

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

In re:
LOOT CRATE, INC., *et al.*,¹
Debtors.)

)

MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS:

**(I) PROHIBITING UTILITIES FROM ALTERING, REFUSING,
OR DISCONTINUING SERVICE, (II) DEEMING UTILITIES
ADEQUATELY ASSURED OF PAYMENT, (III) ESTABLISHING
PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF
PAYMENT, AND (IV) GRANTING RELATED RELIEF**

Loot Crate, Inc., Loot Crate Holdings, Inc., LC Funding, Inc., and Loot Crate Parent, Inc. (collectively, the “**Debtors**”) file this motion (the “**Motion**”) for an interim and final orders (substantially in the form attached hereto as Exhibit A, the “**Interim Order**” and “**Final Order**,” respectively): (i) prohibiting the Utility Companies (as defined below) from altering, refusing, or discontinuing service; (ii) deeming the Utility Companies adequately assured of payment; (iii) establishing procedures for any Utility Companies to challenge, and for this Court to determine, whether any additional assurance payment is required; and (iv) then granting a final order after further notice, and granting related relief as further set forth herein.

In further support of this Motion, the Debtors respectfully represent as follows:

Background

1. On August 11, 2019 for Loot Crate Inc. and Loot Crate Holdings, Inc., and on August 12, 2019 for LC Funding, Inc. and Loot Crate Parent, Inc. (for each Debtor, the “**Petition**

¹ The Debtors are the following four entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Loot Crate, Inc. (7119); Loot Crate Holdings, Inc.; LC Funding, Inc.; Loot Crate Parent, Inc. The Debtors’ noticing address in these chapter 11 cases is 3401 Pasadena Avenue, Los Angeles, CA 90031.

Date”), each of the Debtors filed voluntary petitions with the United States Bankruptcy Court for the District of Delaware under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”). By a motion filed on the Petition Date, the Debtors have requested that their Chapter 11 cases (collectively, the “**Cases**”) be consolidated for procedural purposes only and administered jointly. The Debtors are authorized to continue to operate and manage their businesses and assets as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

2. The Debtors operate a subscription box service that caters to fandom and enthusiasts through “crates” curated with “geek and gamer products” each month. The Debtors partner with industry leaders in entertainment, gaming, sports, and pop culture to deliver monthly themed crates, produce interactive experiences and digital content, and film original video productions. Products include exclusive shirts, gear, and gadgets, as well as limited edition collectibles. Since 2012, more than 32 million crates have been shipped. The Debtors are the worldwide leader in pop-culture subscription boxes, and currently have over 250,000 recurring subscribers.

3. Further information about the Debtors and these Cases, a corporate chart showing the structure of the Debtors, and pertinent facts in support of this Motion can be found in the *Declaration of Stuart Kaufman in Support of First Day Motions and Related Relief* (the “**First Day Declaration**”)² D.I. 4, which is incorporated by reference.

4. No Committee, trustee, or examiner has been appointed in these Cases.

² Capitalized terms not otherwise defined herein have the meanings ascribed to them in the First Day Declaration.

Jurisdiction, Venue, and Statutory Predicate

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

6. Venue of these cases is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The statutory predicates for the relief requested in this Motion are Sections 366 and 105 of the Bankruptcy Code, Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “***Bankruptcy Rules***”), and Rule 9013-1(m) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “***Local Rules***”).

The Utility Providers

8. This Motion applies to a limited number of creditors. Specifically, the Debtors operate two modest locations – a corporate headquarters in eastern Los Angeles, and a small warehouse in Pennsylvania. The Debtors’ primary shipping and fulfillment services are run by a third party in Tijuana, Mexico, and the Debtor is not liable for any utility payments there.

9. However, for the limited number of utilities the Debtors use, such services are essential to the Debtors’ operations. In the normal conduct of their business, the Debtors have relationships with approximately nine utility companies (collectively, the “***Utility Providers***”) for the provision of telephone, internet, water, electricity, natural gas, sanitation, and other like services (the “***Utility Services***”). A list of the Utility Providers and their notice addresses is attached hereto as Exhibit B (the “***Utilities Service List***”).

