as more fully set forth in the Motion; and (ii) granting related relief; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the “**Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 48) (the “**Interim Order**”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates,

creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 345, 363, 364, 503, and 507 to continue using their integrated cash management system described in the Motion (the “**Cash Management System**”) and to collect, concentrate, and disburse cash in accordance with the Cash Management System, including intercompany funding among the Company’s affiliates.
3. The Debtors are authorized to implement changes to the Cash Management System in the ordinary course of business, including the opening of any new bank accounts and the closing of any existing bank accounts (the “**Bank Accounts**”) as they may deem necessary and appropriate; *provided*, that (a) any such new account is with a bank that is (i) insured with the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and (ii) designated as an authorized depository by the U.S. Trustee pursuant to the UST Guidelines; and (b) the Debtors shall provide fourteen (14) days advance notice to the U.S. Trustee, the DIP Agent (as defined in the DIP Order) and counsel to the First Lien Ad Hoc Group of the opening of such account or any other changes to the Cash Management System; *provided, further*, that such actions are in compliance with, and not prohibited or restricted by, the terms of the DIP Order and the DIP Documents (as defined in the DIP Order).
4. The relief, rights, and responsibilities provided for in this Final Order shall be deemed to apply to any and all Bank Accounts maintained in the Debtors’ names, including any new bank accounts, whether or not such Bank Accounts are identified on **Exhibit B** to the Motion,



and any Banks at which new accounts are opened shall be subject to the rights and obligations of this Final Order.

5. For the avoidance of doubt, the Debtors are not authorized to deposit or transfer cash into any bank accounts held by Non-Debtor Entities at Bank of Montreal without prior authorization from this Court.

6. The Debtors are authorized to (a) continue to use, with the same account numbers, all of the Bank Accounts in existence as of the Commencement Date, including those accounts identified on **Exhibit B** to the Motion; (b) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (c) use, in their present form, all correspondence and business forms (including, but not limited to, checks and letterhead) (collectively, the "**Business Forms**") as well as all other documents related to the Bank Accounts existing immediately before the Commencement Date, without reference to the Debtors' status as debtors in possession; *provided*, that in the event the Debtors generate new Business Forms during the pendency of these chapter 11 cases, such Business Forms shall include a legend (either with a stamp or a laser print) on all Business Forms referring to the Debtors as "Debtors-In-Possession."

7. The Debtors are authorized and empowered to continue performing under and honoring the Intercompany Transactions in the ordinary course of business; *provided*, that the Debtors shall (a) keep records of any postpetition Intercompany Transactions that occur during these chapter 11 cases so that all Intercompany Transactions may be readily ascertained, traced, and recorded properly on applicable intercompany accounts and (b) implement accounting procedures to identify and distinguish between prepetition and postpetition Intercompany Transactions; *provided*, that the Debtors shall not be authorized by this Final Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany

receivables and payables that are (x) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (y) prohibited or restricted by the terms of the DIP Order and the DIP Documents (as defined in the DIP Order).

8. In accordance with sections 503(b)(1) and 364 of the Bankruptcy Code, all Intercompany Claims arising after the Commencement Date shall be accorded administrative expense priority, subject and junior to the claims, including adequate protection claims, granted in connection with the DIP Financing (as defined in the DIP Order), in accordance with the DIP Order.

9. Except as otherwise expressly provided in this Final Order, all Banks are authorized, but not directed, to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business, and to receive, process, honor, and pay any and all checks, drafts, wires, and ACH transfers issued or initiated by or on behalf of the Debtors (to the extent the Debtors have sufficient funds, whether deposited prior to or after the Commencement Date in the requisite Bank Account or otherwise available to cover and permit payment thereof) after the Commencement Date; *provided*, that any payments drawn, issued, or made prior to the Commencement Date shall not be honored by the Banks absent receipt of direction from the Debtors and entry of a separate order of the Court authorizing such prepetition payment, subject to paragraph 11 of this Final Order.

10. The Banks are authorized, but not directed, to charge and the Debtors are authorized to pay and honor, or allow to be deducted from the applicable Bank Account, both prepetition and postpetition service and other fees, costs, charges, and expenses to which the Banks

may be entitled to under the terms of and in accordance with their contractual arrangements with the Debtors (collectively, the “Bank Fees”).

11. Each of the Banks is authorized, but not directed, to debit the Bank Accounts in the ordinary course of business without need for further order of this Court for: (a) all checks, items, and other payment orders drawn on the Bank Accounts that are cashed at such Bank’s counters or exchanged for cashier’s checks by the payees thereof prior to the Bank’s receipt of notice of the commencement of these chapter 11 cases; (b) all checks, ACH entries, wire transfers, other electronic transfers, and other items deposited or credited to any of the Bank Accounts prior to the Commencement Date that have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such costs and fees prior to the Commencement Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Banks on account of (i) Bank Fees for the maintenance of the Cash Management System or (ii) repayment for advances made by the Banks on behalf of the Debtors in connection with ACH disbursement transactions.

12. The Banks may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to the Commencement Date should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for herein, and shall not be liable to any party on account of (a) following the Debtors’ representations, instructions, directions, or presentations as to any order of the Court (without any duty of further inquiry); (b) honoring of any prepetition checks, drafts, wires, or ACH payments in a good faith belief or upon a representation by the Debtors that the Court has authorized such

prepetition check, draft, wire, or ACH payment; or (c) an innocent mistake made despite implementation of reasonable handling procedures.

13. The Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers that the Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Commencement Date but presented to such Bank for payment after the Commencement Date.

14. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, and to replace any prepetition checks or electronic fund transfer requests that may be lost, dishonored, or rejected as a result of the commencement of the Debtors' chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Final Order.

15. Notwithstanding the relief granted in this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "**DIP Order**"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

16. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order is intended to be or shall be construed as (a)

an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim; (e) a waiver of any claims or causes of actions which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

17. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by any party.

18. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

19. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

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

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

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Cash Management Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re** : **Chapter 11**  
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**FUSION CONNECT, INC., et al.,** : **Case No. 19-11811 (SMB)**  
:  
**Debtors.**<sup>1</sup> : **(Jointly Administered)**  
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**INTERIMFINAL ORDER (I) AUTHORIZING  
DEBTORS TO (A) CONTINUE  
USING EXISTING CASH MANAGEMENT SYSTEM, BANK  
ACCOUNTS, AND BUSINESS FORMS; (B) IMPLEMENT CHANGES TO  
CHANGES TO THE CASH MANAGEMENT SYSTEM IN THE ORDINARY COURSE  
OF  
COURSE OF BUSINESS, (C) CONTINUE INTERCOMPANY TRANSACTIONS, AND  
(D) PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION  
INTERCOMPANY CLAIMS, (E) EXTEND TIME TO COMPLY WITH, OR SEEK  
WAIVER OF, 11 U.S.C. § 345(b); AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 4) of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 345(b), 363, 364, 503, and 507 of the Bankruptcy Code (the “**Bankruptcy Code**”) for entry of an order (this “**InterimFinal Order**”) (i) authorizing, but not directing, the Debtors to: (a) continue their existing cash management system, including the continued maintenance of their existing bank

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.



accounts and business forms; (b) honor certain prepetition obligations related thereto; (c) implement changes to their cash management system in the ordinary course of business, including, without limitation, opening new bank accounts or closing existing bank accounts; (d) continue to perform under and honor intercompany transactions in the ordinary course of business, in their business judgment and at their sole discretion; and (e) provide administrative expense priority for postpetition intercompany claims, all as more fully set forth in the Motion; and (f) ~~extend the time to comply with section 345(b) of the Bankruptcy Code by forty five (45) days (or such later time as may be agreed to by the U.S. Trustee or as approved by the Court) or seek a waiver thereof and~~ (ii) granting related relief; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the "**Hearing**"); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 48) (the "**Interim Order**"); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed

contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on an interim final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 345, 363, 364, 503, and 507 to continue using their integrated cash management system described in the Motion (the "**Cash Management System**") and to collect, concentrate, and disburse cash in accordance with the Cash Management System, including intercompany funding among the Company's affiliates.
3. The Debtors are authorized to implement changes to the Cash Management System in the ordinary course of business, including the opening of any new bank accounts and the closing of any existing bank accounts (the "**Bank Accounts**") as they may deem necessary and appropriate; *provided*, that (a) any such new account is with a bank that is (i) insured with the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and (ii) designated as an authorized depository by the U.S. Trustee pursuant to the UST Guidelines; and (b) the Debtors shall provide fourteen (14) days advance notice to the U.S. Trustee, the DIP Agent (as defined in the DIP Order) and counsel to the First Lien Ad Hoc Group of the opening of

such account or any other changes to the Cash Management System; *provided, further*, that such actions are in compliance with, and not prohibited or restricted by, the terms of the DIP Order and the DIP Documents (as defined in the DIP Order).

4. The relief, rights, and responsibilities provided for in this ~~Interim~~Final Order shall be deemed to apply to any and all Bank Accounts maintained in the Debtors' names, including any new bank accounts, whether or not such Bank Accounts are identified on **Exhibit B** to the Motion, and any Banks at which new accounts are opened shall be subject to the rights and obligations of this ~~Interim~~Final Order.

5. For the avoidance of doubt, the Debtors are not authorized to deposit or transfer cash into any bank accounts held by Non-Debtor Entities at Bank of Montreal without prior authorization from this Court.

6. The Debtors are authorized to (a) continue to use, with the same account numbers, all of the Bank Accounts in existence as of the Commencement Date, including those accounts identified on **Exhibit B** to the Motion; (b) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (c) use, in their present form, all correspondence and business forms (including, but not limited to, checks and letterhead) (collectively, the "**Business Forms**") as well as all other documents related to the Bank Accounts existing immediately before the Commencement Date, without reference to the Debtors' status as debtors in possession; *provided*, that in the event the Debtors generate new Business Forms during the pendency of these chapter 11 cases, such Business Forms shall include a legend (either with a stamp or a laser print) on all Business Forms referring to the Debtors as "Debtors-In-Possession."

7. The Debtors are authorized and empowered to continue performing under and honoring the Intercompany Transactions in the ordinary course of business; *provided*, that the

Debtors shall (a) keep records of any postpetition Intercompany Transactions that occur during these chapter 11 cases so that all Intercompany Transactions may be readily ascertained, traced, and recorded properly on applicable intercompany accounts and (b) implement accounting procedures to identify and distinguish between prepetition and postpetition Intercompany Transactions; provided, that the Debtors shall not be authorized by this ~~Interim~~Final Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (x) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (y) prohibited or restricted by the terms of the DIP Order and the DIP Documents (as defined in the DIP Order).

8. In accordance with sections 503(b)(1) and 364 of the Bankruptcy Code, all Intercompany Claims arising after the Commencement Date shall be accorded administrative expense priority, subject and junior to the claims, including adequate protection claims, granted in connection with the DIP Financing (as defined in the DIP Order), in accordance with the DIP Order.

9. Except as otherwise expressly provided in this ~~Interim~~Final Order, all Banks are authorized, but not directed, to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business, and to receive, process, honor, and pay any and all checks, drafts, wires, and ACH transfers issued or initiated by or on behalf of the Debtors (to the extent the Debtors have sufficient funds, whether deposited prior to or after the Commencement Date in the requisite Bank Account or otherwise available to cover and permit payment thereof) after the Commencement Date; provided, that any payments drawn, issued, or made prior to the Commencement Date shall not be

honored by the Banks absent receipt of direction from the Debtors and entry of a separate order of the Court authorizing such prepetition payment, subject to paragraph 11 of this ~~Interim~~Final Order.

10. The Banks are authorized, but not directed, to charge and the Debtors are authorized to pay and honor, or allow to be deducted from the applicable Bank Account, both prepetition and postpetition service and other fees, costs, charges, and expenses to which the Banks may be entitled to under the terms of and in accordance with their contractual arrangements with the Debtors (collectively, the “**Bank Fees**”).

11. Each of the Banks is authorized, but not directed, to debit the Bank Accounts in the ordinary course of business without need for further order of this Court for: (a) all checks, items, and other payment orders drawn on the Bank Accounts that are cashed at such Bank’s counters or exchanged for cashier’s checks by the payees thereof prior to the Bank’s receipt of notice of the commencement of these chapter 11 cases; (b) all checks, ACH entries, wire transfers, other electronic transfers, and other items deposited or credited to any of the Bank Accounts prior to the Commencement Date that have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such costs and fees prior to the Commencement Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Banks on account of (i) Bank Fees for the maintenance of the Cash Management System or (ii) repayment for advances made by the Banks on behalf of the Debtors in connection with ACH disbursement transactions.

12. The Banks may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to the Commencement Date should be honored pursuant to this or any other order of this Court, and such

Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for herein, and shall not be liable to any party on account of (a) following the Debtors' representations, instructions, directions, or presentations as to any order of the Court (without any duty of further inquiry); (b) honoring of any prepetition checks, drafts, wires, or ACH payments in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, wire, or ACH payment; or (c) an innocent mistake made despite implementation of reasonable handling procedures.

13. The Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers that the Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Commencement Date but presented to such Bank for payment after the Commencement Date.

14. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, and to replace any prepetition checks or electronic fund transfer requests that may be lost, dishonored, or rejected as a result of the commencement of the Debtors' chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this ~~Interim~~Final Order.

~~15. The Debtors shall have forty five (45) days (or such additional time to which the U.S. Trustee may agree) from the entry of this Interim Order to either comply with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee or approved by the Court, provided, that such extension is without prejudice to the~~

Debtors' right to request a further extension or the waiver of the requirements of section 345(b) of the Bankruptcy Code.

~~16.~~ As soon as practicable after entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Banks.

~~17.~~ Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the "**Final Hearing**").

15. ~~18.~~ Notwithstanding the relief granted in this InterimFinal Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "**DIP Order**"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

16. ~~19.~~ Nothing contained in the Motion or this InterimFinal Order, nor any payment made pursuant to the authority granted by this InterimFinal Order is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim; (e) a waiver of any claims or causes of actions which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or



rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

17. ~~20.~~ Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by any party.

~~21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.~~

18. ~~22.~~ Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

19. ~~23.~~ Notwithstanding Bankruptcy Rule 6004(h), this ~~Interim~~Final Order shall be immediately effective and enforceable upon its entry.

~~24. The Final Hearing shall be held on July 1, 2019, at 2:00 p.m. (prevailing Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.~~

~~25. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided, that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.~~

20. ~~26.~~ The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this ~~Interim~~Final Order.

21. ~~27.~~ The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this ~~Interim~~Final Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT B**  
**(Proposed Order – ECF No. 5)**

**Clean Wages Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
-----X

**FINAL ORDER (I) AUTHORIZING DEBTORS  
TO (A) PAY EMPLOYEE OBLIGATIONS AND (B) CONTINUE  
EMPLOYEE BENEFIT PROGRAMS AND (II) RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 5) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363, 507(a), and 541(b) of the Bankruptcy Code and Bankruptcy Rules 6003(b), 6004(a), 6004(h), and 9013-1(a), for entry of an order (this “**Final Order**”) providing the Debtors authority, but not direction, to pay and honor certain prepetition claims and obligations, continue programs and maintain funding, relating to, among other things: (a) Unpaid Compensation; (b) Wages Taxes; (c) Deductions; (d) Supplemental Workforce Obligations; (e) Employee Expenses; (f) Employee Benefit Programs; (g) the Non-Insider Severance Program and (h) Miscellaneous Incentives solely

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

with respect to non-insider Employees, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the “**Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 54) (the “**Interim Order**”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363, 507(a), and 541(b) of the Bankruptcy Code to pay and honor all prepetition obligations

associated with the Employee Obligations and to continue programs and maintain funding in the ordinary course of business; to the extent requested in the Motion, on account of: (a) Unpaid Compensation; (b) Wages Taxes; (c) Deductions; (d) Contractors; (e) Employee Expenses; (f) Employee Benefit Programs; (g) the Non-Insider Severance Program; and (h) the Miscellaneous Incentives solely with respect to non-insider Employees; *provided*, that payments for Unpaid Compensation earned prepetition by Employees shall not exceed \$13,650 for each individual.

3. The Debtors are further authorized, but not directed, to pay postpetition Board Member Fees, to their independent directors only, in the ordinary course of business.

4. The Debtors are further authorized, but not directed, to modify or discontinue any Employee Benefit Program to reduce or eliminate program expenses or the benefits provided thereunder, at any time and in their sole discretion, subject to applicable non-Bankruptcy law.

5. The Debtors are authorized, but not directed, to pay and honor all prepetition Supplemental Workforce Obligations owed to Contractors and Staffing Firms and to continue to utilize the Contractors and the Staffing Firm Employees in the ordinary course of business; *provided*, that such payments shall not exceed \$13,650 for each individual Contractor or Staffing Firm Employee.

6. The Debtors are authorized, but not directed, to pay any and all processing and administrative fees associated with all costs and expenses incidental to payment of Employee Obligations.

7. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Wages Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

8. Nothing contained in the Motion or this Final Order shall be construed as approving any transfer pursuant to section 503(c) of the Bankruptcy Code, and a separate motion shall be filed for any request that falls within section 503(c) of the Bankruptcy Code. No payment to any employee may be made to the extent that it is a transfer in derogation of section 503(c).

9. Notwithstanding any other provision of this Order and absent further order of the Court, payments to or on behalf of one person on account of prepetition obligations shall be limited by section 507(a)(4) of the Bankruptcy Code and capped at the amount afforded priority by that statutory subsection. Payments shall be made as they become due and shall not be accelerated.

10. Notwithstanding anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

11. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may



exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

12. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

13. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

14. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Wages Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	X	
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In re	:	Chapter 11
	:	
FUSION CONNECT, INC., <i>et al.</i> ,	:	Case No. 19-11811 (SMB)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	⋮	
	:	
	X	

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**INTERIMFINAL ORDER (I) AUTHORIZING DEBTORS  
TO (A) PAY EMPLOYEE OBLIGATIONS AND (B) CONTINUE  
EMPLOYEE BENEFIT PROGRAMS AND (II) RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 5) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363, 507(a), and 541(b) of the Bankruptcy Code and Bankruptcy Rules 6003(b), 6004(a), 6004(h), and 9013-1(a), for entry of an order (this “**InterimFinal Order**”) providing the Debtors authority, but not direction, to pay and honor certain prepetition claims and obligations, continue programs and maintain funding, relating to, among other things: (a) Unpaid Compensation; (b) Wages Taxes; (c) Deductions; (d) Supplemental Workforce Obligations; (e) Employee Expenses; (f) Employee Benefit Programs; (g) the Non-Insider Severance Program and (h) Miscellaneous Incentives solely with

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

respect to non-insider Employees, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019- (the “**Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 54) (the “**Interim Order**”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

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

2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363, 507(a), and 541(b) of the Bankruptcy Code to pay and honor all prepetition obligations associated with the Employee Obligations and to continue programs and maintain funding in the ordinary course of business, to the extent requested in the Motion, on account of: (a) Unpaid Compensation; (b) Wages Taxes; (c) Deductions; (d) Contractors; (e) Employee Expenses; (f) Employee Benefit Programs; (g) the Non-Insider Severance Program; and (h) the Miscellaneous Incentives solely with respect to non-insider Employees; provided, that the Debtors are authorized, but not directed, to pay or honor only amounts or obligations that are or become due and payable between the Commencement Date and the date that a final order on the Motion is entered, unless otherwise ordered by the Court; provided, further, that payments for Unpaid Compensation earned prepetition by Employees shall not exceed \$13,650 for each individual; provided, further, that the payments of prepetition Employee Obligations pursuant to this Interim Order shall not exceed \$3,425,000 in the aggregate; provided, further, that the Debtors' request for authorization to pay Employee Expenses, the Non-Insider Severance Program, and Miscellaneous Incentives shall be deferred to the Final Hearing.

3. The Debtors are further authorized, but not directed, to pay postpetition Board Member Fees, to their independent directors only, in the ordinary course of business.