10. Prior to the Petition Date, the Debtors remained largely current on their utility bills, as these tended to be modest amounts each month. Currently, the Debtors owe the Utility Providers for approximately thirty to forty-five days service, depending on where this filing fell in the Utility Providers' billing cycles. This total amount owed to the Utility Providers as of the Petition Date is approximately \$28,000. The Debtors estimate that the cost for the Utility Services during the next two weeks (not including any deposits to be paid) will be approximately \$15,000.

Relief Requested

11. By this Motion, the Debtors respectfully request the entry of the Interim Order: (a) determining that the Proposed Adequate Assurance provides the Utility Providers with adequate assurance of payment within the meaning of Section 366 of the Bankruptcy Code, (b) prohibiting the Utility Providers from altering, refusing, or discontinuing services, (c) approving procedures for resolving any dispute concerning adequate assurance in the event that a Utility Provider is not satisfied with the Proposed Adequate Assurance (the "*Adequate Assurance Procedures*"), and (d) granting related relief. The Interim Order also provides that the Debtors' service of this Motion constitutes due and adequate notice under the Local Rules and Bankruptcy Rules and provides for a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h), if applicable.

A. The Proposed Adequate Assurance

12. The Debtors intend to pay all post-petition obligations owed to the Utility Providers in a timely manner and their DIP Budget includes such amounts. Nevertheless, to provide adequate assurance of payment for future services, the Debtors propose to deposit \$15,000 (the "*Adequate Assurance Deposit*") into a segregated, interest-bearing bank account

(the “*Adequate Assurance Account*”) within twenty business days of the entry of an order granting the relief requested herein. The Adequate Assurance Deposit is equal to the estimated aggregate cost paid to the Utility Providers, prorated for two weeks of Utility Services, calculated as a historical average over the last twelve months. The Adequate Assurance Deposit will be held in the Adequate Assurance Account for the duration of these Cases and may be applied to any post-petition defaults in payment to the Utility Providers.

13. The Debtors believe that the Adequate Assurance Deposit in conjunction with the Debtors’ ability to pay for future Utility Services in the ordinary course of business (together, the “*Proposed Adequate Assurance*”) constitutes sufficient adequate assurance to the Utility Providers in full satisfaction of Section 366 of the Bankruptcy Code.

14. Although the Debtors have made every attempt to identify any and all Utility Providers, certain Utility Providers that currently provide Utility Services for the Debtors may not be listed on Exhibit B. Accordingly, the Debtors request that the Court: (a) authorize the Debtors to provide notice and a copy of the Interim Order (or, after its entry, any final order) to Utility Providers not listed on the Exhibit B (collectively, the “*Additional Utility Providers*”), as such Utility Providers are identified, and (b) order that the Additional Utility Providers are subject to the terms of the Interim Order (or, after its entry, any final order), including the Adequate Assurance Procedures.

B. The Adequate Assurance Procedures

15. To address the rights of a Utility Providers under Section 366(c)(2) of the Bankruptcy Code and in light of the severe consequences to the Debtors of any interruption in services, but recognizing the right of the Utility Providers to evaluate the Proposed Adequate

Assurance, if a Utility Providers believes additional adequate assurance is required, they may request such assurance pursuant to the Adequate Assurance Procedures below:

- a. The Debtors will serve a copy of this Motion and the order granting the relief requested herein to each Utility Provider within forty-eight hours after entry of the Order by the Court.
- b. The Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$15,000, in the Adequate Assurance Account within twenty business days after entry of the order granting this Motion; provided that to the extent any Utility Provider receives any value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account by such amount.
- c. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled “Adequate Assurance Deposit” on the Utility Service List.
- d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (i) proposed counsel for the Debtors, at Bryan Cave Leighton Paisner LLP, One Atlantic Center, Fourteenth Floor, 1201 W. Peachtree Street, NW, Atlanta, Georgia 30309 3471 (Attn: Leah Fiorenza McNeill), email: leah.fiorenza@bclplaw.com, **and to** Robinson & Cole LLP 1000 N. West Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Jamie L. Edmonson), email jedmonson@rc.com **and to** (ii) counsel to Money Chest, LLC (“**Money Chest**”) as lender under the Debtors’ proposed post-petition secured credit facility, at Cooley LLP, 55 Hudson Yards, New York, New York 10001 2157 (Attn: Cathy Herschcoph), email: chershcopf@cooley.com (collectively, the “**Notice Parties**”).
- e. The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Provider to resolve any dispute regarding such request without further order of the Court; provided that in no event shall a Utility Provider be permitted to receive aggregate disbursements in excess of the total amount set forth for such Utility Provider under the column labeled “Adequate Assurance Deposit” on the Utility Service List.
- f. Any Utility Provider desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an “**Additional Assurance Request**”) on the Notice Parties.
- g. Any Additional Assurance Request must (i) be in writing, (ii) identify the location and account number(s) for which the Utility Services are

provided, (iii) summarize the Debtors' payment history relevant to the affected account(s), including any security deposits, (iv) certify the amount that is equal to two weeks of the Utility Services the Utility Provider provides to the Debtors, calculated as a historical average over the last twelve months, (v) certify that the Utility Provider does not already hold a deposit equal to or greater than two weeks of Utility Services, (vi) certify that the Utility Provider is not currently paid in advance for the Utility Services, and (vii) explain why the Utility Provider believes the Adequate Assurance Deposit is insufficient adequate assurance of payment.

- h. Any Additional Assurance Request must be made and actually received by all the Notice Parties by no later than twenty days after entry of the Order. If a Utility Provider fails to timely file an Additional Assurance Request, the Utility Provider shall be (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with Section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall have the greater of (i) twenty days from the receipt of such Additional Assurance Request and (ii) thirty days from entry of the Order (the "***Resolution Period***") to negotiate with such Utility Provider to resolve such Utility Provider's Additional Assurance Request; provided that the Debtors and the applicable Utility Provider may extend the Resolution Period by mutual agreement.
- j. The Debtors may, in consultation with counsel to the proposed post-petition secured credit facility, and without further order from this Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, payments of prepetition balances, prepayments, or other forms of security if the Debtors, in consultation with counsel to the proposed post-petition secured credit facility, believe such additional assurance is reasonable.
- k. If the Debtors, in consultation with counsel to the proposed post-petition secured credit facility, determine that the Additional Assurance Request is unreasonable and are not able to reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before the Court to determine the adequacy of the Proposed Adequate Assurance as an assurance of payment with respect to the applicable Utility Provider (a "***Determination Hearing***") pursuant to Section 366(c)(3) of the Bankruptcy Code.

- l. Pending resolution of any such Determination Hearing, the Utility Provider filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

Basis for Relief

16. Section 366 of the Bankruptcy Code protects a debtor against the immediate termination of utility services after commencing its case. 11 U.S.C. § 366(a).

17. In a Chapter 11 case, a utility may not alter, refuse, or discontinue services to a debtor solely because of unpaid pre-petition amounts unless, during the twenty-day period following the commencement date, the utility does not receive “adequate assurance” of payment for post-petition services. 11 U.S.C. § 366(b). Furthermore, under Section 366(c)(2), a utility may alter, refuse, or discontinue service, if during the thirty-day period beginning on the petition date, the utility does not receive from the debtor adequate assurance of payment that is satisfactory to the utility. *Id.*

18. Though Section 366(c) provides, in the initial instance, that adequate assurance of payment must be satisfactory to the utility, the court may still determine the form (within the confines of Section 366(c)(1)(A))³ and amount of adequate assurance. See *Long Island Lighting Co. v. Great Atl. & Pac. Tea Co. (In re Great Atl. & Pac. Tea Co.)*, No. 11 CV 1338, 2011 WL 5546954, at *4 (S.D.N.Y. Nov. 14, 2011) (affirming bankruptcy court’s order, over utility’s objection, that amount necessary to cover two weeks’ utility services held in segregated escrow account was adequate assurance); *In re Circuit City Stores Inc.*, No. 08-35653, 2009 WL

³ For instance, a cash deposit, letter of credit, certificate of deposit, surety bond, prepayment, or another form of security mutually agreed on between the utility and the debtor. 11 U.S.C. § 366(c)(1)(A).

484553, at **3-5 (Bankr. E.D. Va. Jan. 14, 2009) (rejecting utility's argument that bankruptcy court could not determine adequate assurance until utility's adequate assurance demand met).