4. The Debtors are further authorized, but not directed, to modify or discontinue any Employee Benefit Program to reduce or eliminate program expenses or the benefits provided thereunder, at any time and in their sole discretion, subject to applicable non-Bankruptcy law.

5. The Debtors are authorized, but not directed, to pay and honor all prepetition Supplemental Workforce Obligations owed to Contractors and Staffing Firms and to continue to utilize the Contractors and the Staffing Firm Employees in the ordinary course of business; provided, that ~~the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Commencement Date and amounts that are or become due and payable between the Commencement Date and the date that a final order on the Motion is entered, and such payments shall not exceed \$13,650 for each individual Contractor or Staffing Firm Employee.~~

6. The Debtors are authorized, but not directed, to pay any and all processing and administrative fees associated with all costs and expenses incidental to payment of Employee Obligations.

7. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Wages Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

8. Nothing contained in the Motion or this ~~Interim~~Final Order shall be construed as approving any transfer pursuant to section 503(c) of the Bankruptcy Code, and a separate motion shall be filed for any request that falls within section 503(c) of the Bankruptcy Code. No payment to any employee may be made to the extent that it is a transfer in derogation of section 503(c).

9. Notwithstanding any other provision of this Order and absent further order of the Court, payments to or on behalf of one person on account of prepetition obligations ~~in the interim period~~ shall be limited by section 507(a)(4) of the Bankruptcy Code and capped at the amount afforded priority by that statutory subsection. Payments shall be made as they become due and shall not be accelerated ~~prior to the final hearing.~~

~~10. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the "Final Hearing").~~

10. ~~11.~~ Notwithstanding the relief granted in this Interim anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

11. ~~12.~~ Nothing contained in the Motion or this Interim Final Order, nor any payment made pursuant to the authority granted by this Interim Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

12. ~~13.~~ Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

~~14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.~~



13. ~~15.~~ Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

14. ~~16.~~ Notwithstanding Bankruptcy Rule 6004(h), this ~~Interim~~Final Order shall be immediately effective and enforceable upon its entry.

~~17.~~ The Final Hearing shall be held on ~~July 1, 2019, at 2:00 p.m. (prevailing Eastern Time)~~ and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.

~~18.~~ This ~~Interim~~ Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this ~~Interim~~ Order.

15. ~~19.~~ The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this ~~Interim~~Final Order.

16. ~~20.~~ The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this ~~Interim~~Final Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT C**  
**(Proposed Order – ECF No. 6)**

**Clean Insurance Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
----- X  
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**FINAL ORDER (I) AUTHORIZING  
DEBTORS TO (A) CONTINUE TO MAINTAIN  
THEIR INSURANCE POLICIES AND PROGRAMS AND  
SURETY BOND PROGRAM AND (B) HONOR ALL OBLIGATIONS  
WITH RESPECT THERETO AND (II) MODIFYING THE AUTOMATIC  
STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM**

Upon the motion (the "**Motion**")<sup>2</sup> dated June 3, 2019 (ECF No. 6) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), and 363(b) of title 11 of the United States Code (the "**Bankruptcy Code**") for entry of an order (this "**Final Order**") (a) authorizing, but not directing, the Debtors to (i) maintain and renew, in

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

their sole discretion, the Insurance Policies and Programs and the Surety Bond Program, (ii) continue honoring their Insurance and Surety Obligations, including posting any collateral in connection therewith, on a postpetition basis in the ordinary course of business, and (iii) pay accrued and outstanding prepetition amounts due in connection with their Insurance and Surety Obligations; and (b) modifying the automatic stay to the extent necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 10, 2019; and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 71) (the "**Interim Order**"); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objection to the Motion had been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019 (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best

interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, to pay, in the ordinary course of business and not on an accelerated basis, all Insurance Obligations arising under or relating to the Insurance Policies and Programs, including any amounts owing with respect to any new Insurance Policies and Programs, and whether or not such Insurance Policies and Programs are listed on Schedule 1 attached hereto, and regardless of whether such Insurance Obligations accrued or relate to the period before or after the Commencement Date.
3. The Debtors are further authorized, but not directed, to pay, in the ordinary course of business and not on an accelerated basis, all Surety Bond Obligations arising under or relating to the Surety Bond Program, including any amounts owing with respect to any new Surety Bonds, and whether or not such Surety Bonds are listed on Schedule 2 attached hereto, regardless of whether such Surety Bond Obligations accrued or relate to the period before or after the Commencement Date, including honoring and making payments on account of the indemnification obligations arising under the Indemnity Agreements (including providing collateral security), irrespective of whether such indemnification obligations arose prior to or subsequent to the Commencement Date.
4. The Debtors are further authorized, but not directed, to pay, in the ordinary course of business and not on an accelerated basis, all Broker's Fees.
5. The Debtors are further authorized, but not directed, to maintain their

Insurance Policies and Programs and Surety Bond Program in accordance with practices and procedures that were in effect before the Commencement Date, including providing any collateral and/or security in connection therewith in the ordinary course of business.

6. The Debtors are further authorized, but not directed, to revise, extend, supplement or otherwise modify their insurance coverage or Surety Bonds as needed, including without limitation, through the purchase or renewal of new or existing Insurance Policies or Surety Bonds in the ordinary course of business to the extent that the Debtors determine that such action is in the best interest of their estates, after consultation with counsel to the First Lien Ad Hoc Group.

7. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified to the extent necessary to permit the Debtors' employees to proceed with any claims that they may have under the Workers' Compensation Program and for the Debtors to honor and pay such obligations whether or not arising prior to or after the Commencement Date.

8. Notwithstanding anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "**DIP Order**"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

9. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order is intended to be or shall be construed

as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) an agreement or obligation to pay any claims; (d) an admission as to the validity of any liens satisfied pursuant to this Motion; (e) a waiver of the Debtors' or any party in interest's rights to dispute any claim; or (f) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code.

10. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

11. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

12. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Insurance Order**



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:
<b>In re</b>	: <b>Chapter 11</b>
	:
<b>FUSION CONNECT, INC., et al.,</b>	: <b>Case No. 19-11811 (SMB)</b>
	:
<b>Debtors.<sup>1</sup></b>	: <b>(Jointly Administered)</b>
	:
-----	X
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**INTERIMFINAL ORDER (I) AUTHORIZING  
DEBTORS TO (A) CONTINUE TO MAINTAIN  
THEIR INSURANCE POLICIES AND PROGRAMS AND  
SURETY BOND PROGRAM AND (B) HONOR ALL OBLIGATIONS  
WITH RESPECT THERETO AND (II) MODIFYING THE AUTOMATIC  
STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM**

Upon the motion (the "**Motion**")<sup>2</sup> dated June 3, 2019 (ECF No. 6) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), and 363(b) of title 11 of the United States Code (the "**Bankruptcy Code**") for entry of an order (this "**InterimFinal Order**") (a) authorizing, but not directing, the Debtors to (i) maintain and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

renew, in their sole discretion, the Insurance Policies and Programs and the Surety Bond Program, (ii) continue honoring their Insurance and Surety Obligations, including posting any collateral in connection therewith, on a postpetition basis in the ordinary course of business, and (iii) pay accrued and outstanding prepetition amounts due in connection with their Insurance and Surety Obligations; and (b) modifying the automatic stay to the extent necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 10, 2019; and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 71) (the "Interim Order"); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objection to the Motion had been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019 (the "Hearing"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is

~~necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,~~

**IT IS HEREBY ORDERED THAT:**

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

2. The Debtors are authorized, but not directed, to pay, in the ordinary course of business and not on an accelerated basis, all Insurance Obligations arising under or relating to the Insurance Policies and Programs, including any amounts owing with respect to any new Insurance Policies and Programs, and whether or not such Insurance Policies and Programs are listed on Schedule 1 attached hereto, and regardless of whether such Insurance Obligations accrued or relate to the period before or after the Commencement Date.

3. The Debtors are further authorized, but not directed, to pay, in the ordinary course of business and not on an accelerated basis, all Surety Bond Obligations arising under or relating to the Surety Bond Program, including any amounts owing with respect to any new Surety Bonds, and whether or not such Surety Bonds are listed on Schedule 2 attached hereto, regardless of whether such Surety Bond Obligations accrued or relate to the period before or after the Commencement Date, including honoring and making payments on account of the indemnification obligations arising under the Indemnity Agreements (including providing collateral security), irrespective of whether such indemnification obligations arose prior to or subsequent to the Commencement Date.

4. The Debtors are further authorized, but not directed, to pay, in the

ordinary course of business and not on an accelerated basis, all Broker's Fees.

~~5. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the "Final Hearing").~~

~~6. Notwithstanding anything to the contrary in this Interim Order, pending entry of the final order approving the Motion, the Debtors are only authorized to make payments on account of prepetition amounts due on account of the Insurance and Surety Obligations in an amount not to exceed \$23,000.~~

5. ~~7.~~ The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs and Surety Bond Program in accordance with practices and procedures that were in effect before the Commencement Date, including providing any collateral and/or security in connection therewith in the ordinary course of business.

6. ~~8.~~ The Debtors are further authorized, but not directed, to revise, extend, supplement or otherwise modify their insurance coverage or Surety Bonds as needed, including without limitation, through the purchase or renewal of new or existing Insurance Policies or Surety Bonds in the ordinary course of business to the extent that the Debtors determine that such action is in the best interest of their estates, after consultation with counsel to the First Lien Ad Hoc Group.

7. ~~9.~~ Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified to the extent necessary to permit the Debtors' employees to proceed with any claims that they may have under the Workers' Compensation Program and for the Debtors to honor and pay such obligations whether or not arising prior to or after the Commencement Date.

8. ~~10.~~ Notwithstanding the relief granted in this Interim anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

9. ~~11.~~ Nothing contained in the Motion or this ~~Interim~~ Final Order, nor any payment made pursuant to the authority granted by this ~~Interim~~ Final Order is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) an agreement or obligation to pay any claims; (d) an admission as to the validity of any liens satisfied pursuant to this Motion; (e) a waiver of the Debtors' or any party in interest's rights to dispute any claim; or (f) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code.

10. ~~12.~~ Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

~~13.~~ The requirements of Bankruptcy Rule 6003(b) have been satisfied.

11. ~~14.~~ Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

12. ~~15.~~ Notwithstanding Bankruptcy Rule 6004(h), this ~~Interim~~ Final Order shall be immediately effective and enforceable upon its entry.

~~16. The Final Hearing shall be held on July 1, 2019, at 2:00 p.m. (Prevailing Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.~~

~~17. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis, provided that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.~~

~~13.~~ ~~18.~~ The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this ~~Interim~~Final Order.

~~14.~~ ~~19.~~ The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this ~~Interim~~Final Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT D**  
**(Proposed Order – ECF No. 7)**

**Clean Taxes Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
 ---  
 In re : **Chapter 11**  
 :  
 FUSION CONNECT, INC., *et al.*, : **Case No. 19-11811 (SMB)**  
 :  
 Debtors.<sup>1</sup> : **(Jointly Administered)**  
 :  
 ----- X  
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**FINAL ORDER FOR AUTHORIZATION  
TO PAY (I) CERTAIN PREPETITION TAXES AND FEES  
AND (II) FEES OF THIRD PARTY SERVICE PROVIDERS**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 7) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363(b), 507(a), and 541 of title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of an order (the “**Final Order**”) authorizing, but not directing, the Debtors to pay (i) taxes, assessments, fees, and charges incurred by the Debtors in the ordinary course of business (without regard to whether such obligations accrued or arose before or after the Commencement

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.



Date), including any such taxes, assessments, fees, and charges subsequently determined, upon audit or otherwise, to be owed by the Debtors (collectively, the **"Taxes and Fees"**); and (ii) any unpaid amounts owed to Anybill, Inc., Avalara, Inc., Inteserra Consulting Group, Inc., and Ryan LLC (collectively, the **"Third Party Service Providers"**) in the ordinary course of business and consistent with past practice, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held hearings to consider limited relief requested in the Motion on June 4, 2019 and the balance of the interim relief on June 10, 2019; and the Court having entered orders granting the relief requested in the Motion on an interim basis (ECF Nos. 49 and 72) (the **"Interim Orders"**); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objection to the Motion had been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019 (the **"Hearing"**); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their

estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, in the ordinary course of business and not on an accelerated basis, to pay (i) the Taxes and Fees, including all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, regardless of whether such Taxes and Fees accrued or relate to the period before or after the Commencement Date; and (ii) any unpaid amounts owed to the Third Party Service Providers.
3. The Debtors and the Third Party Service Providers are further authorized, but not directed, to continue to allocate and distribute the Taxes and Fees and the Regulatory Fees and Contributions to the appropriate third-party recipients or Authorities in accordance with the Debtors' stated policies and prepetition practices.
4. Notwithstanding anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.
5. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed

as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

6. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

7. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

8. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Taxes Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:	
<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>FUSION CONNECT, INC., et al.,</b>	:	<b>Case No. 19-11811 (SMB)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
	:	
-----	X	
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**INTERIM FINAL ORDER FOR AUTHORIZATION  
TO PAY (I) CERTAIN PREPETITION TAXES AND FEES  
AND (II) FEES OF THIRD PARTY SERVICE PROVIDERS**

Upon the motion (the "**Motion**")<sup>2</sup> dated June 3, 2019 (ECF No. 7) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), 507(a), and 541 of title 11 of the United States Code (the "**Bankruptcy Code**") for entry of an order (the "**Final Order**") authorizing, but not directing, the Debtors to pay (i) taxes, assessments, fees, and charges incurred by the Debtors in the ordinary course of business (without regard to whether such obligations accrued or arose before or after the Commencement

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect; Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC. (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Date), including any such taxes, assessments, fees, and charges subsequently determined, upon audit or otherwise, to be owed by the Debtors (collectively, the “**Taxes and Fees**”); and (ii) any unpaid amounts owed to Anybill, Inc., Avalara, Inc., Inteserra Consulting Group, Inc., and Ryan LLC (collectively, the “**Third Party Service Providers**”) in the ordinary course of business and consistent with past practice, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a ~~hearings~~ to consider limited relief requested in the Motion on June 4, 2019 and the balance of the interim relief on June 10, 2019; and the Court having entered orders granting the relief requested in the Motion on an interim basis on June 10 (ECF Nos. 49 and 72) (the “Interim Orders”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objection to the Motion had been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019 (the “Hearing”); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy

Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

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

2. The Debtors are authorized, but not directed, in the ordinary course of business and not on an accelerated basis, to pay (i) the Taxes and Fees, including all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, regardless of whether such Taxes and Fees accrued or relate to the period before or after the Commencement Date; and (ii) any unpaid amounts owed to the Third Party Service Providers.

3. The Debtors and the Third Party Service Providers are further authorized, but not directed, to continue to allocate and distribute the Taxes and Fees and the Regulatory Fees and Contributions to the appropriate third-party recipients or Authorities in accordance with the Debtors' stated policies and prepetition practices.

~~4. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the final hearing to consider entry of an order granting the relief requested in the Motion (the "Final Hearing").~~

~~4.~~ 5. Notwithstanding the relief granted in this Interim anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the

Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

5. ~~6.~~ Nothing contained in the Motion or this ~~Interim~~Final Order, nor any payment made pursuant to the authority granted by this ~~Interim~~Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

6. ~~7.~~ Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

~~8. The requirements of Bankruptcy Rule 6003(b) have been satisfied.~~

7. ~~9.~~ Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

8. ~~10.~~ Notwithstanding Bankruptcy Rule 6004(h), this ~~Interim~~Final Order shall be immediately effective and enforceable upon its entry.

~~11. The Final Hearing shall be held on July 1, 2019, at 2:00 p.m. (Prevailing Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.~~



~~12. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.~~

9. ~~13.~~ The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this ~~Interim~~Final Order.

10. ~~14.~~ The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this ~~Interim~~Final Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT E**  
**(Proposed Order – ECF No. 11)**

**Clean Critical Vendors Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
: **Chapter 11.**  
: **Case No. 19-11811 (SMB)**  
: **(Jointly Administered)**  
: **Debtors.<sup>1</sup>**  
: **(Jointly Administered)**  
-----X

**FINAL ORDER (I) AUTHORIZING DEBTORS TO PAY  
CERTAIN PREPETITION OBLIGATIONS TO CRITICAL VENDORS,  
LIEN CLAIMANTS, AND FOREIGN CREDITORS, (II) APPROVING  
RELATED PROCEDURES, (III) CONFIRMING ADMINISTRATIVE  
EXPENSE PRIORITY STATUS OF CERTAIN GOODS DELIVERED AND  
SERVICES PROVIDED POSTPETITION, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 12) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363(b) and 503(b)(9) of title 11 of the United States Code (the “**Bankruptcy Code**”) for an order (this “**Final Order**”) authorizing, but not directing, the Debtors to (a) (i) pay up to \$13.7 million on an interim basis (the “**Interim Critical Vendor Cap**”) and up to \$20.5 million on a final basis (the “**Final Critical Vendor Cap**”, together with the Interim Critical Vendor Cap, the “**Critical Vendor Caps**”), in prepetition claims of certain vendors, suppliers, service providers, and other

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

similar entities that the Debtors determine, in their sole discretion and based on their sound business judgment, are essential to their ongoing business operations and maximizing the value of the their enterprise (the “**Critical Vendors**” whose prepetition claims shall be defined as the “**Critical Vendor Claims**”), subject to the procedures and conditions described in the Motion;

(ii) pay up to \$500,000 on an interim basis and up to \$600,000 on a final basis the prepetition charges to Lien Claimants; (iii) pay up to \$400,000 on an interim basis and up to \$800,000 on a final basis the prepetition claims of certain Foreign Creditors; (b) implement (i) the Critical Vendor Payment Protocol, as modified by this Order, (ii) the form of Critical Vendor Notice, substantially in the form attached to the Motion as **Exhibit B**, as modified by this Order; (iii) the form of Vendor Agreement, substantially in the form attached to the Critical Vendor Notice as **Schedule 1**, as modified by this Order, (iv) the Repudiating Vendor Procedures, (v) the Form of Notice of Repudiating Vendor, substantially in the form attached to the Motion as **Exhibit C**, and (vi) the Form of Order to Show Cause, substantially in the form attached to the Motion as **Exhibit D**; (c) confirm the administrative expense priority status of the undisputed obligations of the Debtors arising under the Prepetition Purchase Orders and pay such obligations in the ordinary course of business; and (d) implement related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court

having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the “**Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 55) (the “**Interim Order**”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to pay Critical Vendor Claims in accordance with the Critical Vendor Payment Protocol up to the Final Critical Vendor Cap, upon such terms and in the manner provided in this Final Order and the Motion.
3. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to make payments to Lien Claimants, including Shippers, Warehousemen, and Other Lien Claimants upon such terms and in the manner provided in this Final Order and the Motion; provided that the amount paid with respect to prepetition claims of Lien Claimants shall not exceed, in the aggregate, \$600,000.

4. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to pay some or all of the Foreign Claims upon such terms and in the manner provided in this Final Order and the Motion; provided that the amount paid with respect to Foreign Claims shall not exceed, in the aggregate, \$800,000.

5. The Critical Vendor Payment Protocol, the Critical Vendor Notice, the form of Vendor Agreement, the Repudiating Vendor Procedures, the Form of Notice of Repudiating Vendor, and the Form of Order to Show Cause are each approved.

6. Unless otherwise approved by the Court, the Debtors shall condition payment of Critical Vendor Claims pursuant to this Final Order upon the execution of a Vendor Agreement, substantially in the form attached to the Critical Vendor Notice as Schedule 1. A Vendor Agreement, once agreed to and accepted by a Critical Vendor, shall be the legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein; provided that the Debtors may agree to implement such immaterial modifications to the form of Vendor Agreement the Debtors deem necessary or advisable in the reasonable exercise of their business judgment to obtain Customary Trade Terms (defined below) from the applicable Critical Vendor.