19. Adequate assurance of payment is not a guarantee of payment, but rather the protection the court reasonably determines is needed to avoid undue risk to the utility. *See In re Buffets Holdings, Inc.*, No. 08-10141 (Bankr. D. Del. Jan. 23, 2008) (approving adequate assurance consisting of an escrow equal to 50% of the estimated costs of monthly utility consumption); *In re Pac-West Telecomm, Inc.*, No. 07-10562 (Bankr. D. Del. May 2, 2007) (approving adequate assurance that was a one-time supplemental prepayment to each utility company equal to prorated amount of 1 week's charges).

20. Whether a utility is subject to an unreasonable risk of nonpayment must be determined from the facts and circumstances of each case. *See In re Anchor Glass Container Corp.*, 342 B.R. 872, 875 (Bankr. M.D. Fla. 2005). The essence of a court's inquiry is an examination of the totality of the circumstances in making an informed judgment as to whether utilities will be subject to an unreasonable risk of nonpayment for post-petition services. *In re Adelphia Bus. Solutions, Inc.*, 280 B.R. 65, 82-83 (S.D.N.Y. 2002); *see also Anchor Glass*, 342 B.R. at 875 (“The type of arrangement that constitutes adequate assurance of future payment is a fact-intensive inquiry, determined under the individual circumstances of the case.”).

21. The Debtors believe that the Proposed Adequate Assurance is reasonable and satisfies the requirements of Section 366 of the Bankruptcy Code. The Proposed Adequate Assurance in this Motion is similar to the relief granted in other Cases in this district. *See, e.g., In re FTD Companies, Inc.*, 19-11240 (LSS) [D.I. 272] (Bankr. D. Del. July. 1, 2019) (approving adequate assurance and similar adequate assurance procedures); *In re Catalina Marketing Corp. (Checkout Holding Corp.)*, No. 18-12794 (KG) [D.I. 186] (Bankr. D. Del. Jan. 10, 2019) (same);

In re Ascent Res. Marcellus Holdings, LLC, No. 18-10265 (LSS) [D.I. 104] (Bankr. D. Del. Mar. 20, 2018) (same).⁴

22. Further, the Court possesses the power, under Section 105(a) of the Bankruptcy Code, to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The proposed Adequate Protection Procedures will ensure that the Utility Services are continued without prejudicing the Utility Providers.

23. It is vital to the Debtors’ operations and, consequently, the success of the Cases, that the Utility Services not be interrupted. Hence, the relief requested herein is necessary and in the best interest of the Debtors’ estates and creditors. Further, the proposed method of furnishing adequate assurance of payment for post-petition Utility Services is consistent with the intent of Section 366 and should not prejudice any Utility Provider; if any Utility Provider believes that it does not have sufficient adequate assurance of future payment under its unique facts and circumstances, it has a limited period within which it may seek additional assurance pursuant to the Adequate Protection Procedures.

Reservation of Rights

24. The listing of any entity on Exhibit B is not an admission that such entity is a utility within the meaning of Section 366 of the Bankruptcy Code. The Debtors reserve all rights to further address the characterization of any particular entity listed on Exhibit B as a utility company subject to Section 366(a). The Debtors further reserve the right to terminate the services of any Utility Provider at any time and to seek an immediate refund of any utility deposit, subject to any right of setoff or claim asserted by such Utility Provider against the

⁴ The unreported orders cited herein are voluminous and not attached to this Motion. Copies of these orders will be made available upon request to the proposed counsel for the Debtors. Additionally, the Orders are available on the Court’s CM/ECF PACER site at the cited docket item numbers.

Debtors. This Motion does not seek assumption or rejection of any executory contract under Section 365 of the Bankruptcy Code, and the Debtors reserve the right to claim that any contract with the Utility Providers is or is not an executory contract, as the facts may dictate. The relief requested herein is with respect to all Utility Providers, and is not limited only to those listed on Exhibit B.

Requests for Immediate Relief and Waiver of Stay

25. Bankruptcy Rule 6003 provides that, “[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding . . . a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate . . .” Fed. R. Bankr. P. 6003(b). The Debtors submit that, because the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein, Bankruptcy Rule 6003 has been satisfied.

26. In addition, in order to implement the foregoing successfully, the Debtors respectfully request a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As set forth above, the payments proposed herein are essential to prevent potentially irreparable damage to the operations, value, and ability of the Debtors to reorganize. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

No Prior Request

27. No previous request for the relief sought herein has been made to this Court or to any other court.

Consent to Jurisdiction

28. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

Notice

29. Notice of this Motion will be given to the following parties, or to their counsel: (a) the Office of the United States Trustee for the District of Delaware; (b) the Debtors' thirty largest unsecured creditors on a consolidated basis, as identified in their Chapter 11 petitions; (c) counsel to Money Chest, LLC, the Debtors' proposed post-petition Lender; and (d) Wells Fargo Bank, National Association. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties entitled to notice pursuant to Local Rule 9013-1(m). In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, the Debtors respectfully request that the Court: (i) enter the proposed Interim Order granting the relief requested herein on an interim basis; (ii) after the Final Hearing, enter a final order granting the relief requested herein on a final basis; and (iii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: August 12, 2019
Wilmington, Delaware

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*Proposed Counsel to the Debtors and Debtors
in Possession*

EXHIBIT A
Proposed Interim Order

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

| | |
|--|------------------------------------|
| In re: |) Chapter 11 |
| |) |
| LOOT CRATE, INC., <i>et al.</i> ¹ |) Case No. 19- 11791 () |
| |) |
| Debtors. |) (Joint Administration Requested) |
| |) |
| | Related Docket No. 12 |

INTERIM ORDER

**(A) PROHIBITING UTILITIES FROM ALTERING, REFUSING,
OR DISCONTINUING SERVICE, (B) DEEMING UTILITIES
ADEQUATELY ASSURED OF PAYMENT, (C) ESTABLISHING
PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF
PAYMENT, AND (D) GRANTING RELATED RELIEF [D.I. 12]**

Upon the Motion (the “*Motion*”)² of the above-debtors and debtors in possession (collectively, the “*Debtors*”) for entry of this Order, pursuant to Sections 105(a) and 366 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1, seeking an interim order (a) determining that the Proposed Adequate Assurance provides the Utility Providers with adequate assurance of payment within the meaning of section 366 of the Bankruptcy Code, (b) prohibiting the Utility Providers from altering, refusing, or discontinuing services, (c) approving the Adequate Assurance Procedures, and (d) granting related relief; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C.

¹ The Debtors are the following four entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Loot Crate, Inc. (7119); Loot Crate Holdings, Inc.; LC Funding, Inc.; Loot Crate Parent, Inc. The Debtors’ noticing address in these chapter 11 cases is 3401 Pasadena Avenue, Los Angeles, CA 90031.

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

§ 157(b)(2)(A); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and upon the record of any hearing held to consider the relief requested in the Motion; and upon the First Day Declaration and all proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the relief as requested in the Motion is necessary and appropriate to prevent immediate and irreparable harm to the Debtors' business operations and will serve to protect and preserve the Debtors' estates for the benefit of all stakeholders and, thus, cause exists to permit such payments to be made immediately notwithstanding Bankruptcy Rule 6003; and there being good cause to waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h) to the extent applicable; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation, and sufficient cause appearing therefore,

IT IS ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Debtors are directed to pay on a timely basis, in accordance with their pre-petition practices, all undisputed invoices in respect of post-petition Utility Services.
3. All Utility Providers are prohibited from altering, refusing, or discontinuing service to, or discriminating against, the Debtors as a result of the Debtor's bankruptcy filing or any outstanding prepetition invoices, or requiring payment of a deposit or receipt or any other security for continued service postpetition, other than in accordance with the Adequate Assurance Procedures.