7. Any party who accepts payment from the Debtors of a Critical Vendor Claim shall take all actions necessary to remove any Trade Liens on the Debtors' assets such party may have based upon such Critical Vendor Claim at such party's sole expense.

8. Any party who accepts payment from the Debtors of a Critical Vendor Claim shall be deemed to have agreed to the terms and provisions of this Final Order and shall be deemed to have waived, to the extent so paid, any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates, their directors, officers and

employees up to the amount paid.

9. If (a) a Critical Vendor breaches the terms or conditions of a Vendor Agreement or (b) regardless of whether a Vendor Agreement has been executed, a Critical Vendor accepts payment from the Debtors of a Critical Vendor Claim and does not continue supplying goods or services to the Debtors on trade terms at least as favorable to the Debtors as those terms governing the Debtors' practices and programs (including, without limitation, credit limits, pricing, cash discounts, timing of payments, allowances, coupon reconciliation, product mix, availability, processing of vendor receivables, such as rebates and volume credits, and other programs) within the 360 days prior to the Commencement Date, or such other trade terms that are acceptable to the Debtors in their sole discretion (collectively, the "**Customary Trade Terms**"), the Debtors may, in their discretion, (x) declare that the payment of the Critical Vendor Claim is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Critical Vendor (including, with the consent of the DIP Agent (acting at the direction of the requisite DIP Lenders), including by setoff against postpetition obligations), (y) declare that the Critical Vendor shall immediately return the payment of its Critical Vendor Claim to the Debtors without giving effect to any alleged setoff rights, recoupment rights, adjustments, or other offsets of any type whatsoever, and the Critical Vendor Claim shall be reinstated to such amount as so to restore the Debtors and the Critical Vendor to their original positions as if the Vendor Agreement had never been entered into and no payment of the Critical Vendor Claim had been made, and (z) if there exists an outstanding postpetition balance due from the Debtors to such Critical Vendor, with the consent of the DIP Agent (acting at the direction of the requisite DIP Lenders), recharacterize and apply any payment made pursuant to the relief requested in the Motion to such outstanding postpetition

balance and such Critical Vendor shall be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

10. If a Critical Vendor breaches the terms or conditions of its Vendor Agreement, the Debtors may, in their discretion, declare that such Vendor Agreement has terminated; provided that the Vendor Agreement may be reinstated if:

- a. after notice and a hearing (following a motion filed by the respective Critical Vendor), the Bankruptcy Court reverses the Debtors' decision to terminate the Vendor Agreement for good cause shown;
- b. the Critical Vendor fully cures the underlying default of the Vendor Agreement within five (5) business days from the date of receipt of notice of termination of the Vendor Agreement; or
- c. the Debtors, in their sole discretion, reach a commercially acceptable agreement with the breaching party.

11. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their sole discretion, the extent, perfection, priority, validity, or amounts of any claims or liens held by any Critical Vendor and the Debtors' rights to contest the extent, validity, or perfection or seek the avoidance of all such liens or the priority of such claims are fully preserved.

12. The Debtors shall maintain a "**Critical Vendor Matrix**" summarizing (a) the name of each vendor requesting Critical Vendor status, (b) the amount and timing of any Critical Vendor payment, (c) the amount of the Critical Vendor's claim satisfied by the Critical Vendor payment, including any amount entitled to priority under section 503(b)(9) of the Bankruptcy Code, and (d) a summary of the material payment terms. For the first sixty (60) days after entry of this Final Order, the Critical Vendor Matrix will be provided on a weekly basis, and, thereafter, on a monthly basis, to (x) the U.S. Trustee, (y) the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases and (z) advisors to



the First Lien Ad Hoc Group; provided that the professionals for any such committee shall keep the Critical Vendor Matrix confidential and shall not disclose any of the information in the matrix to anyone, including but not limited to, any member of any statutory committee of creditors, without prior written consent of the Debtors.

13. If a Repudiating Vendor refuses to perform its postpetition obligations pursuant to an executory contract with one or more of the Debtors, the Debtors are authorized, but not directed, to pay such claim provisionally in consultation with the advisors to the DIP Lenders (as defined in the *Interim Order (I) Authorizing the Debtors To (A) Obtain Postpetition Financing, (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection To the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling A Final Hearing, and (VI) Granting Related Relief* (and such payment shall not count against the Critical Vendor Caps). For the avoidance of doubt, the DIP Lenders reserve the right to dispute, before the Court, any payment to a Repudiating Vendor.

14. Regardless of whether a payment has been made, if a Repudiating Vendor refuses to perform its postpetition obligations pursuant to an executory contract with one or more of the Debtors, the Debtors may (a) file a Notice of Repudiating Vendor setting forth (i) the name of the Repudiating Vendor, (ii) the identity of the agreement governing the Debtors' relationship with the Repudiating Vendor, (iii) the Debtors' belief that the Repudiating Vendor is in violation of the Bankruptcy Code, and (iv) the amount(s) and date(s) of any prepetition amounts paid; and (b) seek entry of an Order to Show Cause requiring the Repudiating Vendor to show why it should not be found to have willfully violated sections 362 and 365 of the Bankruptcy Code and why it should not be required to return any payments made to it by the

Debtors, plus any accumulated interest.

15. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code, subject to the superpriority claims and adequate protection claims granted under the DIP Order (as defined below).

16. Pursuant to section 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment by Vendors of goods or provision of services under Prepetition Purchase Orders consistent with their customary practice.

17. Notwithstanding the relief granted in this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

18. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of

action which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

19. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

20. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

21. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

22. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Critical Vendors Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
----- X  
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**INTERIMFINAL ORDER (I) AUTHORIZING DEBTORS TO PAY  
CERTAIN PREPETITION OBLIGATIONS TO CRITICAL VENDORS,  
LIEN CLAIMANTS, AND FOREIGN CREDITORS, (II) APPROVING  
RELATED PROCEDURES, (III) CONFIRMING ADMINISTRATIVE  
EXPENSE PRIORITY STATUS OF CERTAIN GOODS DELIVERED AND  
SERVICES PROVIDED POSTPETITION, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "**Motion**")<sup>2</sup> dated June 3, 2019 (ECF No. 12) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b) and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") for an order (this "**InterimFinal Order**") authorizing, but not directing, the Debtors to (a) (i) pay up to \$13.7

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

million on an interim basis (the “**Interim Critical Vendor Cap**”) and up to \$20.5 million on a final basis (the “**Final Critical Vendor Cap**”, together with the Interim Critical Vendor Cap, the “**Critical Vendor Caps**”), in prepetition claims of certain vendors, suppliers, service providers, and other similar entities that the Debtors determine, in their sole discretion and based on their sound business judgment, are essential to their ongoing business operations and maximizing the value of their enterprise (the “**Critical Vendors**” whose prepetition claims shall be defined as the “**Critical Vendor Claims**”), subject to the procedures and conditions described in the Motion; (ii) pay up to \$500,000 on an interim basis and up to \$600,000 on a final basis the prepetition charges to Lien Claimants; (iii) pay up to \$400,000 on an interim basis and up to \$800,000 on a final basis the prepetition claims of certain Foreign Creditors; (b) implement (i) the Critical Vendor Payment Protocol, as modified by this Order, (ii) the form of Critical Vendor Notice, substantially in the form attached to the Motion as **Exhibit B**, as modified by this Order, (iii) the form of Vendor Agreement, substantially in the form attached to the Critical Vendor Notice as **Schedule 1**, as modified by this Order, (iv) the Repudiating Vendor Procedures, (v) the Form of Notice of Repudiating Vendor, substantially in the form attached to the Motion as **Exhibit C**, and (vi) the Form of Order to Show Cause, substantially in the form attached to the Motion as **Exhibit D**; (c) confirm the administrative expense priority status of the undisputed obligations of the Debtors arising under the Prepetition Purchase Orders and pay such obligations in the ordinary course of business; and (d) implement related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being

proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the "**Hearing**"); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 55) (the "**Interim Order**"); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on an ~~interim~~ final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to pay Critical Vendor Claims in accordance with the Critical Vendor Payment Protocol up to the ~~Interim~~ Final Critical Vendor Cap, upon such terms and in the manner provided in this ~~Interim~~ Final Order and the Motion.

3. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to make payments to Lien Claimants, including Shippers, Warehousemen, and Other Lien Claimants upon such terms and in the manner provided in this ~~Interim~~Final Order and the Motion; provided that ~~prior to the Final Hearing (as defined below)~~ the amount paid with respect to prepetition claims of Lien Claimants shall not exceed, in the aggregate, \$~~5~~600,000.

4. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b) and 503(b)(9) of the Bankruptcy Code, to pay some or all of the Foreign Claims upon such terms and in the manner provided in this ~~Interim~~Final Order and the Motion; provided that ~~prior to the Final Hearing~~ the amount paid with respect to Foreign Claims shall not exceed, in the aggregate, \$~~4~~800,000.

5. The Critical Vendor Payment Protocol, the Critical Vendor Notice, the form of Vendor Agreement, the Repudiating Vendor Procedures, the Form of Notice of Repudiating Vendor, and the Form of Order to Show Cause are each approved.

6. Unless otherwise approved by the Court, the Debtors shall condition payment of Critical Vendor Claims pursuant to this ~~Interim~~Final Order upon the execution of a Vendor Agreement, substantially in the form attached to the Critical Vendor Notice as **Schedule 1**. A Vendor Agreement, once agreed to and accepted by a Critical Vendor, shall be the legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein; provided that the Debtors may agree to implement such immaterial modifications to the form of Vendor Agreement the Debtors deem necessary or advisable in the reasonable exercise of their business judgment to obtain Customary Trade Terms (defined below) from the applicable Critical Vendor.



7. Any party who accepts payment from the Debtors of a Critical Vendor Claim shall take all actions necessary to remove any Trade Liens on the Debtors' assets such party may have based upon such Critical Vendor Claim at such party's sole expense.

8. Any party who accepts payment from the Debtors of a Critical Vendor Claim shall be deemed to have agreed to the terms and provisions of this ~~Interim~~Final Order and shall be deemed to have waived, to the extent so paid, any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates, their directors, officers and employees up to the amount paid.

9. If (a) a Critical Vendor breaches the terms or conditions of a Vendor Agreement or (b) regardless of whether a Vendor Agreement has been executed, a Critical Vendor accepts payment from the Debtors of a Critical Vendor Claim and does not continue supplying goods or services to the Debtors on trade terms at least as favorable to the Debtors as those terms governing the Debtors' practices and programs (including, without limitation, credit limits, pricing, cash discounts, timing of payments, allowances, coupon reconciliation, product mix, availability, processing of vendor receivables, such as rebates and volume credits, and other programs) within the 360 days prior to the Commencement Date, or such other trade terms that are acceptable to the Debtors in their sole discretion (collectively, the "**Customary Trade Terms**"), the Debtors may, in their discretion, (x) declare that the payment of the Critical Vendor Claim is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Critical Vendor (including, with the consent of the DIP Agent (acting at the direction of the requisite DIP Lenders), including by setoff against postpetition obligations), (y) declare that the Critical Vendor shall immediately return the payment of its Critical Vendor Claim to the Debtors without giving effect to any

alleged setoff rights, recoupment rights, adjustments, or other offsets of any type whatsoever, and the Critical Vendor Claim shall be reinstated to such amount as so to restore the Debtors and the Critical Vendor to their original positions as if the Vendor Agreement had never been entered into and no payment of the Critical Vendor Claim had been made, and (z) if there exists an outstanding postpetition balance due from the Debtors to such Critical Vendor, with the consent of the DIP Agent (acting at the direction of the requisite DIP Lenders), recharacterize and apply any payment made pursuant to the relief requested in the Motion to such outstanding postpetition balance and such Critical Vendor shall be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise.

10. If a Critical Vendor breaches the terms or conditions of its Vendor Agreement, the Debtors may, in their discretion, declare that such Vendor Agreement has terminated; provided that the Vendor Agreement may be reinstated if:

- a. after notice and a hearing (following a motion filed by the respective Critical Vendor), the Bankruptcy Court reverses the Debtors' decision to terminate the Vendor Agreement for good cause shown;
- b. the Critical Vendor fully cures the underlying default of the Vendor Agreement within five (5) business days from the date of receipt of notice of termination of the Vendor Agreement; or
- c. the Debtors, in their sole discretion, reach a commercially acceptable agreement with the breaching party.

11. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their sole discretion, the extent, perfection, priority, validity, or amounts of any claims or liens held by any Critical Vendor and the Debtors' rights to contest the extent, validity, or perfection or seek the avoidance of all such liens or the priority of such claims are fully preserved.

12. The Debtors shall maintain a “Critical Vendor Matrix” summarizing (a) the name of each vendor requesting Critical Vendor status, (b) the amount and timing of any Critical Vendor payment, (c) the amount of the Critical Vendor’s claim satisfied by the Critical Vendor payment, including any amount entitled to priority under section 503(b)(9) of the Bankruptcy Code, and (d) a summary of the material payment terms. For the first sixty (60) days after entry of this ~~Interim~~ Final Order, the Critical Vendor Matrix will be provided on a weekly basis, and, thereafter, on a monthly basis, to (x) the U.S. Trustee, (y) the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases and (z) advisors to the First Lien Ad Hoc Group; provided that the professionals for any such committee shall keep the Critical Vendor Matrix confidential and shall not disclose any of the information in the matrix to anyone, including but not limited to, any member of any statutory committee of creditors, without prior written consent of the Debtors.

13. If a Repudiating Vendor refuses to perform its postpetition obligations pursuant to an executory contract with one or more of the Debtors, the Debtors are authorized, but not directed, to pay such claim provisionally in consultation with the advisors to the DIP Lenders (as defined in the *Interim Order (I) Authorizing the Debtors To (A) Obtain Postpetition Financing, (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection To the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling A Final Hearing, and (VI) Granting Related Relief* (and such payment shall not count against the Critical Vendor Caps). For the avoidance of doubt, the DIP Lenders reserve the right to dispute, before the Court, any payment to a Repudiating Vendor.

14. Regardless of whether a payment has been made, if a Repudiating Vendor

refuses to perform its postpetition obligations pursuant to an executory contract with one or more of the Debtors, the Debtors may (a) file a Notice of Repudiating Vendor setting forth (i) the name of the Repudiating Vendor, (ii) the identity of the agreement governing the Debtors' relationship with the Repudiating Vendor, (iii) the Debtors' belief that the Repudiating Vendor is in violation of the Bankruptcy Code, and (iv) the amount(s) and date(s) of any prepetition amounts paid; and (b) seek entry of an Order to Show Cause requiring the Repudiating Vendor to show why it should not be found to have willfully violated sections 362 and 365 of the Bankruptcy Code and why it should not be required to return any payments made to it by the Debtors, plus any accumulated interest.

15. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code, subject to the superpriority claims and adequate protection claims granted under the DIP Order (as defined below).

16. Pursuant to section 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment by Vendors of goods or provision of services under Prepetition Purchase Orders consistent with their customary practice.

~~17. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtors to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the "Final Hearing").~~

17. ~~18.~~ Notwithstanding the relief granted in this ~~Interim~~ Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to

and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

~~18.~~ ~~19.~~ Nothing contained in the Motion or this ~~Interim~~Final Order, nor any payment made pursuant to the authority granted by this ~~Interim~~Final Order, is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) an admission as to the validity of any liens satisfied pursuant to this Motion; (d) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

~~19.~~ ~~20.~~ Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

~~21.~~ The requirements of Bankruptcy Rule 6003(b) have been satisfied.

~~20.~~ ~~22.~~ Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

~~21.~~ ~~23.~~ Notwithstanding Bankruptcy Rule 6004(h), this ~~Interim~~Final Order shall be immediately effective and enforceable upon its entry.

~~24.~~ The Final Hearing shall be held on ~~July 1, 2019, at 2:00 p.m. (prevailing~~

~~Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the Case Management Order.~~

~~25. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.~~

~~22. 26. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Interim~~Final ~~Order.~~

~~23. 27. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim~~Final ~~Order.~~

Dated: \_\_\_\_\_, 2019  
New York, New York

THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT F**

**(Proposed Order – ECF No. 12)**

**Clean Customer Programs Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
: **Chapter 11**  
: **Case No. 19-11811 (SMB)**  
: **(Jointly Administered)**  
: **Debtors.<sup>1</sup>**  
-----X

**FINAL ORDER AUTHORIZING  
THE DEBTORS TO MAINTAIN AND ADMINISTER  
THEIR EXISTING CUSTOMER PROGRAMS AND HONOR  
CERTAIN PREPETITION OBLIGATIONS RELATED THERETO**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 12) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of an order (this “**Final Order**”) authorizing, but not directing, the Debtors to (a) maintain and administer the Customer Programs, including the Channel Partner Relationships and (b) honor certain prepetition obligations related thereto, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska,

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.



C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the "**Hearing**"); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 51) (the "**Interim Order**"); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis to the extent set forth herein.
2. The Debtors are authorized, but not directed, to continue to administer the Customer Programs in effect, including the Promotional Programs, the Subsidy Programs and their Channel Partner Relationships, and to pay and honor any prepetition Customer Program Obligations with respect to current customers (including prepetition obligations that arise under the Channel Partner Agreements), in each case, in the ordinary course of business in accordance

with practices and procedures that were in effect before the Commencement Date. For the avoidance of doubt, the Debtors are not authorized to satisfy any obligations due to former customers on account of the Prorated Refunds.

3. The Debtors are authorized, but not directed, to continue the Promotional Programs, Subsidy Programs and Channel Partner Relationships on a postpetition basis with respect to current customers in the ordinary course of business and consistent with their prepetition practices, including the continuation, renewal, and replacement of any of the Customer Programs, on a final basis; provided that the Debtors shall consult with counsel to the First Lien Ad Hoc Group before materially modifying, replacing, terminating or renewing any Customer Programs.

4. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim; or (d) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code.

5. Notwithstanding anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

6. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

7. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

8. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Customer Programs Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
-  
In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
----- X  
-

**INTERIM FINAL ORDER AUTHORIZING  
THE DEBTORS TO MAINTAIN AND ADMINISTER  
THEIR EXISTING CUSTOMER PROGRAMS AND HONOR  
CERTAIN PREPETITION OBLIGATIONS RELATED THERETO**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 3, 2019 (ECF No. 12) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) for entry of an order (this “**Interim Final Order**”) authorizing, but not directing, the Debtors to (a) maintain and administer the Customer Programs, including the Channel Partner Relationships and (b) honor certain prepetition obligations related thereto, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis on June 4, 2019 (the “**Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (ECF No. 51) (the “Interim Order”); and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on a final basis on July 1, 2019; and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

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

2. ~~1.~~ The Debtors are authorized, but not directed, to continue to administer the Customer Programs in effect, including the Promotional Programs, the Subsidy Programs and their Channel Partner Relationships, and to pay and honor any prepetition Customer Program Obligations with respect to current customers (including prepetition obligations that arise under the Channel Partner Agreements), in each case, in the ordinary course of business in accordance with practices and procedures that were in effect before the Commencement Date. For the avoidance of doubt, the Debtors are not authorized to satisfy any obligations due to former customers on account of the Prorated Refunds.

3. ~~2.~~ The Debtors are authorized, but not directed, to continue the Promotional Programs, Subsidy Programs and Channel Partner Relationships on a postpetition basis with respect to current customers in the ordinary course of business and consistent with their prepetition practices, including the continuation, renewal, and replacement of any of the Customer Programs, on an ~~interim~~ final basis; provided that the Debtors shall consult with counsel to the First Lien Ad Hoc Group before materially modifying, replacing, terminating or renewing any Customer Programs.

4. ~~3.~~ Nothing contained in the Motion or this ~~Interim~~ Final Order, nor any payment made pursuant to the authority granted by this ~~Interim~~ Final Order is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) an agreement or obligation to pay any claims; (c) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim; or (d) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code.