4. The following Adequate Assurance Procedures are approved in all respects:
 - a. The Debtors will serve a copy of this Motion and the order granting the relief requested herein to each Utility Provider within forty-eight hours after entry of the Order by the Court.
 - b. The Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$15,000, in the Adequate Assurance Account within twenty business days after entry of the order granting this Motion; provided that to the extent any Utility Provider receives any value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account by such amount.
 - c. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled “Adequate Assurance Deposit” on the Utility Service List.
 - d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (i) proposed counsel for the Debtors, at Bryan Cave Leighton Paisner LLP, One Atlantic Center, Fourteenth Floor, 1201 W. Peachtree Street, NW, Atlanta, Georgia 30309 3471 (Attn: Leah Fiorenza McNeill), email: leah.fiorenza@bclplaw.com, **and to** Robinson & Cole LLP 1000 N. West Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Jamie L. Edmonson), email jedmonson@rc.com **and to** (ii) counsel to Money Chest, LLC (“**Money Chest**”) as lender under the Debtors’ proposed post-petition secured credit facility, at Cooley LLP, 55 Hudson Yards, New York, New York 10001 2157 (Attn: Cathy Hershcopf), email: chershcopf@cooley.com (collectively, the “**Notice Parties**”).
 - e. The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Provider to resolve any dispute regarding such request without further order of the Court; provided that in no event shall a Utility Provider be permitted to receive aggregate disbursements in excess of the total amount set forth for such Utility Provider under the column labeled “Adequate Assurance Deposit” on the Utility Service List.
 - f. Any Utility Provider desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an “**Additional Assurance Request**”) on the Notice Parties.
 - g. Any Additional Assurance Request must (i) be in writing, (ii) identify the location and account number(s) for which the Utility Services are provided, (iii) summarize the Debtors’ payment history relevant to the affected account(s), including any security deposits, (iv) certify the

amount that is equal to two weeks of the Utility Services the Utility Provider provides to the Debtors, calculated as a historical average over the last twelve months, (v) certify that the Utility Provider does not already hold a deposit equal to or greater than two weeks of Utility Services, (vi) certify that the Utility Provider is not currently paid in advance for the Utility Services, and (vii) explain why the Utility Provider believes the Adequate Assurance Deposit is insufficient adequate assurance of payment.

- h. Any Additional Assurance Request must be made and actually received by all the Notice Parties by no later than twenty days after entry of the Order. If a Utility Provider fails to timely file an Additional Assurance Request, the Utility Provider shall be (i) deemed to have received “satisfactory” adequate assurance of payment in compliance with Section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Upon the Debtors’ receipt of any Additional Assurance Request, the Debtors shall have the greater of (i) twenty days from the receipt of such Additional Assurance Request and (ii) thirty days from entry of the Order (the “***Resolution Period***”) to negotiate with such Utility Provider to resolve such Utility Provider’s Additional Assurance Request; provided that the Debtors and the applicable Utility Provider may extend the Resolution Period by mutual agreement.
- j. The Debtors may, in consultation with counsel to the proposed post-petition secured credit facility, and without further order from this Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, payments of prepetition balances, prepayments, or other forms of security if the Debtors, in consultation with counsel to the proposed post-petition secured credit facility, believe such additional assurance is reasonable.
- k. If the Debtors, in consultation with counsel to the proposed post-petition secured credit facility, determine that the Additional Assurance Request is unreasonable and are not able to reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before the Court to determine the adequacy of the Proposed Adequate Assurance as an assurance of payment with respect to the applicable Utility Provider (a “***Determination Hearing***”) pursuant to Section 366(c)(3) of the Bankruptcy Code.
- l. Pending resolution of any such Determination Hearing, the Utility Provider filing such Additional Assurance Request shall be prohibited

from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

5. Nothing in this Order precludes the Debtors from disputing the status of any Utility Provider, terminating services and seeking any lawful refund, or operates as an assumption of any contract.

6. A Utility Provider shall be deemed to have received adequate assurance of payment satisfactory to such Utility Provider in compliance with section 366 of the Bankruptcy Code unless and until, subject to the limitations of this Order, (a) the Debtors agree to (i) an Additional Assurance Request or (ii) an alternative adequate assurance payment with the Utility Provider during the Resolution Period; or (b) this Court enters an order at any Determination Hearing requiring that additional adequate assurance of payment be provided.

7. The Debtors' Proposed Adequate Assurance is hereby approved and is deemed adequate assurance of payment as such term is used in section 366 of the Bankruptcy Code.

8. Any payments pursuant to this Interim Order shall be made only to the extent allowed by any orders authorizing the Debtors to incur post-petition financing or use cash collateral, including any budget approved by such orders.

9. With respect to the relief sought herein, the requirements set forth in Bankruptcy Rule 6003 are satisfied. In addition, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry and the requirements of Bankruptcy Rule 6004(h) are hereby waived.

10. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

11. The Debtors are directed, within forty-eight hours of the entry of this Interim Order, to serve a copy hereof upon all the parties that were served with the Motion, along with any parties that have filed notices of appearance in these cases since the filing of the Motion, the foregoing constituting all parties required to be served pursuant to Local Rule 9013-1(m)(iii).

12. This Court shall retain exclusive jurisdiction with respect to any and all matters, claims, rights, or disputes arising from or related to the implementation or interpretation of this Interim Order.

13. A hearing to consider entry of a final order on the Motion is scheduled for _____, 2019, at __:___.m. (prevailing Eastern Time) before the Honorable _____, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801. Objections to final relief on the Motion shall be in writing and filed with the Clerk of the Court no later than _____, 2019, at 4:00 p.m. (prevailing Eastern Time), with copies served upon: **(i)** proposed counsel to the Debtors, (a) Robinson & Cole LLP, 1000 N. West Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Jamie L. Edmonson, email: jedmonson@rc.com), and (b) Bryan Cave Leighton Paisner LLP, 1201 W. Peachtree Street, NW, 14th Floor, Atlanta, Georgia 30309-3471 (Attn: Mark Duedall, email: mark.duedall@bclplaw.com and Andrew J. Schoulder, email: andrew.schoulder@bclplaw.com), **(ii)** counsel for the DIP Lender, (a) Cooley LLP, 1114 Avenue of the Americas, New York, NY 10036 (Attn: Cathy Hershkopf, email: chershkopf@cooley.com), and (b) Bayard P.A., 600 North King Street, Ste. 400, Wilmington, DE 19801 (Attn Erin R. Fay email: efay@bayardlaw.com); **(iii)** counsel to any statutory committee appointed in these Cases; and **(iv)** the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Building, 844 King Street, Suite 2207, Lockbox 35,

Wilmington, DE 19801 (Attn: _____, email: _____@usdoj.gov). If no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without further notice or hearing.

EXHIBIT B
Utilities Service List

| Debtor | Utility Company | Address | Account Number | Adequate Assurance Deposit |
|------------------|--|---|--|--|
| Loot Crate, Inc. | AAA Rubbish Inc. | P.O. Box 2158 Bell Garden, CA 90202 (562) 927-9669 | Acct# 4851 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | California Water Service Company | P.O. Box 51967 Los Angeles, CA 90051-6267 (323) 722-8601 | Acct# 0522994432 Acct# 9295159312 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | City of Vernon Public Utilities Department | 4305 Santa Fe Avenue Vernon, CA 90058 (323) 583-8811 | Acct# 00007029 Acct# 00007028 Acct# 00007027 | \$0.00 |
| Loot Crate, Inc. | Comcast Business -2805 | P.O. Box 70219 Philadelphia, PA 19176-0219 (800) 391-3000 | Acct# 8993 11 335 0102805 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | PPL Electric Utilities | 2 North 9th Street CPC-Genn1 Allentown, PA 18101-1175 (888) 220-9991 | Acct# 37340-59103 Acct# 01140-59077 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | Time Warner Cable | P.O. Box 60074 City of Industry, CA 91716-0074 (886) 772-4948 | Acct# 8448 30 032 4154076 | Average of 2 weeks of Utility Services |

| | | | | |
|------------------|-------------------------------|--|--------------------|---|
| Loot Crate, Inc. | Towerstream Corporation | 76 Hammerlund Way Middletown, RI 02842 (866) 848-5848 | Acct# 19927 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | Universal Waste Systems, Inc. | P.O. Box 3038 Whittier, CA 90605 (323) 923-2825 | Acct# 065744 | Average of 2 weeks of Utility Services |
| Loot Crate, Inc. | UGI Central Penn Gas | P.O. Box 15426 Wilmington, DE 19886- 5426 (800) 652-0550 ugi@gmail.com | Acct# 421001487493 | Average of 2 weeks of Utility Services |