5. ~~4.~~ Notwithstanding the relief granted in this Interim anything contained in the Motion or this Final Order, any payment to be made by the Debtors pursuant to the authority

granted herein shall be subject to and in compliance with the terms and conditions contained in any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

~~6. Except as otherwise set forth herein, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.~~

~~6. The requirements of Bankruptcy Rule 6003(b) have been satisfied.~~

~~7. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).~~

~~8. Notwithstanding Bankruptcy Rule 6004(h), this Interim Final Order shall be immediately effective and enforceable upon its entry.~~

~~9. The Final Hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on \_\_\_\_\_, 2019, at \_\_\_\_\_ (Prevailing Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with the *Order Implementing Certain Notice and Case Management Procedures*.~~

~~10. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.~~

~~11. This Interim Order is effective only from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition~~



of the Motion on a final basis shall not impair or otherwise affect any reasonable action taken pursuant to this Interim Order.

9. ~~12.~~ The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this ~~Interim~~Final Order.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT G**  
**(Proposed Order – ECF No. 82)**

**Clean Interim Compensation Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re : Chapter 11  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
Debtors.<sup>1</sup> : (Jointly Administered)  
-----X

**ORDER ESTABLISHING PROCEDURES FOR INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 330, and 331 of the United States Code (the “**Bankruptcy Code**”), Rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for an order establishing the Interim Compensation Procedures for professionals whose services are authorized by this Court pursuant to sections 327, 328, or 1103 of the Bankruptcy Code and who will be required to file applications for allowance of compensation and reimbursement of expenses pursuant to sections 328, 330, and 331 of the Bankruptcy Code and Bankruptcy Rule 2016(a), all as more fully set forth in the Motion; and the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the Amended Standing Order of Reference M-431; dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties, such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on July 1, 2019; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief granted herein is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted to the extent set forth herein.
2. Except as may otherwise be provided by orders of this Court authorizing the retention of specific professionals, all Retained Professionals may seek monthly and interim compensation and reimbursement of expenses, and members of any statutory committee of creditors may seek interim reimbursement of expenses (excluding legal fees), in accordance with the following Interim Compensation Procedures:

**A. Monthly Statements**

- (i) On or before the **thirtieth (30th) day** of each month following the month for which compensation is sought, or as soon thereafter as is practicable, each Retained Professional seeking compensation shall serve a monthly statement (each

a **"Monthly Fee Statement"**), by hand or overnight delivery, on the following parties (collectively, the **"Fee Notice Parties"**):

- (a) the Debtors c/o Fusion Connect Inc., 420 Lexington Avenue, Suite 1718, New York, New York 10170 (Attn: James Prenetta, Jr., Executive Vice President General Counsel);
- (b) the proposed attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Sunny Singh, Esq., and Gaby Smith, Esq.);
- (c) the U.S. Trustee, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Richard Morrissey, Esq. and Susan Arbeit, Esq.);
- (d) counsel for the statutory committee of unsecured creditors appointed in these chapter 11 cases (the **"UCC"**), Cooley LLP, 55 Hudson Yards, New York, NY 10001, (Attn: Sarah Carnes, Esq.);
- (e) counsel to the Ad Hoc Group of First Lien Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York, 10017, (Attn: Damian Schaible, Esq. and Adam Shpeen, Esq.);

(ii) All professionals not retained as of the Commencement Date shall file their first Monthly Fee Statement for the period from the effective date of their retention through the end of the first full month following the effective date of their retention and otherwise in accordance with the procedures set forth in this Order.

(iii) A courtesy copy of Monthly Fee Statements need not be delivered to the Judge's chambers. This Order does not alter the fee application requirements outlined in sections 330 and 331 of the Bankruptcy Code. Retained Professionals are still required to serve and file interim and final applications for approval of fees and expenses in accordance with the relevant provisions of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules.

(iv) Except as otherwise ordered by the Court, each Monthly Fee Statement must contain a list of the individuals – and their respective titles (*e.g.*, attorney, accountant, or paralegal) – who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual, a reasonably detailed breakdown of the disbursements incurred (no professional should seek reimbursement of an expense that would otherwise not be allowed pursuant to the Court's *Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases*, dated June 17, 2013, or the *U.S. Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (collectively, the **"Fee Guidelines"**)), and contemporaneously maintained time entries for each individual in increments of **tenths (1/10) of an hour**.

- (v) If any party in interest has an objection to the compensation or reimbursement sought in a particular Monthly Fee Statement (an “**Objection**”), such party shall, by no later than the later of (a) the thirty-fifth (35th) day following the month for which compensation is sought and (b) the fifteenth (15th) day following the filing of the Monthly Fee Statement (such applicable date, the “**Objection Deadline**”), file with the Court and serve upon the Retained Professional whose Monthly Fee Statement is objected to, and the other persons designated to receive statements in paragraph (i), a written “**Notice Of Objection To Fee Statement**,” setting forth the nature of the Objection and the amount of fees or expenses at issue.
- (vi) At the expiration of the Objection Deadline, the Debtors shall promptly pay eighty percent (80%) of the fees and one hundred percent (100%) of the expenses identified in each Monthly Fee Statement to which no Objection has been served in accordance with paragraph (iv) above.<sup>3</sup>
- (vii) If an Objection is filed, the Debtors shall withhold payment of that portion of the Monthly Fee Statement to which the Objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in paragraph (v).
- (viii) If the parties to an objection are able to resolve their dispute following the filing of an Objection and if the party whose Monthly Fee Statement was objected to files a statement indicating that the Objection is withdrawn and describing the terms of the resolution, then the Debtors shall promptly pay, in accordance with paragraph (v) above, that portion of the Monthly Fee Statement which is no longer subject to an Objection.
- (ix) All Objections that are not resolved by the parties shall be preserved and presented to the Court at the next interim or final fee application hearing to be heard by the Court.
- (x) The service of an Objection in accordance with paragraph (iv) above shall not prejudice the objecting party’s right to object to any fee application made to the Court in accordance with the Bankruptcy Code on any ground, whether raised in the Objection or not. Furthermore, the decision by any party not to object to a Monthly Fee Statement shall not be a waiver of any kind or prejudice that party’s right to object to any fee application subsequently made to the Court in accordance with the Bankruptcy Code.

**B. Interim Fee Applications**

- (i) Commencing with the period ending September 30, 2019 and at four-month intervals thereafter (the “**Interim Fee Period**”), each of the Retained Professionals shall serve and file with the Court an application (an “**Interim Fee Application**”)

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<sup>3</sup> The remaining twenty percent (20%) of the fees for each Monthly Statement shall be withheld from payment under further order of the Court.

for interim or final Court approval and allowance, pursuant to sections 330 and 331 of the Bankruptcy Code (as the case may be), of the compensation and reimbursement of expenses requested. Each Retained Professional shall file its Interim Fee Application no later than **forty-five (45) days** after the end of the Interim Fee Period. Each Retained Professional shall file its first Interim Fee Application on or before November 15, 2019 and the first Interim Fee Application shall cover the Interim Fee Period from the Commencement Date through and including September 30, 2019.

- (ii) The Debtors' attorneys shall obtain a date from the Court for the hearing to consider Interim Fee Applications for all Retained Professionals (the "**Interim Fee Hearing**"). At least **thirty (30) days** prior to the Interim Fee Hearing, the Debtors' attorneys shall file a notice with the Court, with service upon the U.S. Trustee and all Retained Professionals, setting forth the time, date, and location of the Interim Fee Hearing, the period covered by the Interim Fee Applications, and the Objection Deadline. Any Retained Professional unable to file its own Interim Fee Application with the Court shall deliver to the Debtors' attorneys a fully executed copy with original signatures, along with service copies, three (3) business days before the filing deadline. The Debtors' attorneys shall file and serve such Interim Fee Application.
- (iii) Any Retained Professional who fails to file an Interim Fee Application seeking approval of compensation and expenses previously paid under this Order when due shall (a) be ineligible to receive further monthly payments of fees or expenses as provided herein until further order of the Court, and (b) may be required to disgorge any fees paid since retention or the last fee application, whichever is later.
- (iv) The pendency of an Interim Fee Application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Fee Statement shall not disqualify a Retained Professional from the future payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court.
- (v) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any Retained Professionals.
- (vi) Counsel for the UCC may, in accordance with the Interim Compensation Procedures, collect and submit statements of expenses, with supporting vouchers, from members of such committee; provided, that such reimbursement requests must comply with the Fee Guidelines.

3. Each Retained Professional may seek, in its first request for compensation and reimbursement of expenses pursuant to this Order, compensation for work performed and

reimbursement for expenses incurred during the period beginning on the date of the professional's retention and ending on September 30, 2019.

4. The amount of fees and disbursements sought shall be set out in U.S. dollars (if the fees and disbursements are to be paid in foreign currency, the amount shall be set out in U.S. dollars and the conversion amount in the foreign currency, calculated at the time of the submission of the application).

5. The Debtors shall include all payments to Retained Professionals on their monthly operating reports, detailed so as to state the amount paid to each Retained Professional.

6. Any party may object to requests for payments made pursuant to this Order on the grounds that the Debtors have not timely filed monthly operating reports, remained current with their administrative expenses and 28 U.S.C. § 1930 fees, or a manifest exigency exists by seeking a further order of this Court; otherwise, this Order shall continue and shall remain in effect during the pendency of this case.

7. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. The Debtors shall serve a copy of this Order on each of the Retained Professionals.

9. Notice of hearings to consider Interim Fee Applications and final fee applications shall be limited to the Fee Notice Parties and any party who files a notice of appearance and requests notice of these chapter 11 cases.

10. Notwithstanding the relief granted in this Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-



possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

11. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Order.

12. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Date: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Interim Compensation Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	: Chapter 11
FUSION CONNECT, INC., et al.,	: Case No. 19-11811 (SMB)
Debtors. <sup>1</sup>	: (Jointly Administered)
-----X	

**ORDER ESTABLISHING PROCEDURES FOR INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 330, and 331 of the United States Code (the “**Bankruptcy Code**”), Rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for an order establishing the Interim Compensation Procedures for professionals whose services are authorized by this Court pursuant to sections 327, 328, or 1103 of the Bankruptcy Code and who will be required to file applications for allowance of compensation and reimbursement of expenses pursuant to sections 328, 330, and 331 of the Bankruptcy Code and Bankruptcy Rule 2016(a), all as more fully set forth in the Motion; and the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties, such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and the Court having held a hearing to consider having been held for the relief requested in the Motion (the "Hearing"); and upon the record of the Hearing on July 1, 2019; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief granted herein is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted to the extent set forth herein.
2. Except as may otherwise be provided by orders of this Court authorizing the retention of specific professionals, all Retained Professionals may seek monthly and interim compensation and reimbursement of expenses, and members of any statutory committee of creditors may seek interim reimbursement of expenses (excluding legal fees), in accordance with the following Interim Compensation Procedures:

**A. Monthly Statements**

- (i) On or before the **thirtieth (30th) day** of each month following the month for which compensation is sought, or as soon thereafter as is practicable, each Retained Professional seeking compensation shall serve a monthly statement (each a **“Monthly Fee Statement”**), by hand or overnight delivery, on the following parties (collectively, the **“Fee Notice Parties”**):
  - (a) the Debtors c/o Fusion Connect Inc., 420 Lexington Avenue, Suite 1718, New York, New York 10170 (Attn: James Prenetta, Jr., Executive Vice President General Counsel);
  - (b) the proposed attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Sunny Singh, Esq., and Gaby Smith, Esq.);
  - (c) the U.S. Trustee, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Richard Morrissey, Esq. and Susan Arbeit, Esq.);
  - (d) counsel for ~~any~~ the statutory committees of unsecured creditors appointed in these chapter 11 cases (the “UCC”), Cooley LLP, 55 Hudson Yards, New York, NY 10001, (Attn: Sarah Carnes, Esq.);
  - (e) counsel to the Ad Hoc Group of First Lien Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York, 10017, (Attn: Damian Schaible, Esq. and Adam Shpeen, Esq.);
- (ii) All professionals not retained as of the Commencement Date shall file their first Monthly Fee Statement for the period from the effective date of their retention through the end of the first full month following the effective date of their retention and otherwise in accordance with the procedures set forth in this Order.
- (iii) A courtesy copy of Monthly Fee Statements need not be delivered to the Judge’s chambers. This Order does not alter the fee application requirements outlined in sections 330 and 331 of the Bankruptcy Code. Retained Professionals are still required to serve and file interim and final applications for approval of fees and expenses in accordance with the relevant provisions of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules.
- (iv) Except as otherwise ordered by the Court, each Monthly Fee Statement must contain a list of the individuals – and their respective titles (e.g., attorney, accountant, or paralegal) – who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual, a reasonably detailed breakdown of the disbursements incurred (no professional should seek reimbursement of an expense that would otherwise not be allowed pursuant to the Court’s *Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases*, dated June 17, 2013, or the U.S. Trustee *Guidelines for Reviewing Applications for Compensation and*

*Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (collectively, the “**Fee Guidelines**”), and contemporaneously maintained time entries for each individual in increments of **tenths (1/10) of an hour**.

- (v) If any party in interest has an objection to the compensation or reimbursement sought in a particular Monthly Fee Statement (an “**Objection**”), such party shall, by no later than the later of (a) the thirty-fifth (35th) day following the month for which compensation is sought and (b) the fifteenth (15th) day following the filing of the Monthly Fee Statement (such applicable date, the “**Objection Deadline**”), file with the Court and serve upon the Retained Professional whose Monthly Fee Statement is objected to, and the other persons designated to receive statements in paragraph (i), a written “**Notice Of Objection To Fee Statement**,” setting forth the nature of the Objection and the amount of fees or expenses at issue.
- (vi) At the expiration of the Objection Deadline, the Debtors shall promptly pay eighty percent (80%) of the fees and one hundred percent (100%) of the expenses identified in each Monthly Fee Statement to which no Objection has been served in accordance with paragraph (iv) above.<sup>3</sup>
- (vii) If an Objection is filed, the Debtors shall withhold payment of that portion of the Monthly Fee Statement to which the Objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in paragraph (v).
- (viii) If the parties to an objection are able to resolve their dispute following the filing of an Objection and if the party whose Monthly Fee Statement was objected to files a statement indicating that the Objection is withdrawn and describing the terms of the resolution, then the Debtors shall promptly pay, in accordance with paragraph (v) above, that portion of the Monthly Fee Statement which is no longer subject to an Objection.
- (ix) All Objections that are not resolved by the parties shall be preserved and presented to the Court at the next interim or final fee application hearing to be heard by the Court.
- (x) The service of an Objection in accordance with paragraph (iv) above shall not prejudice the objecting party’s right to object to any fee application made to the Court in accordance with the Bankruptcy Code on any ground, whether raised in the Objection or not. Furthermore, the decision by any party not to object to a Monthly Fee Statement shall not be a waiver of any kind or prejudice that party’s right to object to any fee application subsequently made to the Court in accordance with the Bankruptcy Code.

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<sup>3</sup> The remaining twenty percent (20%) of the fees for each Monthly Statement shall be withheld from payment under further order of the Court.

**B. Interim Fee Applications**

- (i) Commencing with the period ending September 30, 2019 and at four-month intervals thereafter (the “**Interim Fee Period**”), each of the Retained Professionals shall serve and file with the Court an application (an “**Interim Fee Application**”) for interim or final Court approval and allowance, pursuant to sections 330 and 331 of the Bankruptcy Code (as the case may be), of the compensation and reimbursement of expenses requested. Each Retained Professional shall file its Interim Fee Application no later than **forty-five (45) days** after the end of the Interim Fee Period. Each Retained Professional shall file its first Interim Fee Application on or before November 15, 2019 and the first Interim Fee Application shall cover the Interim Fee Period from the Commencement Date through and including September 30, 2019.
- (ii) The Debtors’ attorneys shall obtain a date from the Court for the hearing to consider Interim Fee Applications for all Retained Professionals (the “**Interim Fee Hearing**”). At least **thirty (30) days** prior to the Interim Fee Hearing, the Debtors’ attorneys shall file a notice with the Court, with service upon the U.S. Trustee and all Retained Professionals, setting forth the time, date, and location of the Interim Fee Hearing, the period covered by the Interim Fee Applications, and the Objection Deadline. Any Retained Professional unable to file its own Interim Fee Application with the Court shall deliver to the Debtors’ attorneys a fully executed copy with original signatures, along with service copies, three (3) business days before the filing deadline. The Debtors’ attorneys shall file and serve such Interim Fee Application.
- (iii) Any Retained Professional who fails to file an Interim Fee Application seeking approval of compensation and expenses previously paid under this Order when due shall (a) be ineligible to receive further monthly payments of fees or expenses as provided herein until further order of the Court, and (b) may be required to disgorge any fees paid since retention or the last fee application, whichever is later.
- (iv) The pendency of an Interim Fee Application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Fee Statement shall not disqualify a Retained Professional from the future payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court.
- (v) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court’s interim or final allowance of compensation and reimbursement of expenses of any Retained Professionals.
- (vi) Counsel for ~~any statutory committee of creditors, if any,~~ the UCC may, in accordance with the Interim Compensation Procedures, collect and submit statements of expenses, with supporting vouchers, from members of such

committee; provided, that such reimbursement requests must comply with the Fee Guidelines.

3. Each Retained Professional may seek, in its first request for compensation and reimbursement of expenses pursuant to this Order, compensation for work performed and reimbursement for expenses incurred during the period beginning on the date of the professional's retention and ending on September 30, 2019.

4. The amount of fees and disbursements sought shall be set out in U.S. dollars (if the fees and disbursements are to be paid in foreign currency, the amount shall be set out in U.S. dollars, and the conversion amount in the foreign currency, calculated at the time of the submission of the application).

5. The Debtors shall include all payments to Retained Professionals on their monthly operating reports, detailed so as to state the amount paid to each Retained Professional.

6. Any party may object to requests for payments made pursuant to this Order on the grounds that the Debtors have not timely filed monthly operating reports, remained current with their administrative expenses and 28 U.S.C. § 1930 fees, or a manifest exigency exists by seeking a further order of this Court; otherwise, this Order shall continue and shall remain in effect during the pendency of this case.

7. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. The Debtors shall serve a copy of this Order on each of the Retained Professionals.

9. Notice of hearings to consider Interim Fee Applications and final fee applications shall be limited to the Fee Notice Parties and any party who files a notice of appearance and requests notice of these chapter 11 cases.



10. Notwithstanding the relief granted in this Order, any payment to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility, and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and/or any budget in connection therewith (in either case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and any action taken or proposed to be taken hereunder, the terms of the DIP Order shall control.

11. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Order.

12. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Date: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT H**

**(Proposed Order – ECF No. 83)**

**Clean Administrative Agent Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	X	
	:	
<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>FUSION CONNECT, INC., et al.,</b>	:	<b>Case No. 19-11811 (SMB)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
	:	
	X	

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**ORDER AUTHORIZING RETENTION AND EMPLOYMENT  
OF PRIME CLERK LLC AS ADMINISTRATIVE AGENT FOR  
THE DEBTORS NUNC PRO TUNC TO COMMENCEMENT DATE**

Upon the application dated June 14, 2019 (ECF No. 83) (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 327(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for authority to retain and employ Prime Clerk LLC (“**Prime Clerk**”) as administrative agent (“**Administrative Agent**”) *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain Engagement Agreement dated as of May 8, 2019, by

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

and between the Debtors and Prime Clerk (the “**Engagement Agreement**”), all as more fully set forth in the Application; and upon consideration of the declaration of Benjamin J. Steele, Vice President of Prime Clerk, attached to the Application as **Exhibit B** (the “**Steele Declaration**”) submitted in support of the Application; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been given as provided in the Application, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Steele Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is granted to the extent set forth herein.
2. The Debtors are authorized to retain and employ Prime Clerk as Administrative Agent effective *nunc pro tunc* to the Commencement Date pursuant to section

327(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016(a), and Local Rules 2014-1 and 2016-1 in accordance with the terms set forth in the Engagement Agreement, and Prime Clerk is authorized to perform the bankruptcy administration services and related tasks, all as described in the Application and the Engagement Agreement.

3. Prime Clerk is authorized to take such other action to comply with all duties set forth in the Application.

4. Prime Clerk shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with these chapter 11 cases, subject to the Court's approval and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of the Court.

5. The Debtors shall indemnify Prime Clerk under the terms of the Engagement Agreement, as modified pursuant to this Order.

6. All requests by Prime Clerk for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; *provided further*, however, that in no event shall Prime Clerk be indemnified or be entitled to contribution, limitation of liability or exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct.

7. In the event that Prime Clerk seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to

the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in Prime Clerk's own applications, both interim and final, and these invoices and time records shall be subject to the Amended Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code, and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

8. Prime Clerk shall not be entitled to reimbursement by the Debtors for any fees, disbursements and other charges of Prime Clerk's counsel other than those incurred in connection with a request of Prime Clerk for payment of indemnity.

9. Notwithstanding any provision to the contrary in the Engagement Agreement, any dispute relating to the services provided by Prime Clerk shall be referred to arbitration consistent with the terms of the Engagement Agreement only to the extent that this Court does not have, retain, or exercise jurisdiction over the dispute.

10. The limitation of liability section in paragraph 10 of the Engagement Agreement is deemed to be of no force or effect with respect to the services to be provided pursuant to this Order.

11. The Debtors and Prime Clerk are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

12. In the event of any inconsistency between the Engagement Agreement, the Application, and this Order, this Order shall govern.

13. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

14. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Administrative Agent Retention Order**



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
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In re : Chapter 11  
FUSION CONNECT, INC., et al., : Case No. 19-11811 (SMB)  
Debtors.<sup>1</sup> : (Jointly Administered)  
----- X

**ORDER AUTHORIZING RETENTION AND EMPLOYMENT  
OF PRIME CLERK LLC AS ADMINISTRATIVE AGENT FOR  
THE DEBTORS NUNC PRO TUNC TO COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (ECF No. 83) (the "**Application**")<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 327(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules 2014(a) and 2016(a) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the "**Local Rules**") for

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPH Holding Corporation (3066); Fusion MPH Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

authority to retain and employ Prime Clerk LLC (“**Prime Clerk**”) as administrative agent (“**Administrative Agent**”) *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain Engagement Agreement dated as of May 8, 2019, by and between the Debtors and Prime Clerk (the “**Engagement Agreement**”), all as more fully set forth in the Application; and upon consideration of the declaration of Benjamin J. Steele, Vice President of Prime Clerk, attached to the Application as **Exhibit B** (the “**Steele Declaration**”) submitted in support of the Application; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been given as provided in the Application, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and this Court having held a hearing the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application (the “Hearing”) have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Steele Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is granted to the extent set forth herein.
2. The Debtors are authorized to retain and employ Prime Clerk as Administrative Agent effective *nunc pro tunc* to the Commencement Date pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016(a), and Local Rules 2014-1 and 2016-1 in accordance with the terms set forth in the Engagement Agreement, and Prime Clerk is authorized to perform the bankruptcy administration services and related tasks, all as described in the Application and the Engagement Agreement.
3. Prime Clerk is authorized to take such other action to comply with all duties set forth in the Application.
4. Prime Clerk shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with these chapter 11 cases, subject to the Court's approval and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of the Court.
5. The Debtors shall indemnify Prime Clerk under the terms of the Engagement Agreement, as modified pursuant to this Order.
6. All requests by Prime Clerk for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; *provided further*, however, that in no event shall Prime Clerk be indemnified or be entitled to contribution, limitation of liability or

exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct.

7. In the event that Prime Clerk seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in Prime Clerk's own applications, both interim and final, and these invoices and time records shall be subject to the Amended Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code, and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

8. Prime Clerk shall not be entitled to reimbursement by the Debtors for any fees, disbursements and other charges of Prime Clerk's counsel other than those incurred in connection with a request of Prime Clerk for payment of indemnity.

9. Notwithstanding any provision to the contrary in the Engagement Agreement, any dispute relating to the services provided by Prime Clerk shall be referred to arbitration consistent with the terms of the Engagement Agreement only to the extent that this Court does not have, retain, or exercise jurisdiction over the dispute.

10. The limitation of liability section in paragraph 10 of the Engagement Agreement is deemed to be of no force or effect with respect to the services to be provided pursuant to this Order.

11. The Debtors and Prime Clerk are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

12. In the event of any inconsistency between the Engagement Agreement, the Application, and this Order, this Order shall govern.

13. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

14. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT I**

**(Proposed Order – ECF No. 84)**

**Clean PJT Partners LP Retention Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

<hr/>		X
	:	
In re	:	Chapter 11
	:	
FUSION CONNECT, INC., et al.,	:	Case No. 19-11811 (SMB)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
<hr/>		X

**ORDER AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF PJT  
PARTNERS LP AS INVESTMENT BANKER FOR THE DEBTORS  
EFFECTIVE NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (the “Application”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), pursuant to sections 327(a) and 328(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) for (a) authority to retain and employ PJT Partners LP (“PJT”) to serve as the Debtors’ investment banker effective *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain engagement letter dated as of April 9, 2019 (the “Engagement Letter”) and (b) a

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

modification of certain time keeping requirements as set forth in the Application and this Order, all as more fully set forth in the Application; and upon consideration of the declaration of John P. Singh, a Partner at PJT, attached to the Application as **Exhibit B** (the “Singh Declaration”) and the declaration of Tara Flanagan, the Chief Compliance Officer of PJT, attached to the Application as **Exhibit C** (the “Flanagan Declaration”); and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Singh Declaration and the Flanagan Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is approved as set forth herein.



2. The Debtors are authorized to retain and employ PJT, pursuant to sections 327(a) and 328 of the Bankruptcy Code, as investment bankers to the Debtors in these chapter 11 cases effective *nunc pro tunc* to the Commencement Date, on the terms and conditions set forth in the Application and the Engagement Letter.

3. PJT shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases in compliance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court; provided, however, that notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or the Fee Guidelines, PJT's restructuring professionals shall only be required to maintain summary records in half-hour increments describing each professional's tasks on a daily basis in support of each fee application, including reasonably detailed descriptions of those services and the individuals who provided those services, and shall not be required to keep time records on a project category basis or provide or conform to any schedule of hourly rates.

4. Except to the extent set forth herein, the Engagement Letter (together with all annexes thereto), including the Fee Structure, is approved pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, and the Debtors are authorized and directed to perform the Debtors' payment, reimbursement, contribution, and indemnification obligations and their non-monetary obligations in accordance with the terms and conditions, and at the times specified, in the Engagement Letter. Notwithstanding anything to the contrary herein or any other order, PJT shall be paid (a) each Capital Raising Fee as to which PJT may be entitled under the Engagement Letter as soon as such financing is approved by order of this Court (or if such approval occurred prior to this Order, immediately following entry of this Order) and with respect to amounts available to the

Debtors; and (b) the Restructuring Fee upon consummation of a Restructuring, in each case, subject to subsequent Court approval of any such Capital Raising Fee or Restructuring Fee pursuant to PJT's interim and/or final fee application, as applicable.

5. PJT shall be compensated in accordance with the terms of the Engagement Letter. The compensation provisions of the Engagement Letter, including with respect to the Monthly Fee, the Restructuring Fee, and the Capital Raising Fee, are reasonable terms and conditions of employment as required under section 328(a) of the Bankruptcy Code and are hereby approved pursuant to section 328(a) of the Bankruptcy Code. Notwithstanding anything to the contrary in this Order, the fees and expenses payable to PJT pursuant to the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to any other standard of review, including, but not limited to, that set forth in section 330 of the Bankruptcy Code, except by the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"). This Order and the record relating to this Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of PJT's compensation and expense reimbursements under sections 330 and 331 of the Bankruptcy Code. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of PJT's compensation.

6. The indemnification provisions set forth in the Engagement Letter are approved; provided, however, that all requests by PJT for the payment of indemnification as set forth in the Engagement Letter shall be made by means of an application to this Court and shall be subject to review by this Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable under the circumstances of the litigation or settlement in

respect of which indemnity is sought; provided, further, however, that in no event shall PJT be indemnified or be entitled to contribution, limitation of liability or exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct. In the event that PJT seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Letter, the invoices and supporting time records for the attorneys' fees and expenses shall be included in PJT's own applications but determined by this Court after notice and a hearing, and such invoices and time records shall be subject to the Fee Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

7. PJT is authorized to apply any prepetition advance or retainer to satisfy any unbilled or other remaining prepetition fees and expenses PJT becomes aware of during its ordinary course billing review and reconciliation.

8. Notwithstanding anything in the Application or the Engagement Letter to the contrary, PJT shall (a) to the extent that PJT used services of independent contractors, subcontractors or employees of foreign affiliates or subsidiaries (collectively, the "**Contractors**") in these chapter 11 cases, pass-through the cost of such Contractors to the Debtors at the same rate that PJT pays the Contractors; and (b) seek reimbursement for actual costs only. The Debtors shall ensure that any such Contractors are subject to the same conflict checks as required for PJT and that they shall file with this Court such disclosures required by Bankruptcy Rule 2014.

9. In the event of any inconsistency between the Engagement Letter, the Application and this Order, this Order shall govern.

10. Notice of the Application as provided therein is good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(h) and the Local Rules are satisfied by such notice.

11. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

12. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of PJT Partners LP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>FUSION CONNECT, INC., et al.,</b>	:	<b>Case No. 19-11811 (SMB)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
	:	

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**ORDER AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF PJT  
PARTNERS LP AS INVESTMENT BANKER FOR THE DEBTORS  
EFFECTIVE NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 327(a) and 328(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for (a) authority to retain and employ PJT Partners LP (“**PJT**”) to serve as the Debtors’ investment banker effective *nunc pro tunc* to the Commencement Date, in accordance with the terms and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

conditions set forth in that certain engagement letter dated as of April 9, 2019 (the “**Engagement Letter**”) and (b) a modification of certain time keeping requirements as set forth in the Application and this Order, all as more fully set forth in the Application; and upon consideration of the declaration of John P. Singh, a Partner at PJT, attached to the Application as **Exhibit B** (the “**Singh Declaration**”) and the declaration of Tara Flanagan, the Chief Compliance Officer of PJT, attached to the Application as **Exhibit C** (the “**Flanagan Declaration**”); and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and ~~this Court having held a hearing~~ the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application (the “Hearing”) have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Singh Declaration and the Flanagan Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is approved as set forth herein.
2. The Debtors are authorized to retain and employ PJT, pursuant to sections 327(a) and 328 of the Bankruptcy Code, as investment bankers to the Debtors in these chapter 11 cases effective *nunc pro tunc* to the Commencement Date, on the terms and conditions set forth in the Application and the Engagement Letter.
3. PJT shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases in compliance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court; provided, however, that notwithstanding anything to the contrary in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or the Fee Guidelines, PJT's restructuring professionals shall only be required to maintain summary records in half-hour increments describing each professional's tasks on a daily basis in support of each fee application, including reasonably detailed descriptions of those services and the individuals who provided those services, and shall not be required to keep time records on a project category basis or provide or conform to any schedule of hourly rates.
4. Except to the extent set forth herein, the Engagement Letter (together with all annexes thereto), including the Fee Structure, is approved pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, and the Debtors are authorized and directed to perform the Debtors' payment, reimbursement, contribution, and indemnification obligations and their non-monetary obligations in accordance with the terms and conditions, and at the times specified, in the Engagement Letter. Notwithstanding anything to the contrary herein or any other order, PJT shall be paid (a) each Capital Raising Fee as to which PJT may be entitled under the Engagement Letter as soon as such financing is approved by order of this Court (or if such approval occurred



prior to this Order, immediately following entry of this Order) and with respect to amounts available to the Debtors; and (b) the Restructuring Fee upon consummation of a Restructuring, in each case, subject to subsequent Court approval of any such Capital Raising Fee or Restructuring Fee pursuant to PJT's interim and/or final fee application, as applicable.

5. PJT shall be compensated in accordance with the terms of the Engagement Letter. The compensation provisions of the Engagement Letter, including with respect to the Monthly Fee, the Restructuring Fee, and the Capital Raising Fee, are reasonable terms and conditions of employment as required under section 328(a) of the Bankruptcy Code and are hereby approved pursuant to section 328(a) of the Bankruptcy Code. Notwithstanding anything to the contrary in this Order, the fees and expenses payable to PJT pursuant to the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to any other standard of review, including, but not limited to, that set forth in section 330 of the Bankruptcy Code, except by the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"). This Order and the record relating to this Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of PJT's compensation and expense reimbursements under sections 330 and 331 of the Bankruptcy Code. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of PJT's compensation.

6. The indemnification provisions set forth in the Engagement Letter are approved; provided, however, that all requests by PJT for the payment of indemnification as set forth in the Engagement Letter shall be made by means of an application to this Court and shall be subject to

review by this Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; provided, further, however, that in no event shall PJT be indemnified or be entitled to contribution, limitation of liability or exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct. In the event that PJT seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Letter, the invoices and supporting time records for the attorneys' fees and expenses shall be included in PJT's own applications but determined by this Court after notice and a hearing, and such invoices and time records shall be subject to the Fee Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

7. PJT is authorized to apply any prepetition advance or retainer to satisfy any unbilled or other remaining prepetition fees and expenses PJT becomes aware of during its ordinary course billing review and reconciliation.

8. Notwithstanding anything in the Application or the Engagement Letter to the contrary, PJT shall (a) to the extent that PJT used services of independent contractors, subcontractors or employees of foreign affiliates or subsidiaries (collectively, the "Contractors") in these chapter 11 cases, pass-through the cost of such Contractors to the Debtors at the same rate that PJT pays the Contractors; and (b) seek reimbursement for actual costs only. The Debtors shall ensure that any such Contractors are subject to the same conflict

checks as required for PJT and that they shall file with this Court such disclosures required by Bankruptcy Rule 2014.

9. In the event of any inconsistency between the Engagement Letter, the Application and this Order, this Order shall govern.

10. Notice of the Application as provided therein is good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(h) and the Local Rules are satisfied by such notice.

11. Notwithstanding anything to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

12. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT J**

**(Proposed Order – ECF No. 85)**

**Clean Kelley Drye & Warren LLP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
-----X

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT  
OF KELLEY DRYE & WARREN LLP AS SPECIAL COUNSEL  
FOR THE DEBTORS *NUNC PRO TUNC* TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (ECF No. 85) (the “**Application**”),<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 327(e) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for entry of an order authorizing the Debtors to retain Kelley Drye as special counsel to the Debtors with respect to the Kelley Drye Services, effective *nunc pro tunc* to the Commencement Date, all as more fully set forth in the Application; and upon the declaration of Jacob J. Miles, a partner of the law firm of Kelley Drye & Warren LLP, attached to the Application as **Exhibit B** (the “**Miles**

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not defined in this Order shall have the meanings ascribed to them in the Application.

**Declaration**”), and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Miles Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is approved as set forth herein.
2. The Debtors are authorized to retain Kelley Drye as special counsel to the Debtors with respect to the Kelley Drye Services, effective *nunc pro tunc* to the Commencement Date, and Kelley Drye is authorized to perform the Kelley Drye Services described in the Application.
3. Kelley Drye shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Kelley Drye Services in

compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Fee Guidelines, and any other applicable procedures and orders of the Court.

4. Kelley Drye shall be compensated in accordance with, and shall file interim and final fee applications for allowance of its compensation and expenses and shall be subject to sections 330 and 331 of the Bankruptcy Code, as well as the Bankruptcy Rules, Local Rules, the Fee Guidelines, and any further orders of the Court.

5. Kelley Drye shall provide ten (10) business days' notice to the Debtors, the U.S. Trustee, counsel to the Ad Hoc Group of First Lien Lenders, and any statutory committee appointed in these chapter 11 cases before implementing any increases in the rates set forth in the Application for professionals providing the Kelley Drye Services, and such notice shall be filed with the Court.

6. Notice of the Application as provided therein is good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(h) and the Local Rules are satisfied by such notice.

7. Notwithstanding any provision in the Bankruptcy Rules to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

9. In the event of any inconsistency between the Application and this Order, the terms of this Order shall govern.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE



**Redline of Kelley Drye & Warren LLP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:
<b>In re</b>	: <b>Chapter 11</b>
	:
<b>FUSION CONNECT, INC., et al.,</b>	: <b>Case No. 19-11811 (SMB)</b>
	:
<b>Debtors.<sup>1</sup></b>	: <b>(Jointly Administered)</b>
	:
-----	X
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**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT  
OF KELLEY DRYE & WARREN LLP AS SPECIAL COUNSEL  
FOR THE DEBTORS *NUNC PRO TUNC* TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (ECF No. 19-11811-85) (the “**Application**”),<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 327(e) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for entry of an order authorizing the Debtors to retain Kelley Drye as special

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not defined in this Order shall have the meanings ascribed to them in the Application.

counsel to the Debtors with respect to the Kelley Drye Services, effective *nunc pro tunc* to the Commencement Date, all as more fully set forth in the Application; and upon the declaration of Jacob J. Miles, a partner of the law firm of Kelley Drye & Warren LLP, attached to the Application as **Exhibit B** (the “Miles Declaration”), and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and ~~this Court having held a hearing~~ the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application (the “Hearing”) have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Miles Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is approved as set forth herein.
2. The Debtors are authorized to retain Kelley Drye as special counsel to the Debtors with respect to the Kelley Drye Services, effective *nunc pro tunc* to the Commencement

Date, and Kelley Drye is authorized to perform the Kelley Drye Services described in the Application.

3. Kelley Drye shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Kelley Drye Services in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Fee Guidelines, and any other applicable procedures and orders of the Court.

4. Kelley Drye shall be compensated in accordance with, and shall file interim and final fee applications for allowance of its compensation and expenses and shall be subject to sections 330 and 331 of the Bankruptcy Code, as well as the Bankruptcy Rules, Local Rules, the Fee Guidelines, and any further orders of the Court.

5. Kelley Drye shall provide ten (10) business days' notice to the Debtors, the U.S. Trustee, counsel to the Ad Hoc Group of First Lien Lenders, and any statutory committee appointed in these chapter 11 cases before implementing any increases in the rates set forth in the Application for professionals providing the Kelley Drye Services, and such notice shall be filed with the Court.

6. Notice of the Application as provided therein is good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(h) and the Local Rules are satisfied by such notice.

7. Notwithstanding any provision in the Bankruptcy Rules to the contrary, the terms and conditions of this Order are immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Application.

9. In the event of any inconsistency between the Application and this Order, the terms of this Order shall govern.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT K**  
**(Proposed Order – ECF No. 86)**

**Clean FTI Consulting, Inc. Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re	: Chapter 11
FUSION CONNECT, INC., <i>et al.</i> ,	: Case No. 19-11811 (SMB)
Debtors. <sup>1</sup>	: (Jointly Administered)
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**ORDER AUTHORIZING DEBTORS TO RETAIN AND EMPLOY  
FTI CONSULTING, INC. AS FINANCIAL ADVISOR FOR DEBTORS  
NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 327(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for authority to retain and employ FTI Consulting, Inc. (“**FTI**”) to serve as the Debtors’ financial advisor effective *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain amended engagement agreement dated as of May 31, 2019, (the “**Engagement Agreement**”), all as more fully set forth in the Application; and upon

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

consideration of the declaration of Michael E. Katzenstein, a Senior Managing Director at FTI, attached to the Application as **Exhibit B** (the “Katzenstein Declaration”); and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Katzenstein Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT**

1. The Application is approved to the extent set forth herein.
2. The Debtors are authorized, pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, to retain and employ FTI as their financial advisors, in accordance with the terms and conditions of the Engagement Agreement, *nunc pro tunc* to the Commencement Date, and to pay fees and reimburse expenses to FTI on the terms set forth in the Engagement Agreement.



3. The terms of the Engagement Agreement, as modified by this Order, are approved in all respects except as limited or modified herein.

4. Notwithstanding anything to the contrary in the Engagement Agreement or the Application, to the extent that the Debtors request FTI to perform any services other than those detailed in the Engagement Agreement, the Debtors shall seek further application for an order of approval by the Court for a supplement to the retention and any related modifications to the Engagement Agreement and such application shall set forth, in addition to the additional services to be performed, the additional fees sought to be paid.

5. FTI shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases pursuant to the procedures set forth in Sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of this Court. FTI shall also make a reasonable effort to comply with the requests for information and additional disclosures as set forth in the Fee Guidelines, both in connection with the Application and all applications for compensation and reimbursement of expenses filed by FTI in these chapter 11 cases.

6. The Indemnification Provisions set forth in the Engagement Agreement are approved; provided, however, that all requests by FTI for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to this Court and shall be subject to review by this Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought; provided, further, however, that in no event shall FTI be indemnified or be entitled to contribution, limitation of liability or exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross

negligence, or willful misconduct. In the event that FTI seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in FTI's own applications but determined by this Court after notice and a hearing, and such invoices and time records shall be subject to the Fee Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

7. To the extent there may be any inconsistency between the terms of the Application, the Engagement Agreement, and this Order, this Order shall govern.

8. Notice of the Application is adequate under Bankruptcy Rule 6004(a).

9. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, NY

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of FTI Consulting, Inc. Retention Order**

FOIA(b)(7)(C)

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
In re : Chapter 11  
: :  
FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
: :  
Debtors.<sup>1</sup> : (Jointly Administered)  
: :  
----- X

**ORDER AUTHORIZING DEBTORS TO RETAIN AND EMPLOY  
FTI CONSULTING, INC. AS FINANCIAL ADVISOR FOR DEBTORS  
NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application, dated June 14, 2019 (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to section 327(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for authority to retain and employ FTI Consulting, Inc. (“**FTI**”) to serve as the Debtors’ financial advisor effective *nunc pro tunc* to the Commencement Date, in accordance with the terms and conditions set forth in that certain amended engagement agreement dated as of May 31, 2019, (the “**Engagement Agreement**”), all as more fully set forth in the Application; and upon

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

consideration of the declaration of Michael E. Katzenstein, a Senior Managing Director at FTI, attached to the Application as **Exhibit B** (the “**Katzenstein Declaration**”); and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and ~~this Court having held a hearing~~the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application (the “Hearing”)~~have been filed;~~and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Katzenstein Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT**

1. The Application is approved to the extent set forth herein.
2. The Debtors are authorized, pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, to retain and employ FTI as their financial advisors, in accordance with the terms and conditions of the

Engagement Agreement, *nunc pro tunc* to the Commencement Date, and to pay fees and reimburse expenses to FTI on the terms set forth in the Engagement Agreement.

3. The terms of the Engagement Agreement, as modified by this Order, are approved in all respects except as limited or modified herein.

4. Notwithstanding anything to the contrary in the Engagement Agreement or the Application, to the extent that the Debtors request FTI to perform any services other than those detailed in the Engagement Agreement, the Debtors shall seek further application for an order of approval by the Court for a supplement to the retention and any related modifications to the Engagement Agreement and such application shall set forth, in addition to the additional services to be performed, the additional fees sought to be paid.

5. FTI shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases pursuant to the procedures set forth in Sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of this Court. FTI shall also make a reasonable effort to comply with the requests for information and additional disclosures as set forth in the Fee Guidelines, both in connection with the Application and all applications for compensation and reimbursement of expenses filed by FTI in these chapter 11 cases.

6. The Indemnification Provisions set forth in the Engagement Agreement are approved; provided, however, that all requests by FTI for the payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to this Court and shall be subject to review by this Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the

litigation or settlement in respect of which indemnity is sought; provided, further, however, that in no event shall FTI be indemnified or be entitled to contribution, limitation of liability or exoneration in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct. In the event that FTI seeks reimbursement from the Debtors for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorneys' fees and expenses shall be included in FTI's own applications but determined by this Court after notice and a hearing, and such invoices and time records shall be subject to the Fee Guidelines and the approval of the Bankruptcy Court pursuant to sections 330 and 331 of the Bankruptcy Code without regard to whether such attorneys have been retained under section 327 of the Bankruptcy Code and without regard to whether such attorneys' services satisfy section 330(a)(3)(C) of the Bankruptcy Code.

7. To the extent there may be any inconsistency between the terms of the Application, the Engagement Agreement, and this Order, this Order shall govern.

8. Notice of the Application is adequate under Bankruptcy Rule 6004(a).

9. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, NY

\_\_\_\_\_  
THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE



**EXHIBIT L**  
**(Proposed Order – ECF No. 87)**

**Clean OCP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re : **Chapter 11**  
:   
FUSION CONNECT, INC., *et al.*, : **Case No. 19-11811 (SMB)**  
:   
Debtors.<sup>1</sup> : **(Jointly Administered)**  
:   
-----X

**ORDER AUTHORIZING THE DEBTORS TO EMPLOY  
PROFESSIONALS USED IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 14, 2019 (ECF No. 87) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 327, and 330 of title 11 of the United States Code (the “**Bankruptcy Code**”), for an order authorizing, but not directing, the Debtors to (a) establish certain procedures for the Debtors to retain and compensate attorneys that the Debtors employ in the ordinary course of business identified on **Exhibit 1** and **Exhibit 2** annexed hereto (collectively, the “**Ordinary Course Professionals**”), effective as of the Commencement Date, without (i) the submission of separate employment applications or (ii) the issuance of separate retention orders for each individual Ordinary Course Professional; and (b) compensate and reimburse such professionals without individual fee

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

applications, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion on July 1, 2019; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted to the extent set forth herein.
2. Pursuant to sections 105(a), 327, and 330 of the Bankruptcy Code, to the extent deemed necessary by the Debtors, the Debtors are authorized to employ the Ordinary Course Professionals listed on **Exhibit 1** and **Exhibit 2** annexed hereto in the ordinary course of its business in accordance with the following procedures (the "**Procedures**"):
  - (a) Within thirty (30) days of the later of (i) the entry of this Order and (ii) the date on which the Ordinary Course Professional commences postpetition services for the Debtors, each Ordinary Course Professional will provide the following to the Debtors:

- (a) an affidavit (the “**OCP Affidavit**”), substantially in the form annexed hereto as **Exhibit 3** certifying that the Ordinary Course Professional does not represent or hold any interest adverse to the Debtors or their estates with respect to the matter(s) on which such professional is to be employed and (b) a completed retention questionnaire (the “**Retention Questionnaire**”), substantially in the form annexed hereto as **Exhibit 4**.
- (b) Upon receipt of the OCP Affidavit and Retention Questionnaire, the Debtors will file the same with the Court and serve a copy upon (i) the Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, New York 10014 (Attn: Richard Morrissey, Esq. and Susan Arbeit, Esq.) (the “**U.S. Trustee**”), (ii) counsel to the official committee of unsecured creditors, Cooley LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Cathy Herschopf, Esq., Seth Van Aalten, Esq., Robert Winning, Esq., and Sarah Carnes, Esq.), and (iii) counsel to the Ad Hoc Group of First Lien Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Adam L. Shpeen, Esq.) (the “**Service Parties**”).
- (c) The Service Parties will have seven (7) calendar days following the date of service to file an objection with the Court and notify Debtors’ counsel, in writing, of any objection to the retention based on the contents of the OCP Affidavit and/or Retention Questionnaire (the “**Retention Objection Deadline**”). If no objection is filed and served before the Retention Objection Deadline, the retention and employment of such Ordinary Course Professional shall be deemed approved without further order of the Court.
- (d) If an objection is filed by the Retention Objection Deadline and such objection cannot be resolved within fourteen (14) calendar days after the Retention Objection Deadline, the matter will be set for hearing before the Court.
- (e) No Ordinary Course Professional may be paid any amount for invoiced fees and expenses until the Ordinary Course Professional has been retained in accordance with these Procedures.
- (f) Once the Debtors retain an Ordinary Course Professional in accordance with these Procedures, the Debtors may pay such Ordinary Course Professional 100% of the fees and 100% of the disbursements incurred upon the submission to, and approval by, the Debtors of an appropriate invoice setting forth in reasonable detail the nature of the services rendered and expenses actually incurred (without prejudice to the Debtors’ right to dispute any

such invoices); provided however, the following limitations shall apply to the payment of fees and reimbursement of expenses:

- For each Ordinary Course Professional set forth on Exhibit 1 annexed hereto, total compensation and reimbursements shall not exceed \$25,000 for each month starting from the first full month following the Commencement Date (the “**Tier 1 Monthly Cap**”) and
  - For each Ordinary Course Professional set forth on Exhibit 2 annexed hereto, total compensation and reimbursements shall not exceed \$100,000 per quarter starting from the first full quarter following the Commencement Date (the “**Tier 2 Quarterly Cap,**” and together with the Tier 1 Monthly Cap, the “**OCP Interim Caps**”).
- (g) In the event that an Ordinary Course Professional seeks more than the applicable OCP Interim Cap during these chapter 11 cases, such Ordinary Course Professional shall file a fee application, to be heard on notice, for the full amount of its fees and expenses for any month or quarter, as applicable, where such Ordinary Course Professional’s fees and disbursements exceeded the applicable OCP Interim Cap, in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), the Fee Guidelines promulgated by the U.S. Trustee, and all Orders of the Court, provided that the Debtors may make an interim payment to the Ordinary Course Professional prior to a hearing on the application of up to the amount of the applicable OCP Interim Cap so long as the Ordinary Course Professional has been retained in accordance with this Order.
- (h) Payment to any one Ordinary Course Professional on the OCP List shall not exceed \$250,000 for the entire period during which these chapter 11 cases are pending, subject to further Order of the Court. In the event that an Ordinary Course Professional’s fees and expenses exceed \$250,000 for the entire period during which these chapter 11 cases are pending, such Ordinary Course Professional shall be required to file a separate retention application to be retained as a professional pursuant to section 327 of the Bankruptcy Code.
- (i) Within thirty (30) days after the end of each quarterly period, the Debtors will file a statement with the Court and serve the same on the Service Parties, certifying the Debtors’ compliance with the terms of the relief requested herein. The statement shall include for

each Ordinary Course Professional (i) the name of such Ordinary Course Professional and (ii) for each monthly or quarterly period, as applicable, the aggregate amounts paid as compensation for services rendered and as reimbursements of expenses incurred by such Ordinary Course Professional.

- (j) If the Debtors seek to retain an Ordinary Course Professional not already listed on **Exhibit 1** and **Exhibit 2** to the Proposed Order during the chapter 11 cases, the Debtors will file with the Court and serve upon the Service Parties a notice listing those Ordinary Course Professionals to be added to the list of Ordinary Course Professionals (the “**Supplemental Notice of Ordinary Course Professionals**”), along with the attendant OCP Affidavits and Retention Questionnaires.
- (k) If no objection to the Supplemental Notice of Ordinary Course Professionals is filed with the Court and served upon the Debtors’ counsel, as set forth above, so as to be actually received within seven (7) calendar days after the service thereof, the list will be deemed approved by the Court in accordance with the provisions of this Motion and without the need for a hearing or further Court order. Any Ordinary Course Professionals retained pursuant to the Supplemental Notice of Ordinary Course Professionals will be paid in accordance with the terms and conditions set forth in the paragraphs above.

3. Entry of this Order and approval of the Procedures does not affect the Debtors’ ability to (a) dispute any invoice submitted by an Ordinary Course Professional or (b) retain additional Ordinary Course Professionals from time to time as needed, and the Debtors reserve all of its rights with respect thereto.

4. The form of OCP Affidavit and Retention Questionnaire are approved.

5. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Order.

6. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Tier 1 OCP List**



<b>Professional</b>	<b>Address</b>	<b>Contact</b>	<b>Services Performed by Professional</b>
Banta Immigration Law	260 Peachtree Street, Suite 801, Atlanta, GA 30303	Yulia D. Makarova	Provides immigration and visa legal advice
Brooks, Pansing, Brooks, PC	1248 O Street, Suite 984, Lincoln, NE 68508	Loel Brooks	Provides regulatory legal advice
Cahill Gordon & Reindel, LLP	Eighty Pine Street, New York, NY 10005	Cherie Kiser	Provides regulatory and FCC-related legal advice
Culhane Meadows PLLC	PO Box 49716, Atlanta, GA 30359	J. Scott Anderson	Provides intellectual property and litigation legal advice
Enoch Kever PLLC	600 Congress Ave., Ste 2800, Austin, TX, 78701	Susan Gentz	Provides litigation legal advice
Kaempfer Crowell	1980 Festival Plaza Drive, Suite 650, Las Vegas, NV 89135	Steven Tackes	Provides regulatory legal advice
Klein Law Group PLLC	1250 Connecticut Avenue NW, Suite 200, Washington, D.C. 20036	Phil Macres	Provides regulatory and litigation legal advice
Law offices of Donald Watnick	200 West 41st Street, 17th Floor, New York, NY 10036.	Donald Watnick	Provides litigation legal advice
Littler Mendelson PC	PO Box 45547, San Francisco, CA 94145	Arthur Eidelhoch	Provides employment legal advice
Marshall Halem LLC	27 Mica Lane, Ste. 102, Wellesley Hills, MA 02481	Samantha C. Halem	Provides employment legal advice
McNees Wallace & Nurick, LLC	100 Pine Street, PO Box 1166, Harrisburg, PA 17108	Susan Bruce	Provides regulatory legal advice
Miller Isar Inc.	4304 92nd Avenue NW, Gig Harbor, WA, 98335	Andrew Isar	Provides regulatory compliance legal advice
Resnick Law LLC	45 School Street, Boston, MA, 02111	Mark Resnick	Provides litigation legal advice
Spencer Fane Britt & Browne LLP	PO Box 872037, Kansas City, MO 64187	Richard Lageson	Provides litigation and general corporate legal advice

**Exhibit 2**

**Tier 2 OCP List**

<b>Professional</b>	<b>Address</b>	<b>Contact</b>	<b>Services Performed by Professional</b>
Brann & Isaacson	184 Main Street, PO Box 3070, Lewiston, ME 04243	Nat Bessey	Provides tax and state audit legal advice
Kabat Chapman & Ozmer LLP	171 17th Street NW, Suite 1550, Atlanta, GA 30363	Joseph W. Ozmer II	Provides litigation legal advice
Morgan, Lewis & Bockius LLP	PO Box 8500 S-6050, Philadelphia, PA 19178	Tamar Finn	Provides federal regulatory legal advice
Norris McLaughlin PA	400 Crossing Blvd., 8th Floor; P.O. Box 5933, Bridgewater, NJ 08807	Christina McNally	Provides state regulatory legal advice
Richards, Layton & Finger, P.A.	920 King Street, Wilmington, DE 19801	Stephen Bigler	Provides Delaware legal advice
Stoll Keenon Ogden PLLC	P O Box 11969, Lexington, KY 40579	Matthew Lindblom	Provides real estate and litigation legal advice

**Exhibit 3**

**OCP Affidavit**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
<b>In re</b>	: <b>Chapter 11</b>
<b>FUSION CONNECT, INC., et al.,</b>	: <b>Case No. 19-11811 (SMB)</b>
<b>Debtors.<sup>1</sup></b>	: <b>(Jointly Administered)</b>
-----X	

**AFFIDAVIT AND DISCLOSURE STATEMENT OF \_\_\_\_\_,  
ON BEHALF OF \_\_\_\_\_**

STATE OF \_\_\_\_\_ )  
  ) s.s.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, upon his oath, deposes and says as follows:

1. I am a \_\_\_\_\_ of \_\_\_\_\_, located at \_\_\_\_\_ (the "Firm").

2. Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors") have requested that the Firm provide \_\_\_\_\_ services to the Debtors, and the Firm has consented to provide such services (the "Services").

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

3. The Services include, but are not limited to, the following:
- 
- 

4. The Firm may have performed services in the past and may perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in interest in the Debtors' chapter 11 cases. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be claimants or employees of the Debtors, or other parties in interest in these chapter 11 cases. The Firm does not perform services for any such person in connection with these chapter 11 cases. In addition, the Firm does not have any relationship with any such person, such person's attorneys, or such person's accountants that would be adverse to the Debtors or their estates with respect to the matters on which the Firm is to be retained.

5. Neither I, nor any principal of, or professional employed by the Firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than principals and regular employees of the Firm.

6. Neither I nor any principal of, or professional employed by the Firm, insofar as I have been able to ascertain, holds or represents any interest materially adverse to the Debtors or their estates with respect to the matters on which the Firm is to be retained.

7. As of the commencement of these chapter 11 cases, the Debtors owed the Firm \$ \_\_\_\_\_ in respect of prepetition services rendered to the Debtors.

8. The Firm is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of this inquiry, or at any time during the period of

its employment, if the Firm should discover any facts bearing on the matters described herein,  
the Firm will supplement the information contained in this Affidavit.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of  
the United States of America that the foregoing is true and correct, and that this Affidavit and  
Disclosure Statement was executed on \_\_\_\_\_, 2019, at \_\_\_\_\_.

\_\_\_\_\_  
Affiant Name

SWORN TO AND SUBSCRIBED before  
Me this \_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Notary Public

**Exhibit 4**

**Retention Questionnaire**



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
: **Chapter 11**  
: **Case No. 19-11811 (SMB)**  
: **(Jointly Administered)**  
: **Debtors.<sup>1</sup>**  
-----X

**RETENTION QUESTIONNAIRE**

TO BE COMPLETED BY PROFESSIONALS EMPLOYED by Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”).

All questions **must** be answered. Please use “none,” “not applicable,” or “N/A,” as appropriate. If more space is needed, please complete on a separate page and attach.

1. Name and Address of firm:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Date of retention: \_\_\_\_\_
3. Type of services to be provided:  
\_\_\_\_\_  
\_\_\_\_\_
4. Brief description of services to be provided:  
\_\_\_\_\_

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

\_\_\_\_\_

\_\_\_\_\_

5. Arrangements for compensation (hourly, contingent, etc.):

(a) Average hourly rate (if applicable): \_\_\_\_\_

(b) Estimated average monthly compensation based on prepetition retention (if company was employed prepetition):

\_\_\_\_\_

6. Prepetition claims against the Debtors held by the company:

Amount of claim: \$ \_\_\_\_\_

Date claim arose: \_\_\_\_\_

Nature of claim: \_\_\_\_\_

7. Prepetition claims against the Debtors held individually by any member, associate, or professional employee of the company:

Name: \_\_\_\_\_

Status: \_\_\_\_\_

Amount of claim: \$ \_\_\_\_\_

Date claim arose: \_\_\_\_\_

Nature of claim: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. Disclose the nature and provide a brief description of any interest adverse to the Debtors or to their estates for the matters on which the company is to be employed:

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9. Name and title of individual completing this form:

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Dated: \_\_\_\_\_, 2019

**Redline of OCP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
 ---  
 In re : Chapter 11  
 :  
 FUSION CONNECT, INC., *et al.*, : Case No. 19-11811 (SMB)  
 :  
 Debtors.<sup>1</sup> : (Jointly Administered)  
 :  
 ----- X  
 ---

**ORDER AUTHORIZING THE DEBTORS TO EMPLOY  
PROFESSIONALS USED IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion (the “**Motion**”)<sup>2</sup> dated June 14, 2019 (ECF No. 87) of Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 327, and 330 of title 11 of the United States Code (the “**Bankruptcy Code**”), for an order authorizing, but not directing, the Debtors to (a) establish certain procedures for the Debtors to retain and compensate attorneys that the Debtors employ in the ordinary course of business identified on **Exhibit 1** and **Exhibit 2** annexed hereto (collectively, the “**Ordinary Course Professionals**”),

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

effective as of the Commencement Date, without (i) the submission of separate employment applications or (ii) the issuance of separate retention orders for each individual Ordinary Course Professional; and (b) compensate and reimburse such professionals without individual fee applications, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Motion have been filed; and a hearing having been held for the relief requested in the Motion (the "Hearing"); and upon the record of the Hearing; on July 1, 2019; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted to the extent set forth herein.
2. Pursuant to sections 105(a), 327, and 330 of the Bankruptcy Code, to the extent deemed necessary by the Debtors, the Debtors are authorized to employ the Ordinary

Course Professionals listed on **Exhibit 1** and **Exhibit 2** annexed hereto in the ordinary course of its business in accordance with the following procedures (the “**Procedures**”):

- (a) Within thirty (30) days of the later of (i) the entry of this Order and (ii) the date on which the Ordinary Course Professional commences postpetition services for the Debtors, each Ordinary Course Professional will provide the following to the Debtors: (a) an affidavit (the “**OCP Affidavit**”), substantially in the form annexed hereto as **Exhibit 3** certifying that the Ordinary Course Professional does not represent or hold any interest adverse to the Debtors or their estates with respect to the matter(s) on which such professional is to be employed and (b) a completed retention questionnaire (the “**Retention Questionnaire**”), substantially in the form annexed hereto as **Exhibit 4**.
- (b) Upon receipt of the OCP Affidavit and Retention Questionnaire, the Debtors will file the same with the Court and serve a copy upon (i) the Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, New York 10014 (Attn: Richard Morrissey, Esq. and Susan Arbeit, Esq.) (the “**U.S. Trustee**”), (ii) counsel to ~~any statutory~~ the official committee of unsecured creditors, Cooley LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Cathy Hershcopf, Esq., Seth Van Aalten, Esq., Robert Winning, Esq., and Sarah Carnes, Esq.), and (iii) counsel to the Ad Hoc Group of First Lien Lenders, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attn: Damian S. Schaible, Esq. and Adam L. Shpeen, Esq.) (the “**Service Parties**”).
- (c) The Service Parties will have seven (7) calendar days following the date of service to file an objection with the Court and notify Debtors’ counsel, in writing, of any objection to the retention based on the contents of the OCP Affidavit and/or Retention Questionnaire (the “**Retention Objection Deadline**”). If no objection is filed and served before the Retention Objection Deadline, the retention and employment of such Ordinary Course Professional shall be deemed approved without further order of the Court.
- (d) If an objection is filed by the Retention Objection Deadline and such objection cannot be resolved within fourteen (14) calendar days after the Retention Objection Deadline, the matter will be set for hearing before the Court.

- (e) No Ordinary Course Professional may be paid any amount for invoiced fees and expenses until the Ordinary Course Professional has been retained in accordance with these Procedures.
- (f) Once the Debtors retain an Ordinary Course Professional in accordance with these Procedures, the Debtors may pay such Ordinary Course Professional 100% of the fees and 100% of the disbursements incurred upon the submission to, and approval by, the Debtors of an appropriate invoice setting forth in reasonable detail the nature of the services rendered and expenses actually incurred (without prejudice to the Debtors' right to dispute any such invoices); provided however, the following limitations shall apply to the payment of fees and reimbursement of expenses:
- For each Ordinary Course Professional set forth on **Exhibit 1** annexed hereto, total compensation and reimbursements shall not exceed \$25,000 for each month starting from the first full month following the Commencement Date (the "**Tier 1 Monthly Cap**") and
  - For each Ordinary Course Professional set forth on **Exhibit 2** annexed hereto, total compensation and reimbursements shall not exceed \$100,000 per quarter starting from the first full quarter following the Commencement Date (the "**Tier 2 Quarterly Cap**," and together with the Tier 1 Monthly Cap, the "**OCP Interim Caps**").
- (g) In the event that an Ordinary Course Professional seeks more than the applicable OCP Interim Cap during these chapter 11 cases, such Ordinary Course Professional shall file a fee application, to be heard on notice, for the full amount of its fees and expenses for any month or quarter, as applicable, where such Ordinary Course Professional's fees and disbursements exceeded the applicable OCP Interim Cap, in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Southern District of New York (the "**Local Rules**"), the Fee Guidelines promulgated by the U.S. Trustee, and all Orders of the Court, provided that the Debtors may make an interim payment to the Ordinary Course Professional prior to a hearing on the application of up to the amount of the applicable OCP Interim Cap so long as the Ordinary Course Professional has been retained in accordance with this Order.
- (h) Payment to any one Ordinary Course Professional on the OCP List shall not exceed \$250,000 for the entire period during which these chapter 11 cases are pending, subject to further Order of the Court.



In the event that an Ordinary Course Professional's fees and expenses exceed \$250,000 for the entire period during which these chapter 11 cases are pending, such Ordinary Course Professional shall be required to file a separate retention application to be retained as a professional pursuant to section 327 of the Bankruptcy Code.

- (i) Within thirty (30) days after the end of each quarterly period, the Debtors will file a statement with the Court and serve the same on the Service Parties, certifying the Debtors' compliance with the terms of the relief requested herein. The statement shall include for each Ordinary Course Professional (i) the name of such Ordinary Course Professional and (ii) for each monthly or quarterly period, as applicable, the aggregate amounts paid as compensation for services rendered and as reimbursements of expenses incurred by such Ordinary Course Professional.
- (j) If the Debtors seek to retain an Ordinary Course Professional not already listed on Exhibit 1 and Exhibit 2 to the Proposed Order during the chapter 11 cases, the Debtors will file with the Court and serve upon the Service Parties a notice listing those Ordinary Course Professionals to be added to the list of Ordinary Course Professionals (the "**Supplemental Notice of Ordinary Course Professionals**"), along with the attendant OCP Affidavits and Retention Questionnaires.
- (k) If no objection to the Supplemental Notice of Ordinary Course Professionals is filed with the Court and served upon the Debtors' counsel, as set forth above, so as to be actually received within seven (7) calendar days after the service thereof, the list will be deemed approved by the Court in accordance with the provisions of this Motion and without the need for a hearing or further Court order. Any Ordinary Course Professionals retained pursuant to the Supplemental Notice of Ordinary Course Professionals will be paid in accordance with the terms and conditions set forth in the paragraphs above.

3. Entry of this Order and approval of the Procedures does not affect the Debtors' ability to (a) dispute any invoice submitted by an Ordinary Course Professional or (b) retain additional Ordinary Course Professionals from time to time as needed, and the Debtors reserve all of its rights with respect thereto.

4. The form of OCP Affidavit and Retention Questionnaire are approved.

5. The Debtors are authorized to take all reasonable action necessary to effectuate the relief granted in this Order.

6. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Tier 1 OCP List**

<b>Professional</b>	<b>Address</b>	<b>Contact</b>	<b>Services Performed by Professional</b>
Banta Immigration Law	260 Peachtree Street, Suite 801, Atlanta, GA 30303	Yulia D. Makarova	Provides immigration and visa legal advice
Brooks, Pansing, Brooks, PC	1248 O Street, Suite 984, Lincoln, NE 68508	Loel Brooks	Provides regulatory legal advice
Cahill Gordon & Reindel, LLP	Eighty Pine Street, New York, NY 10005	Cherie Kiser	Provides regulatory and FCC-related legal advice
Culhane Meadows PLLC	PO Box 49716, Atlanta, GA 30359	J. Scott Anderson	Provides intellectual property and litigation legal advice
Enoch Kever PLLC	600 Congress Ave., Ste 2800, Austin, TX, 78701	Susan Gentz	Provides litigation legal advice
Kaempfer Crowell	1980 Festival Plaza Drive, Suite 650, Las Vegas, NV 89135	Steven Tackes	Provides regulatory legal advice
Klein Law Group PLLC	1250 Connecticut Avenue NW, Suite 200, Washington, D.C. 20036	Phil Macres	Provides regulatory and litigation legal advice
Law offices of Donald Watnick	200 West 41st Street, 17th Floor, New York, NY 10036	Donald Watnick	Provides litigation legal advice
Littler Mendelson PC	PO Box 45547, San Francisco, CA 94145	Arthur Eidelhoch	Provides employment legal advice
Marshall Halem LLC	27 Mica Lane, Ste. 102, Wellesley Hills, MA 02481	Samantha C. Halem	Provides employment legal advice
McNees Wallace & Nurick, LLC	100 Pine Street, PO Box 1166, Harrisburg, PA 17108	Susan Bruce	Provides regulatory legal advice
Miller Isar Inc.	4304 92nd Avenue NW, Gig Harbor, WA, 98335	Andrew Isar	Provides regulatory compliance legal advice
Resnick Law LLC	45 School Street, Boston, MA, 02111	Mark Resnick	Provides litigation legal advice
Spencer Fane Britt & Browne LLP	PO Box 872037, Kansas City, MO 64187	Richard Lageson	Provides litigation and general corporate legal advice

**Exhibit 2**

**Tier 2 OCP List**

Professional	Address	Contact	Services Performed by Professional
Brann & Isaacson	184 Main Street, PO Box 3070, Lewiston, ME 04243	Nat Bessey	Provides tax and state audit legal advice
Kabat Chapman & Ozmer LLP	171 17th Street NW, Suite 1550, Atlanta, GA 30363	Joseph W. Ozmer II	Provides litigation legal advice
Morgan, Lewis & Bockius LLP	PO Box 8500 S-6050, Philadelphia, PA 19178	Tamar Finn	Provides federal regulatory legal advice
Norris McLaughlin PA	400 Crossing Blvd., 8th Floor; P.O. Box 5933, Bridgewater, NJ 08807	Christina McNally	Provides state regulatory legal advice
Richards, Layton & Finger, P.A.	920 King Street, Wilmington, DE 19801	Stephen Bigler	Provides Delaware legal advice
Stoll Keenon Ogden PLLC	P O Box 11969, Lexington, KY 40579	Matthew Lindblom	Provides real estate and litigation legal advice

**Exhibit 3**

**OCP Affidavit**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
 ---  
 In re : **Chapter 11**  
 :  
 FUSION CONNECT, INC., *et al.*, : **Case No. 19-11811 (SMB)**  
 :  
 Debtors.<sup>1</sup> : **(Jointly Administered)**  
 :  
 ----- X  
 ---

**AFFIDAVIT AND DISCLOSURE STATEMENT OF \_\_\_\_\_,**

**ON BEHALF OF \_\_\_\_\_**

STATE OF \_\_\_\_\_ )  
) s.s.:  
COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being duly sworn, upon his oath, deposes and says as follows:

1. I am a \_\_\_\_\_ of \_\_\_\_\_, located at \_\_\_\_\_ (the "Firm").

2. Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors") have requested

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.



that the Firm provide \_\_\_\_\_ services to the Debtors, and the Firm has consented to provide such services (the "Services").

3. The Services include, but are not limited to, the following:

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4. The Firm may have performed services in the past and may perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in interest in the Debtors' chapter 11 cases. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be claimants or employees of the Debtors, or other parties in interest in these chapter 11 cases. The Firm does not perform services for any such person in connection with these chapter 11 cases. In addition, the Firm does not have any relationship with any such person, such person's attorneys, or such person's accountants that would be adverse to the Debtors or their estates with respect to the matters on which the Firm is to be retained.

5. Neither I, nor any principal of, or professional employed by the Firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than principals and regular employees of the Firm.

6. Neither I nor any principal of, or professional employed by the Firm, insofar as I have been able to ascertain, holds or represents any interest materially adverse to the Debtors or their estates with respect to the matters on which the Firm is to be retained.

7. As of the commencement of these chapter 11 cases, the Debtors owed the Firm \$ \_\_\_\_\_ in respect of prepetition services rendered to the Debtors.

8. The Firm is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of this inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this Affidavit.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Affidavit and Disclosure Statement was executed on \_\_\_\_\_, 2019, at \_\_\_\_\_.

\_\_\_\_\_  
Affiant Name

SWORN TO AND SUBSCRIBED before  
Me this \_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Notary Public

**Exhibit 4**

**Retention Questionnaire**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
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<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>FUSION CONNECT, INC., et al.,</b>	:	<b>Case No. 19-11811 (SMB)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
	:	
-----	X	
---		

**RETENTION QUESTIONNAIRE**

TO BE COMPLETED BY PROFESSIONALS EMPLOYED by Fusion Connect, Inc. and its debtor subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors").

All questions **must** be answered. Please use "none," "not applicable," or "N/A," as appropriate. If more space is needed, please complete on a separate page and attach.

1. Name and Address of firm:  


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2. Date of retention: \_\_\_\_\_
3. Type of services to be provided:  


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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

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4. Brief description of services to be provided:

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5. Arrangements for compensation (hourly, contingent, etc.):

(a) Average hourly rate (if applicable): \_\_\_\_\_

(b) Estimated average monthly compensation based on prepetition retention (if company was employed prepetition):

---

6. Prepetition claims against the Debtors held by the company:

Amount of claim: \$ \_\_\_\_\_

Date claim arose: \_\_\_\_\_

Nature of claim: \_\_\_\_\_

7. Prepetition claims against the Debtors held individually by any member, associate, or professional employee of the company:

Name: \_\_\_\_\_

Status: \_\_\_\_\_

Amount of claim: \$ \_\_\_\_\_

Date claim arose: \_\_\_\_\_

Nature of claim: \_\_\_\_\_

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8. Disclose the nature and provide a brief description of any interest adverse to the Debtors or to their estates for the matters on which the company is to be employed:

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---

9. Name and title of individual completing this form:

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Dated: \_\_\_\_\_, 2019

**EXHIBIT M**  
**(Proposed Order – ECF No. 88)**

**Clean Weil, Gotshal & Manges LLP Retention Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
: **Chapter 11**  
: **Case No. 19-11811 (SMB)**  
: **(Jointly Administered)**  
: **Debtors.<sup>1</sup>**  
: **Chapter 11**  
: **Case No. 19-11811 (SMB)**  
: **(Jointly Administered)**  
: **Debtors.<sup>1</sup>**  
-----X

**ORDER AUTHORIZING RETENTION AND  
EMPLOYMENT OF WEIL, GOTSHAL & MANGES LLP AS  
ATTORNEYS FOR DEBTORS *NUNC PRO TUNC* TO COMMENCEMENT DATE**

Upon the application dated June 14, 2019 (ECF No. 88) (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 327(a) and 328(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for authority to retain and employ Weil, Gotshal & Manges LLP (“**Weil**”) as attorneys for the Debtors, effective *nunc pro tunc* to the Commencement Date, all as more fully set forth in the Application; and upon the declaration of Gary T. Holtzer, a member of Weil, annexed to the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHIC Holding Corporation (3066); Fusion MPHIC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.



Application as **Exhibit B** (the “**Holtzer Declaration**”) and the declaration of Keith Soldan, Chief Financial Officer of Fusion Connect, Inc., annexed to the Application as **Exhibit C** (the “**Soldan Declaration**”); and the Court being satisfied, based on the representations made in the Application and the Holtzer Declaration, that Weil is “disinterested” as such term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and as required under section 327(a) of the Bankruptcy Code, and that Weil represents no interest adverse to the Debtors’ estates; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Préska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been given as provided in the Application, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Holtzer Declaration and Soldan Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is granted as set forth herein.

2. The Debtors are authorized, pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rules 2014-1 and 2016-1, to employ and retain Weil as attorneys to the Debtors on the terms and conditions set forth in the Application and the Holtzer Declaration, *nunc pro tunc* to the Commencement Date.

3. Weil is authorized to render the following professional services:

- a. take all necessary actions to protect and preserve the Debtors' estates, including the prosecution of actions on the Debtors' behalf, the defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved and the preparation of objections to claims filed against the Debtors' estates;
- b. prepare on behalf of the Debtors, as debtors in possession, all necessary motions, applications, answers, orders, reports and other papers in connection with the administration of the Debtors' estates;
- c. take all necessary actions in connection with any chapter 11 plan and related disclosure statement and all related documents, and such further actions as may be required in connection with the administration of the Debtors' estates;
- d. take all necessary action to protect and preserve the value of the Debtors' estates, including advising with respect to the Debtors' affiliates and all related matters; and
- e. perform all other necessary legal services in connection with the prosecution of these chapter 11 cases; provided, that to the extent Weil determines such services fall outside the scope of services historically or generally performed by Weil as lead Debtors' counsel in a bankruptcy case, Weil will file a supplemental declaration.

4. Weil shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases in compliance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court. Weil will make reasonable effort to comply with the U.S. Trustee's request for information and additional disclosures in

connection with the Application and any interim and/or final fee application(s) to be filed by Weil in these chapter 11 cases.

5. Weil is authorized to apply the Fee Advance to any outstanding amounts relating to the period immediately before the Commencement Date that were not processed through Weil's billing system as of the Commencement Date.

6. Weil shall be reimbursed for reasonable and necessary expenses as provided by the Fee Guidelines.

7. Notwithstanding any applicability of Bankruptcy Rules 6004(h), 7062, or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. Weil shall provide ten business days' notice to the Debtors, the U.S. Trustee, counsel to the Ad Hoc Group of First Lien Lenders and any statutory committee appointed in these chapter 11 cases of any increases in the rates set forth in the Application, and such notice must be filed with the Court.

9. To the extent there is any inconsistency between this Order and the Application, the provisions of this Order shall govern.

10. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

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

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Redline of Weil, Gotshal & Manges LLP Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
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In re : **Chapter 11**  
:   
FUSION CONNECT, INC., *et al.*, : **Case No. 19-11811 (SMB)**  
:   
Debtors.<sup>1</sup> : **(Jointly Administered)**  
:   
----- X  
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**ORDER AUTHORIZING RETENTION AND  
EMPLOYMENT OF WEIL, GOTSHAL & MANGES LLP AS  
ATTORNEYS FOR DEBTORS NUNC PRO TUNC TO COMMENCEMENT DATE**

Upon the application dated June 14, 2019 (ECF No. 88) (the “**Application**”)<sup>2</sup> of Fusion Connect, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 327(a) and 328(a) of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”) for authority to retain and employ Weil, Gotshal & Manges LLP (“**Weil**”) as attorneys

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

for the Debtors, effective *nunc pro tunc* to the Commencement Date, all as more fully set forth in the Application; and upon the declaration of Gary T. Holtzer, a member of Weil, annexed to the Application as **Exhibit B** (the "**Holtzer Declaration**") and the declaration of Keith Soldan, Chief Financial Officer of Fusion Connect, Inc., annexed to the Application as **Exhibit C** (the "**Soldan Declaration**"); and the Court being satisfied, based on the representations made in the Application and the Holtzer Declaration, that Weil is "disinterested" as such term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and as required under section 327(a) of the Bankruptcy Code, and that Weil represents no interest adverse to the Debtors' estates; and this Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been given as provided in the Application, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and ~~this Court having held a hearing~~ the attorneys for the Debtors having filed a declaration pursuant to 28 U.S.C. § 1746 indicating that no objections to the Application (the "Hearing") have been filed; and a hearing having been held for the relief requested in the Application on July 1, 2019; and the Court having considered the Holtzer Declaration and Soldan Declaration, filed contemporaneously with the Application, and the Court having determined that the relief sought in the Application is in the best interests of the Debtors, their creditors, and all parties in interest, and that the legal and

factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Application is granted as set forth herein.
2. The Debtors are authorized, pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rules 2014-1 and 2016-1, to employ and retain Weil as attorneys to the Debtors on the terms and conditions set forth in the Application and the Holtzer Declaration, *nunc pro tunc* to the Commencement Date.
3. Weil is authorized to render the following professional services:
  - a. take all necessary actions to protect and preserve the Debtors' estates, including the prosecution of actions on the Debtors' behalf, the defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved and the preparation of objections to claims filed against the Debtors' estates;
  - b. prepare on behalf of the Debtors, as debtors in possession, all necessary motions, applications, answers, orders, reports and other papers in connection with the administration of the Debtors' estates;
  - c. take all necessary actions in connection with any chapter 11 plan and related disclosure statement and all related documents, and such further actions as may be required in connection with the administration of the Debtors' estates;
  - d. take all necessary action to protect and preserve the value of the Debtors' estates, including advising with respect to the Debtors' affiliates and all related matters; and
  - e. perform all other necessary legal services in connection with the prosecution of these chapter 11 cases; provided, that to the extent Weil determines such services fall outside the scope of services historically or generally performed by Weil as lead Debtors'



counsel in a bankruptcy case, Weil will file a supplemental declaration.

4. Weil shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtors' chapter 11 cases in compliance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, and any other applicable procedures and orders of the Court. Weil will make reasonable effort to comply with the U.S. Trustee's request for information and additional disclosures in connection with the Application and any interim and/or final fee application(s) to be filed by Weil in these chapter 11 cases.

5. Weil is authorized to apply the Fee Advance to any outstanding amounts relating to the period immediately before the Commencement Date that were not processed through Weil's billing system as of the Commencement Date.

6. Weil shall be reimbursed for reasonable and necessary expenses as provided by the Fee Guidelines.

7. Notwithstanding any applicability of Bankruptcy Rules 6004(h), 7062, or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. Weil shall provide ten business days' notice to the Debtors, the U.S. Trustee, counsel to the Ad Hoc Group of First Lien Lenders and any statutory committee appointed in these chapter 11 cases of any increases in the rates set forth in the Application, and such notice must be filed with the Court.

9. To the extent there is any inconsistency between this Order and the Application, the provisions of this Order shall govern.

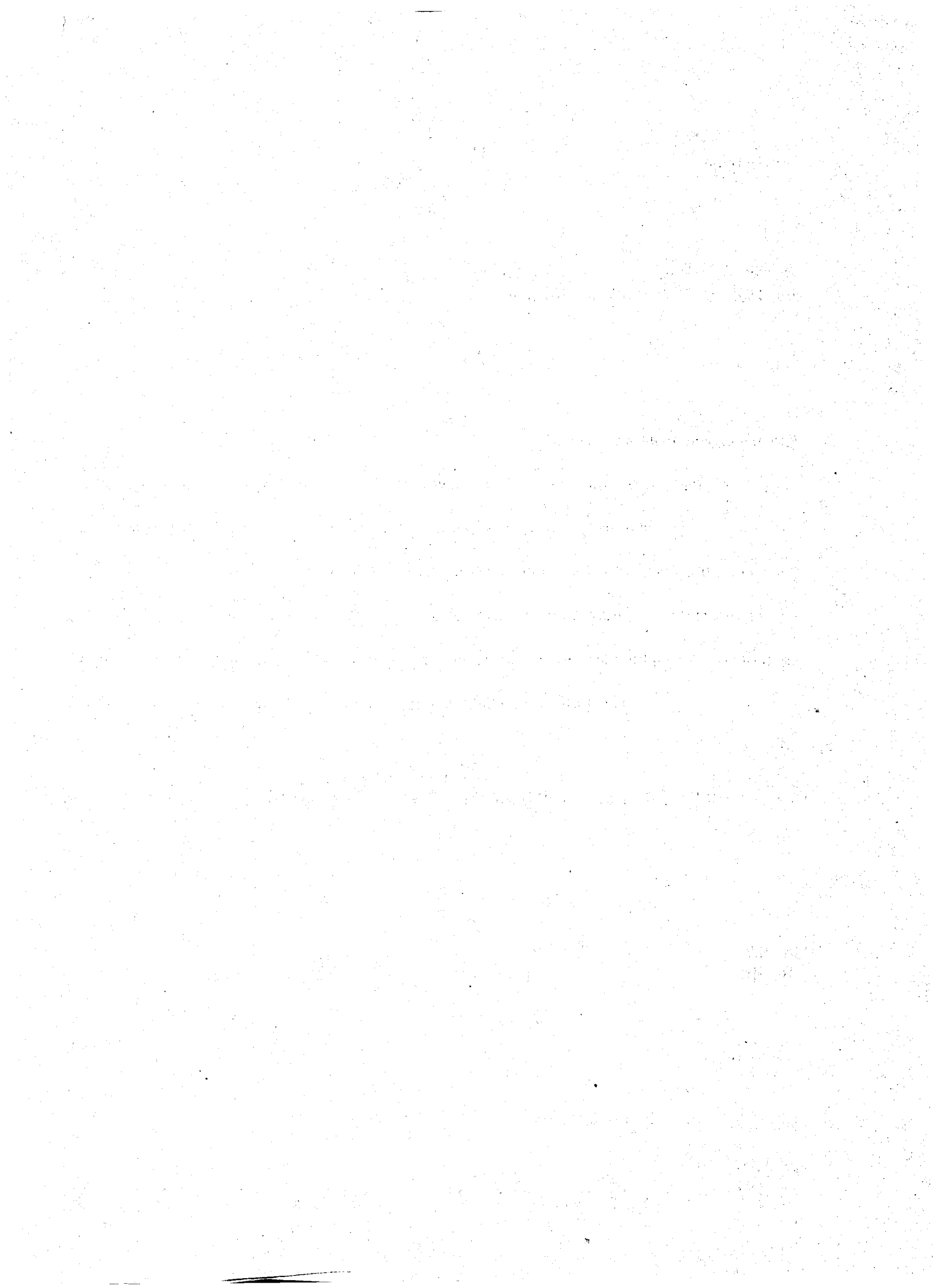
10. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

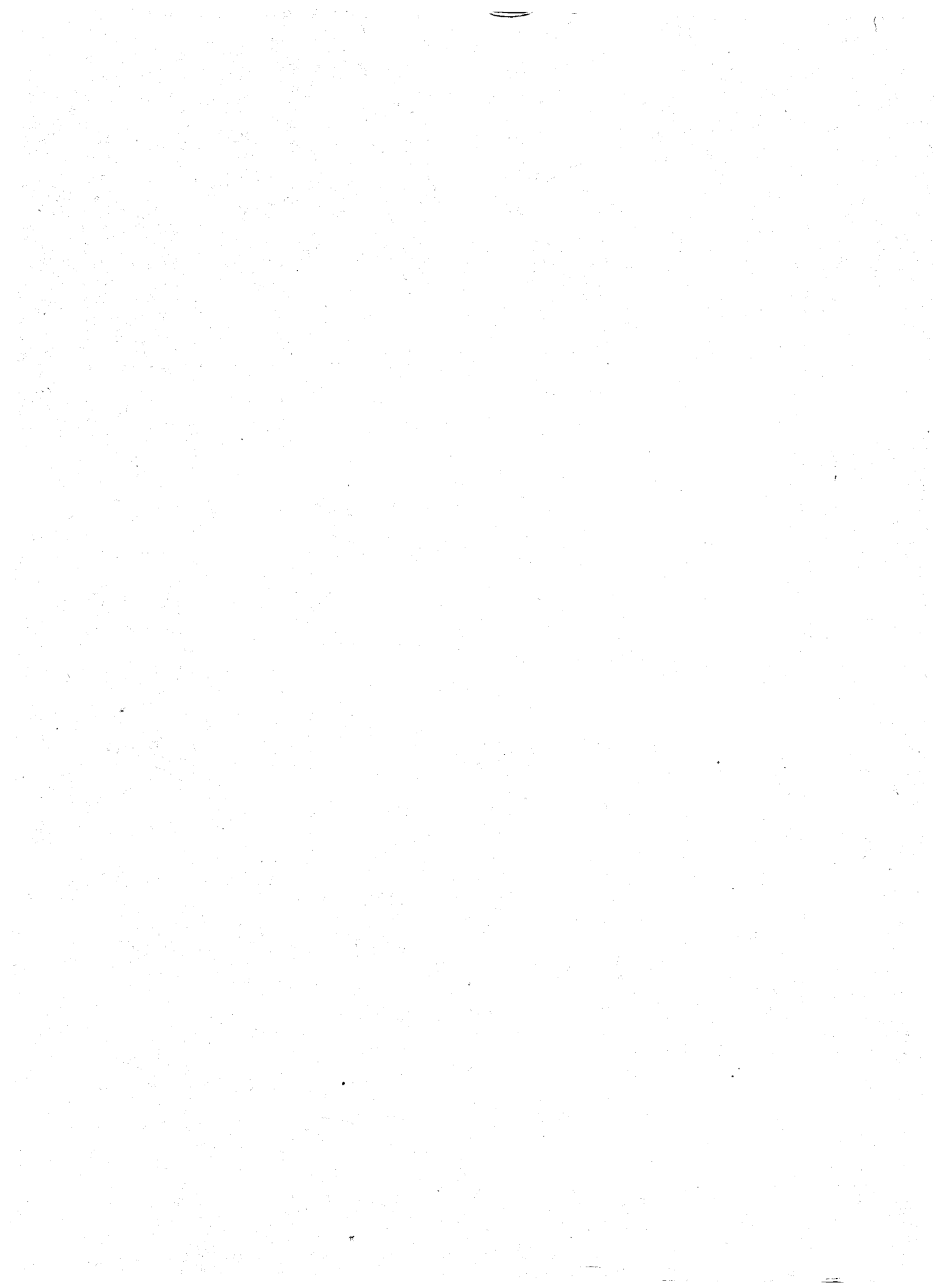
11. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: \_\_\_\_\_, 2019  
New York, New York

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THE HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE





SRF 34006

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007  
Gary T. Holtzer  
Sunny Singh

*Proposed Attorneys for Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re	: Chapter 11
FUSION CONNECT, INC., et al.,	: Case No. 19-11811 (SMB)
Debtors. <sup>1</sup>	: (Jointly Administered)
-----X	

**NOTICE OF AGENDA OF MATTERS SCHEDULED  
FOR HEARING ON JULY 1, 2019 AT 2:00 P.M. (Eastern Time)**

Location of Hearing: United States Bankruptcy Court for the Southern District of New York,  
before the Honorable Stuart M. Bernstein, United States Bankruptcy  
Judge, One Bowling Green, Courtroom 723, New York, New York  
10004

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Fusion Connect, Inc. (2021); Fusion BCHI Acquisition LLC (7402); Fusion NBS Acquisition Corp. (4332); Fusion LLC (0994); Fusion MPHC Holding Corporation (3066); Fusion MPHC Group, Inc. (1529); Fusion Cloud Company LLC (5568); Fusion Cloud Services, LLC (3012); Fusion CB Holdings, Inc. (6526); Fusion Communications, LLC (8337); Fusion Telecom, LLC (0894); Fusion Texas Holdings, Inc. (2636); Fusion Telecom of Kansas, LLC (0075); Fusion Telecom of Oklahoma, LLC (3260); Fusion Telecom of Missouri, LLC (5329); Fusion Telecom of Texas Ltd., L.L.P. (8531); Bircan Holdings, LLC (2819); Fusion Management Services LLC (5597); and Fusion PM Holdings, Inc. (2478). The principal executive office of the Debtors is located at 420 Lexington Avenue, Suite 1718, New York, New York 10170.

**I. UNCONTESTED MATTERS:<sup>2</sup>**

1. Motion of Debtors for (I) Authorization to (A) Continue Using Existing Cash Management System, Bank Accounts, and Business Forms, (B) Implement Changes to the Cash Management System in the Ordinary Course of Business, (C) Continue Intercompany Transactions, (D) Provide Administrative Expense Priority for Postpetition Intercompany Claims, (E) Extend Time to Comply With, or Seek Waiver of, 11 U.S.C. § 345(B), and (II) Related Relief **(ECF No. 4)**

Response Deadline: June 24, 2019 at 4:00 p.m. (ET)

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York **(ECF No. 2)**
- B. Interim Order (I) Authorizing Debtors to (A) Continue Using Existing Cash Management System, Bank Accounts, and Business Forms, (B) Implement Changes to the Cash Management System in the Ordinary Course Of Business, (C) Continue Intercompany Transactions, (D) Provide Administrative Expense Priority for Postpetition Intercompany Claims, (E) Extend Time to Comply with, or Seek Waiver of, 11 U.S.C. § 345(B), and (II) Granting Related Relief **(ECF No. 48)**
- C. Certificate of No Objection **(ECF No. TBD)**

Status: This matter is going forward on an uncontested basis.

2. Motion of Debtors for Authorization to Maintain and Administer their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto **(ECF No. 12)**

Response Deadline: June 24, 2019 at 4:00 p.m. (ET)

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York **(ECF No. 2)**

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<sup>2</sup> The objection deadline for the Official Committee of Unsecured Creditors was extended to June 26, 2019 at 4:00 p.m. (Eastern Time) with respect to the motions and applications listed as items 1-14 herein (ECF No. 107). With respect to items 15 and 16 listed herein, the objection deadline was further extended to June 27, 2019 at 4:00 p.m. (Eastern Time) for the Official Committee of Unsecured Creditors (ECF No. 119).

- B. Supplemental Declaration of Keith Soldan in Support of Motion of Debtors for (I) Authorization to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto (2) (I) Authorization to Pay Certain Prepetition Obligations to Critical Vendors, Lien Claimants, and Foreign Creditors, (II) Approval of Related Procedures, (III) Confirmation of Administrative Expense Priority Status for Certain Goods Delivered and Services Provided Postpetition, and (IV) Related Relief (ECF No. 34)
- C. Interim Order Authorizing the Debtors to Maintain and Administer their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto (ECF No. 51)
- D. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

- 3. Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 362 for Entry of Interim and Final Orders Establishing Notification Procedures and Approving the Restrictions on (A) Certain Transfers of Interests in the Debtors and (B) Claiming a Worthless Stock Deduction (ECF No. 8)<sup>3</sup>

Response Deadline: June 24, 2019 at 4:00 p.m. (ET)

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York (ECF No. 2)
- B. Interim Order Establishing Notification Procedures and Approving Restrictions on (A) Certain Transfers of Interests in the Debtors and (B) Claiming a Worthless Stock Deduction (ECF No. 52)
- C. Notice of Filing of Revised Proposed Orders (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

- 4. Motion of Debtors for (I) Authorization to (A) Pay Employee Obligations and (B) Continue Employee Benefit Programs and (II) Related Relief (ECF No. 5)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

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<sup>3</sup> The objection deadline for the U.S. Department of Justice was extended to June 27, 2019 at 4:00 p.m. (Eastern Time) (ECF No. 112).

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York **(ECF No. 2)**
- B. Interim Order (I) Authorizing Debtors to (A) Pay Employee Obligations and (B) Continue Employee Benefit Programs and (II) Related Relief **(ECF No. 54)**
- C. Certificate of No Objection **(ECF No. TBD)**

Status: This matter is going forward on an uncontested basis.

- 5. Motion of Debtors for (I) Authorization to Pay Certain Prepetition Obligations to Critical Vendors, Lien Claimants, and Foreign Creditors, (II) Approval of Related Procedures, (III) Confirmation of Administrative Expense Priority Status for Certain Goods Delivered and Services Provided Postpetition, and (IV) Related Relief **(ECF No. 11)**

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York **(ECF No. 2)**
- B. Supplemental Declaration of Keith Soldan in Support of Motion of Debtors for (I) Authorization to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto (2) (I) Authorization to Pay Certain Prepetition Obligations to Critical Vendors, Lien Claimants, and Foreign Creditors, (II) Approval of Related Procedures, (III) Confirmation of Administrative Expense Priority Status for Certain Goods Delivered and Services Provided Postpetition, and (IV) Related Relief **(ECF No. 34)**
- C. Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Obligations to Critical Vendors, Lien Claimants, and Foreign Creditors, (II) Approving Related Procedures, (III) Confirming Administrative Expense Priority Status of Certain Goods Delivered and Services Provided Postpetition, and (IV) Granting Related Relief **(ECF No. 55)**
- D. Certificate of No Objection **(ECF No. TBD)**

Status: This matter is going forward on an uncontested basis.



6. Motion of Debtors for (I) Authorization to (A) Continue to Maintain their Insurance Policies and Programs and Surety Bond Program and (B) Honor All Obligations with Respect Thereto and (II) Modification of the Automatic Stay with Respect to the Workers' Compensation Program (ECF No. 6)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York (ECF No. 2)
- B. Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs and Surety Bond Program and (B) Honor All Obligations with Respect Thereto and (II) Modifying the Automatic Stay with Respect to the Workers' Compensation Program (ECF No. 71)
- C. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

7. Motion of Debtors for Authorization to Pay (I) Certain Prepetition Taxes and Fees and (II) Fees of Third Party Service Providers (ECF No. 7)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York (ECF No. 2)
- B. Interim Order for Authorization to Pay (I) Certain Prepetition Taxes and Fees and (II) Fees of Third Party Service Providers (ECF No. 72)
- C. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

8. Debtors' Motion for Entry of an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (ECF No. 82)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

- A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

9. Debtors' Motion for Authorization to Employ Professionals Used in Ordinary Course of Business (ECF No. 87)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

- A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

10. Application of Debtors for Authorization to Retain and Employ Prime Clerk LLC as Administrative Agent *Nunc Pro Tunc* to Commencement Date (ECF No. 83)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

- A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

11. Application for Entry of an Order Authorizing the Employment and Retention of PJT Partners LP as Investment Banker for the Debtors Effective *Nunc Pro Tunc* to the Commencement Date (ECF No. 84)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

- A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

12. Application of Debtors for Authority to Retain and Employ Kelley Drye & Warren LLP as Special Counsel to the Debtors *Nunc Pro Tunc* to the Commencement Date (ECF No. 85)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

13. Application of Debtors for Authorization to Retain and Employ FTI Consulting, Inc. as Financial Advisor for the Debtors *Nunc Pro Tunc* to the Commencement Date (ECF No. 86)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

14. Application of Debtors for Authority to Retain and Employ Weil, Gotshal & Manges LLP as Attorneys for Debtors *Nunc Pro Tunc* to Commencement Date (ECF No. 88)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

A. Certificate of No Objection (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

15. Debtors' Motion for Entry of an Order (I) Approving (A) Bidding Procedures and (B) Assumption and Assignment Procedures and (II) Granting Related Relief (ECF No. 36)

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Document:

- A. Notice of Filing of Revised Proposed Orders **(ECF No. TBD)**

Status: This matter is going forward on an uncontested basis.

16. Motion of Debtors for (I) Authorization (A) to Obtain Postpetition Financing, (B) to Use Cash Collateral, (C) to Grant Liens and Provide Superpriority Administrative Expense Status, (D) to Grant Adequate Protection, (E) to Modify the Automatic Stay; (F) to Schedule a Final Hearing and (II) Related Relief **(ECF No. 17)**

Response Deadline: June 24, 2019 at 4:00 p.m.

Responses Filed: None

Related Documents:

- A. Declaration of Keith Soldan Pursuant to Rule 1007-2 of Local Bankruptcy Rules for Southern District of New York **(ECF No. 2)**
- B. Motion of Debtors Pursuant to 11 U.S.C. §§ 107(B) and 105(A) and Fed. R. Bankr. P. 9018 for Entry of Order Authorizing the Debtors to Redact the Fees Contained in the Fee Letter Related to the Dip Facility **(ECF No. 18)**
- C. Notice of Filing that Certain Fee Letter by and Among Fusion Connect, Inc. and the DIP Agent **(ECF No. 41)**
- D. Supplemental Declaration of John Singh in Support of Motion of Debtors for (I) Authorization (A) to Obtain Postpetition Financing, (B) to Use Cash Collateral, (C) to Grant Liens and Provide Superpriority Administrative Expense Status, (D) to Grant Adequate Protection, (E) to Modify the Automatic Stay and (F) to Schedule a Final Hearing and (II) Related Relief **(ECF No. 44)**

- E. Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief (ECF No. 57)
- F. Notice of Filing of Revised Proposed Orders (ECF No. TBD)

Status: This matter is going forward on an uncontested basis.

Dated: June 28, 2019  
New York, New York

/s/ Sunny Singh  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007  
Gary T. Holtzer  
Sunny Singh





